UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 16 2008

OFFICE OF
AIR AND RADIATION

Mr. Brian O'Connor
President
Air Burners, LLC
4390 Cargo Way
Palm City, Florida 34990

Dear Mr. O'Connor:

Thank you for your letter of June 12, 2008, to the U.S. Environmental Protection Agency (EPA) Regions 6, 8, and 9, concerning the interpretation of air quality requirements for air curtain incinerators, and more specifically, the interpretation that a Clean Air Act (CAA) title V permit is required for all air curtain incinerators regulated by standards developed under CAA section 129 and section 111. I understand your concerns and have outlined EPA's current position, as well as our thoughts on future interaction regarding this issue, in the following paragraphs.

I would also like to thank you for further explaining your concerns regarding the requirement that all air curtain incinerators obtain title V operating permits with EPA staff in Research Triangle Park, NC, on August 25, 2008. In your presentation, you raised interesting points with regard to air curtain incinerators being an alternative to open burning in forest clearing for the purposes of fire prevention and post-fire cleanup, in natural disaster cleanup, and for diseased-tree disposal. We are open to continuing a dialogue to better understand the various issues and brainstorm potential paths forward that would result in solutions that make good environmental sense and are consistent with the requirements of the CAA.

The current CAA section 129/111 regulations, however, are clear with respect to permitting requirements for air curtain incinerators burning wood wastes, clean lumber, and/or yard wastes. The preamble to the Federal Plan for the section 129 standard for Commercial and Industrial Solid Waste Incinerators (CISWI) states that "[t]he Agency has consistently maintained that operating permits are needed for ACI [air curtain incinerators] subject to the NSPS [New Source Performance Standards] and to State plans drafted pursuant to the EG [Emission Guidelines]."[1] Additionally, the CISWI Federal Plan regulatory language clearly specifies that title V permits are required for air curtain incinerators.[2] The other CAA section 129 standards also require title V permits for air curtain incinerators. For example, the New Source Performance Standards and Emission Guidelines for "Other Solid Waste Incinerators

[1] See 68 Fed. Reg. 57518, 57527 (Oct. 3, 2003).
[2] See, e.g., 40 CFR 62.14525(i), 62.14805(c), 62.14810, and 62.14830.

(OSWI)" make clear in 40 CFR 60.2974 and 60.3069, respectively, that an air curtain incinerator subject to OSWI requirements is required to apply for and obtain a title V permit.

With respect to open burning, State and Tribal air quality agencies are responsible for attaining and maintaining national ambient air quality standards established to protect public health and welfare. Where emissions from open burning impact air quality, State and Tribal air quality agencies are required to implement regulations that address this activity. Although open burning activities are not regulated by EPA, we are developing a new fire policy that encompasses all uses of prescribed fire as a resource management tool. This policy acknowledges the need for fire as a resource management tool, and where fire has been determined to be an acceptable land management tool, provides guidance on developing smoke management programs that minimize air quality impacts. This policy will also encourage Federal, State, local, Tribal, and private entities to continue to explore alternatives to prescribed fire even in those areas where a decision to burn has been made.

Again, we welcome additional dialogue regarding EPA's current requirements regarding air curtain incinerators and title V permits, and potential solutions that would address your concerns. Any future solutions would have to balance the need to ensure proper operation of air curtain incinerators with the goal of minimizing negative environmental impacts. In the near future, we expect to see the results of extensive emissions testing which has recently been conducted on air curtain units. This information will help EPA to choose a path forward that will help to promote environmentally superior alternatives and minimize emissions of particulate matter and other pollutants emitted from the combustion of clean wood materials.

I appreciate the opportunity to be of service and trust the information provided is helpful.

Sincerely,

Robert J. Meyers
Principal Deputy Assistant Administrator

cc: Richard Greene, Regional Administrator, Region 6
Robbie Roberts, Regional Administrator, Region 8
Wayne Nastri, Regional Administrator, Region 9