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Air Curtain Incinerator Prohibition in Massachusetts

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In response to recent revisions to U.S. Environmental Protection Agency (EPA) regulations regarding the use of Air Curtain Incinerators (ACIs) that only burn wood waste, yard waste, and/or clean lumber, MassDEP has received questions from ACI manufacturers and businesses that manage wood waste in Massachusetts regarding the use of ACIs. An ACI is an open container in which wood waste is burned while a strong curtain of air is blown across the top of the container.

Air Curtain Incinerators are generally prohibited in Massachusetts. MassDEP does not allow the sale, purchase, or operation of ACIs in Massachusetts, except on a temporary basis in very limited circumstances (e.g., to dispose of wood infested by southern pine beetles). According to MassDEP's Air Pollution Control regulations burning wood in an ACI meets the definition of "open burning," and the regulations prohibit open burning to protect public health from the air pollution caused by open burning. This prohibition applies to all types of ACIs, including ACIs marketed or designed to produce biochar. Because an ACI also meets the definition of an "incinerator," a seller or distributer would need the design and standard operating procedure of the ACI approved by MassDEP before installation and use. Additionally, an operator would need a MassDEP air permit approval before obtaining or operating an ACI.

What this means for businesses: Businesses may not sell, purchase, install, or operate an ACI in Massachusetts unless MassDEP has approved a temporary use under a limited regulatory exception. MassDEP does not approve ACIs for routine wood waste management because suitable alternatives, such as chipping for mulch or fuel, are available.

The relevant regulatory text and MassDEP interpretation are below.[1]

Open Burning Regulations

310 CMR 7.00: DEFINITIONS

> OPEN BURNING means burning under such conditions that the products of combustion are emitted directly to the ambient air space and are not conducted thereto through a stack, chimney, duct, or pipe. Open burning includes above or underground smoldering fires.

[1] Note that an ACI that only burns clean wood also is subject to EPA regulatory requirements as described in 40 CFR 60.2994.

MassDEP Interpretation: Operation of an ACI involves combustion in an open container that does not have a stack, chimney, duct, or pipe by which the products of combustion are emitted into the air. Operation of an ACI is open burning under the air pollution control regulations.

310 CMR 7.07: U Open Burning

(1) No person shall cause, suffer, allow or permit the open burning of any combustible material.

MassDEP Interpretation: Open burning is prohibited in Massachusetts except in the limited circumstances listed in the regulations.

...

(3) Except during periods of adverse meteorological conditions as may be determined by the Department when direct or public notice thereof has been made by the Department through the news media, 310 CMR 7.07(1) shall not apply to open burning conducted for:

...

(f) the disposal of combustible material with the approval of the Department and after demonstration to the satisfaction of the Department that no alternative suitable method of disposal is available;

MassDEP Interpretation: 310 CMR 7.07(3)(f) is the exception most relevant to the use of an ACI. MassDEP may approve open burning if MassDEP determines there are no other suitable methods of disposal. In general, MassDEP will not approve open burning of wood waste in an ACI because there are suitable alternatives such as chipping wood for use as mulch or fuel. One exception is use of an ACI on a temporary basis to dispose of wood infested by an invasive species (e.g., southern pine beetle). These circumstances are expected to be rare, would occur in coordination with the Department of Conservation Recreation and/or Division of Fisheries and Wildlife, and would require MassDEP approval before use.

Incinerator Regulations

310 CMR 7.00 DEFINITIONS

INCINERATOR means any article, machine, equipment, contrivance, structure, or part of a structure, used primarily for the reduction of combustible waste(s) by burning.

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- MODULAR INCINERATOR means any incinerator of a standard design and identifiable by the manufacturer's markings.

MassDEP Interpretation: An ACI meets the definition of "incinerator" and the definition of "modular incinerator."

310 CMR 7.08: U Incinerators

(1) General.

(a) No person shall cause, suffer, allow, or permit the construction or substantial reconstruction or alteration of any incinerator for which:

1. the design for construction or substantial reconstruction or alteration thereof, and
2. the Standard Operating Procedure have not been approved by the Department in writing.

(b) No person shall sell or distribute for sale any special incinerator or modular incinerator, for installation or use within the District, the design and Standard Operating Procedure for which have not been approved in writing by the Department or certification of said approval has not been given by the person selling or distributing the incinerator to the person to whom the sale or distribution is made.

...

MassDEP Interpretation: The regulations prohibit the construction, substantial reconstruction or alteration, and sale or distribution for sale, of an ACI without written MassDEP approval.

Air Permit Regulations

310 CMR 7.02: U Plan Approval and Emission Limitations

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(5) Comprehensive Plan Application (CPA).

(a) Applicability. Calculation of potential emissions associated with a CPA shall be in accordance with 310 CMR 7.02(5)(b) and 310 CMR 7.02(1)(d) for GHGs. A CPA is required from any person prior to constructing, substantially reconstructing, altering or subsequently operating any facility or emission unit as follows:

...

5. Incinerators. Any incinerator.

MassDEP Interpretation: Since an ACI is an incinerator, an ACI requires a comprehensive plan application.