

**ROY COOPER**  
Governor

**MARY PENNY KELLEY**  
Secretary

**MICHAEL ABRACZINSKAS**  
Director



November 15, 2024

David M. Uhlmann, Assistant Administrator  
U.S. Environmental Protection Agency  
Office of Enforcement and Compliance Assurance  
Mail Code 2201A  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

Re: Request for No Action Assurance Concerning Air Curtain Incinerator Use in the State of North Carolina

Dear Assistant Administrator Uhlmann:

This letter shall serve as the State of North Carolina and the North Carolina Department of Environmental Quality's (DEQ's) written request for a No Action Assurance (NAA) letter from the U.S. Environmental Protection Agency (EPA). The request for a NAA letter from U.S. EPA's Office of Enforcement & Compliance Assurance is intended to help facilitate an efficient and safe processing of certain disaster debris using air curtain incinerators (ACIs) in western North Carolina following the widespread and tragic destruction caused by Hurricane Helene.

Our state first started experiencing impacts from Hurricane Helene on September 26, 2024. The unprecedented magnitude of flooding, landslides, and wind damage from this storm produced devastating impacts in western North Carolina, including tragic losses of lives and significant infrastructure and property damage. As a result, on September 28, 2024, the President of the United States approved an Expedited Major Disaster Declaration, FEMA-4827-DR, for the State of North Carolina under the Stafford Act. While recovery efforts are underway, including major repairs to water and wastewater infrastructure, transportation, and other critical infrastructure, all options for managing disaster debris, including the use of ACIs for burning wood waste, clean lumber, and yard waste, are being considered with public health and safety in the forefront. DEQ has been assisting a wide range of stakeholders, including federal, state, and local governmental agencies, to navigate complex federal regulations that apply to ACIs for disaster debris management, and some permitting aspects are unnecessarily complicating our response to this natural disaster.

The significant challenge of managing the extraordinary amount of disaster debris caused by Hurricane Helene will involve all available methods of disposal while considering site specific facts and logistical challenges. Best practices and guidance on all available methods of processing disaster debris are being shared with all entities involved in the cleanup efforts. In situations when the burning of vegetative debris is the only remaining option for disaster debris management, DEQ prefers the use of ACIs (regardless of its size or whether it's an existing or new unit) over open



North Carolina Department of Environmental Quality | Division of Air Quality  
217 West Jones Street | 1641 Mail Service Center | Raleigh, North Carolina 27699-1641  
919.707.8400

burning as it is much safer (from a public safety and wildfire prevention perspective) and produces less particle pollution.

ACIs that process less than 35 tons per day are regulated by 40 CFR Part 60, Subpart EEEE “Standards of Performance for Other Solid Waste Incineration Units (OSWI) for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006,” and Subpart FFFF “Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units that Commenced Construction On or Before December 9, 2004.” On April 17 and November 4, 2024, the U.S. EPA published in the federal register changes and technical corrections to Subparts EEEE and FFFF for OSWI units. Under §60.2966 and §60.3059, language was revised to state, “If you are the owner or operator of an air curtain incinerator that burns only wood waste, clean lumber, and yard waste [...], you are exempt from the obligation to obtain a title V operating permit, provided that your air curtain incinerator is not otherwise required to obtain a title V operating permit.”

ACIs that process greater than or equal to 35 tons per day are regulated by 40 CFR Part 60, Subpart CCCC “Standards of Performance for Commercial and Industrial Solid Waste Incineration (CISWI) Units,” and Subpart DDDD “Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units.” Per §60.2242 and §60.2805, each CISWI and ACI subject to standards under those subparts must operate pursuant to a permit issued under Section 129(e) and Title V of the Clean Air Act. DEQ is requesting that EPA grant a NAA letter for the provisions in §60.2242 and §60.2805 so that ACIs processing greater than or equal to 35 tons per day of only wood waste, clean lumber, and yard waste can be exempt from the obligation to obtain a Title V operating permit, provided that those ACIs are not otherwise required to obtain a Title V operating permit. The ACIs operating under the NAA will still be expected to comply with §60.2245 through 60.2260 and §60.2810 through 60.2870, as applicable.

The use of one larger ACI unit is a much-preferred option for wood waste, clean lumber, and yard waste management in lieu of multiple smaller ACI units or open burning to produce less particle pollution, reduce risks to public safety, and prevent wildfires. The granting of this NAA in this extremely unusual case is clearly necessary to serve the public interest as it will facilitate more efficient and safe methods for the burning of disaster debris when there are no other mechanisms to adequately address the unprecedented magnitude of debris from Hurricane Helene.

DEQ respectfully requests that the U.S. EPA grant this NAA retroactive to September 26, 2024, through March 1, 2025, with the opportunity to request an extension. The statewide declaration of emergency issued by the Governor in Executive Order No. 315, was extended by Session Law 2024-51 until March 1, 2025.

This request is the result of a natural disaster that could not reasonably have been foreseen or prevented and not the result of the lack of prudent planning. The granting of this relief is in the public interest as emergency response and disaster recovery operations are of the utmost concern to the general public. The State of North Carolina intends to be on the best possible footing with regard to addressing storm damage, emergency response, and recovery needs, and the NAA letter requested would assist in those efforts.

David M. Uhlmann  
November 15, 2024  
Page 3

If you have any questions about this request, please contact me at (919) 707-8447 or by email at [Michael.Abraczinskas@deq.nc.gov](mailto:Michael.Abraczinskas@deq.nc.gov).

Sincerely,



Michael A. Abraczinskas, Director  
Division of Air Quality, NCDEQ

cc: Jeaneanne Gettle, USEPA  
César Zapata, USEPA  
John Nicholson, USEPA  
Denisse Diaz, USEPA  
Keriema Newman, USEPA

Ashley Featherstone, Asheville-Buncombe Air Quality Agency  
William Barnette, Forsyth County Office of Environmental Assistance and Protection  
Leslie Rhodes, Mecklenburg County Air Quality Agency

Todd Russo, USEPA  
Jason Dressler, USEPA  
Taylor Hartsfield, DAQ  
Brian Phillips, DAQ  
DAQ Regional Office Supervisors

