



Gerald D. Reid
Commissioner

Department of
Environmental Protection
State of Maine

MEMORANDUM

TO: Mark C. Draper, Board Chair of the Board of Environmental Protection, and
Laura Jensen, Assistant Attorney General

FROM: Gerald D. Reid, Commissioner, and
Tracy W. Kelly, Bureau of Air Quality, Compliance Unit Manager

SUBJECT: **ADMINISTRATIVE CONSENT AGREEMENT, TOWN OF WISCASSET**

DATE: January 3, 2020

Statute and Rule Reference:

1. *Open Burning*, 06-096 C.M.R. ch. 102, §§ 2(A) and 2(A)(3), which states in pertinent parts:

(A) Permissible Open Burning With Permit. When not prohibited by local ordinances the following types of burning are permissible if a permit has been obtained from the Town Forest Fire Warden, forest ranger, or local fire prevention official having jurisdiction over the location where the fire is to be set, so long as the burning is conducted according to the terms and conditions of such permit and provided no nuisance is created.

(3) Burning of solid or liquid fuels and structures for the purpose of research or bona fide instruction and training of municipal or volunteer firefighters pursuant to Maine Revised Statutes Title 26, section 2102 and industrial fire fighters in methods of fighting fires when conducted under the direct control and supervision of qualified instructors and with a written objective for the training. For purposes of this section, "qualified instructor" means the fire chief or designee or a fire-fighting instructor. Structures burned for instructional purposes must first be emptied of waste materials that are not part of the training objective.

Location: former Huber's Market, 279 Bath Road, Wiscasset, Maine

Description: The Town of Wiscasset Fire Department violated DEP Air Quality rules by intentionally burning a structure for demolition purposes and not for a bona fide fire training exercise. The fire department did not remove waste materials from the building prior to the burn, did not investigate if asbestos had been removed from the building, did not investigate if lead-based paint was present, did not have a written training plan, and created a nuisance and public safety threat along US Route 1.



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Environmental Issues: The structure was not emptied of waste materials prior to the burn, as required by 06-096 C.M.R. ch. 102 § 2(A)(3). While on site, staff observed that waste materials appeared to have been burned, including, but not limited to: fluorescent lighting tubes, lighting fixtures, small appliances, aerosol and paint cans, and other various waste items.

Reports of traffic disruption from billowing smoke in the vicinity on US Route 1, due to the burning of the structure, created a nuisance which violated 06-096 C.M.R. ch. 102, § 2(A).

The burning of a structure without a written objective for training or without first removing waste materials from the structure violated 06-096 C.M.R. ch. 102 § 2(A)(3).

The Town of Wiscasset performed the following corrective actions:

1. Ash residue was analyzed and a report documents that the material was non-hazardous for RCRA 8 Metals.
2. Ash and other debris were removed and transported by Riverside Disposal of Chelsea, Maine, and Grimm Industries of Topsham, Maine, companies licensed in Maine to transport Category A wastes.
3. Copies of records of laboratory analysis and facility tipping receipts were provided to the Department.

Staff Recommendation: The Department recommends acceptance of this Administrative Consent Agreement as proposed stipulating a monetary penalty of one-thousand dollars (\$1,000.00).

Is the agreement subject to 30-day public comment pursuant to 38 M.R.S. § 347-A(6)?

Yes No

POSTED FOR 30-DAY PUBLIC COMMENT:

Enforcement Coordinator: _____ Posting Date: _____ Expires:

PROCEED WITH SIGNATURE:

Enforcement Coordinator: _____ Date: _____