



REGION 4

ATLANTA, GA 30303

November 6, 2024

Michael Abraczinskas
Director
Division of Air Quality, NCDEQ
217 West Jones Street
Raleigh, North Carolina 27699-1641
Michael.Abraczinskas@deq.nc.gov

Dear Director Abraczinskas:

The U.S. Environmental Protection Agency's Region 4 Office has reviewed your October 24, 2024, letter to the EPA Administrator and the EPA Region 4 Acting Regional Administrator. We recognize that in addition to your typical responsibilities, you and your staff are among many other public servants working tirelessly on recovery and cleanup efforts related to the widespread and tragic destruction caused by Hurricane Helene. This letter is intended to provide an expedient response that we hope will be helpful to you in your management of the Clean Air Act regulatory implications concerning the use of temporary-use air curtain incinerators (ACIs) in disaster debris recovery efforts associated with the unprecedented flooding and wind damage in North Carolina. We agree that the use of ACIs is a much-preferred option for vegetative debris management in lieu of open burning to reduce wildfire risks and to produce less particle pollution. In this letter, we are providing information and clarifications that we hope will help to address the concerns you raised regarding the use of ACIs in these recovery efforts. Your letter correctly points out that 40 CFR § 60.2969 was removed and reserved by the EPA earlier this year. Please note that the EPA signed a Technical Correction notice reinstating 40 CFR § 60.2969 on November 4, 2024.¹

The EPA has granted the State of North Carolina automatic delegation of authorities for implementation and enforcement of New Source Performance Standards (NSPS) promulgated under 40 CFR Part 60, including 40 CFR Part 60, Subparts EEEE and CCCC.² As such, NCDAQ has been delegated authorities to implement and enforce these and other NSPS rules except for provisions that are specifically retained by the EPA and not transferred to a delegated authority. See, e.g., 40 CFR § 60.2030 in subpart CCCC and 40 CFR § 60.2889 in subpart EEEE. Authorities related to the exclusion of temporary-use

¹ See 11/04/2024 Final Rule and Technical Corrections at <https://www.epa.gov/stationary-sources-air-pollution/other-solid-waste-incinerators-oswi-new-source-performance>

² See 65 FR 46364: <https://www.federalregister.gov/documents/2000/07/28/00-19112/new-stationary-sources-supplemental-delegation-of-authority-to-the-state-of-north-carolina>

incinerators and ACIs used in disaster recovery, 40 CFR § 60.2887(o) and § 60.2969, are not among the provisions exclusively retained by the EPA³ at 40 CFR § 60.2889 and are therefore delegated to NCDAQ. In regard to your questions about operating temporary-use ACIs for disaster recovery outside of the declared disaster area, and for a period of time longer than 16 weeks, we understand that the unprecedented amount of debris and the terrain of these areas may pose unique logistical challenges and that recovery operations will take a long time. § 60.2969 states that “[...] *the incinerator or air curtain incinerator must be used to combust debris **in an area declared a State of Emergency by a local or State government**, or the President, under the authority of the Stafford Act, has declared that an emergency or a major disaster exists in the area [...]*,” (emphasis added). It is our understanding that a statewide emergency was declared by the Governor of North Carolina in relation to Hurricane Helene.⁴

An extension of this emergency declaration that applies to the entire State may provide for some flexibility in the event that local conditions lead to a need for the transport of disaster debris to other areas of the State. Also, please note that per § 60.2969(c)(2), a delegated authority may approve a request; if approved, one “[...] *may continue to operate the incinerator or air curtain incinerator within the boundaries of the current emergency or disaster declaration area **until the date specified in the approval [...]***” (emphasis added).

Finally, we understand that NCDAQ is providing guidance to operators of ACIs operating temporarily in disaster recovery. We understand that you are already considering best practices and guidance on setback distances from structures and public roads, and restrictions on burning certain materials, such as hazardous wastes or asbestos, which should be properly disposed in accordance with relevant requirements. The EPA has Emergency Hurricane Debris Burning Guidance⁵ that you may find helpful, and our staff are available to support as needed.

In closing, we recognize the significant challenge of managing the extraordinary amount of disaster debris caused by Hurricane Helene in the best and most expedient way for the recovery of your state and its people. The EPA Region 4 and our staff will support NCDAQ as best we can through our continued partnership as you and your state face this challenge.

We hope you find the information in this letter helpful and want to assure you that we are available for any questions you may have or to help provide additional information or support as you need. If you have any questions or would like to discuss this letter, please contact Ryan Brown at (404) 562-9147 or by email at brown.ryan@epa.gov, or Jake Carpenter at (404) 562-9039 or by email at carpenter.jacob@epa.gov.

Sincerely,

Jeananne M. Gettle
Acting Regional Administrator

³ See 40 CFR 60.2889: <https://www.ecfr.gov/current/title-40/section-60.2889>

⁴ Accessed via <https://governor.nc.gov/executive-order-no-315/open>

⁵ See <https://www.epa.gov/natural-disasters/dealing-debris-and-damaged-buildings#emergency>