



Air Quality Bureau

MEMORANDUM

Date: December 20, 2024

To: All Air Quality Bureau Permitting Staff and Air Curtain Incinerator Operators

From: Melinda Owens, Permitting Section Chief, Air Quality Bureau

Subject: Air Curtain Incinerator Air Permit Synopsis for the State of New Mexico

The goal of this memo is to provide operators of above-ground, commercially manufactured Air Curtain Incinerators (ACI) a synopsis of air permit requirements in the State of New Mexico for ACI units that burn 100% wood waste, yard waste, and/or clean lumber.

Owners and operators of air curtain incinerators (ACI) are advised to seek air permitting guidance from the Air Quality Bureau Permit Section before pursuing any permitting path, but especially for ACIs not burning material according to the paragraph above. For air permitting guidance, please contact:

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Federal Regulations and Requirements: All of the following regulations under Standards of Performance for New Stationary Sources (NSPS) in 40 CFR Part 62 Subparts FFF & III and 40 CFR Part 60 Subparts AAAA, CCCC, DDDD, EEEE, FFFF include requirements for Air Curtain Incinerators (ACI) that burn:

- (1) 100 percent wood waste,
- (2) 100 percent clean lumber, and/or
- (3) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

Applicability to a specific Federal Regulation is based on the date the unit was manufactured.

Before 04/17/2024, ACIs were required to obtain a Title V permit by one of the federal regulations above. On August 31, 2020, in accordance with requirements under the Clean Air Act (CAA), the U.S. Environmental Protection Agency (EPA) proposed to remove the title V permitting requirements for air curtain incinerators (ACI) that burn only wood waste, clean lumber, yard waste, or a mixture of these three types of waste. EPA finalized this action, as proposed, to remove the title V permitting requirements for ACIs that only burn wood waste, clean lumber, yard waste, or a mixture of those, and are not located at title V major sources or subject to title V for other reasons. The EPA finalized this proposed action to simplify the compliance obligations for owners and operators of these types of units.

The effective date for this rule was 04/17/2024, and the document, published in the Federal Register on 04/17/2024, is available online at: <https://federalregister.gov/d/2024-08270> or <https://govinfo.gov>.

Since ACIs are no longer required to obtain a TV Permit, the Air Quality Bureau (AQB) had to determine the permitting method path. The AQB is responsible for ensuring state and federal emissions requirements are met and public health and the environment are protected. ACI emissions typically exceed the emission threshold criteria of a 20.2.73 NMAC Notice of Intent registration. Therefore, a permit is required to operate an ACI in New Mexico. It is AQB's future intent to issue a 20.2.72 NMAC General Construction Permit for ACIs in the future. Until that time, AQB will continue to require an ACI GOP application for operation. Because there is no regulatory requirement for a TV Operating Permit, we will no longer accept the initial notification, followed by the application within 12 months. Rather, the ACI GOP must be issued prior to on-site installation.

In addition to the requirement to obtain an ACI GOP, the owner/operator must also:

- (1) Record and report the type of material combusted,
- (2) Complete an initial opacity compliance test within 60 days of startup of the unit,
- (3) Complete annual opacity compliance tests,
- (4) Report the test results from the initial and annual opacity tests, and
- (5) Meet the opacity limits that are required in the federal regulation
- (6) Submit semi-annual and annual compliance certifications
- (7) Submit annual emission inventory
- (8) Meet any of the designated regulation requirements in the various Federal Regulations listed above (e.g., NSPS AAAA, CCCC, DDDD, EEEE).

As an alternative to the ACI GOP, an ACI owner may submit a regular 20.2.72 NMAC Construction Permit New Source Review application. The NSR process is more complicated and costly, with public notice requirements, review fees, and modeling costs. Timelines include a 30-day period to rule the application complete or incomplete. Once the application is ruled complete, there is a 90-day deadline to issue the permit.

The Air Quality Bureau will continue working to find an expedient path forward for simplifying the ACI air permit application process and will update this guidance as this process develops. Therefore, please check our ACI website periodically for new information.

Background Information on how ACI are regulated under the Clean Air Act:

ACI are considered a "solid waste incineration unit" under section 129 of the Clean Air Act and are regulated as solid waste incineration units, unless they meet the exemption for ACI at 129(g)(1)(C). The exemption does not exempt ACI from the above-mentioned notification & recording requirements and meeting the opacity requirements and conducting the required opacity tests. However, the exemption is important for ACI as it reduces the number of other applicable requirements for ACI found in these regulations. The exemption language states an ACI is not considered a solid waste incineration unit (and thus subject to the wider requirements of the regulations) *if such incinerators only burn wood wastes, yard wastes and clean lumber and that such air curtain incinerators comply with opacity limitations to be established by the Administrator by rule*. The benefit of exempting an ACI from the definition of solid

waste incineration unit is an owner/operator avoids having to comply with substantial additional requirements for solid waste incineration units.

Portable ACI: Many ACIs are portable. The fact that an ACI is portable does not exempt it from any of these air quality requirements.

Compliance with federal regulations: The federal regulations contain specific notification requirements that must be submitted to the Department **prior** to startup of the ACI and compliance test requirements that must be conducted within 60 days of startup.

Multiple Owner Operators: An ACI may have separate owners and operators. Both the owner and the operator are individually subject to these regulations. Once a permit is obtained by either the owner or operator, it will designate which is the responsible party.

Conclusion: Owners/operators of proposed above ground commercially manufactured Air Curtain Incinerator that will burn only 100% wood waste, yard waste, and/or clean lumber, the owner/operator shall submit an ACI GOP application. After the GOP is issued, the owner/operator can commence set up and operation, while complying with all permit conditions, including the opacity standards of the applicable NSPS, twice yearly reporting, annual compliance certification, yearly emission inventory and opacity testing, and permit renewals.

Solid Waste Bureau Requirements

The Solid Waste Bureau has its own set of requirements for ACIs in New Mexico. Please contact them at (505) 827—0197. Solid Waste Bureau registration form for air curtain incinerators can be found at this web address: [Solid Waste Bureau](#).