

# **Statement of Basis of the Federal Operating Permit**

## **Air Curtain Incinerators Located in Texas:**

### **General Operating Permit**

Permit Number 518

Standard Industrial Classification (SIC) Code:  
1629 Heavy Construction, Not Elsewhere Classified

This Statement of Basis sets forth the legal and factual basis for the draft permit conditions. It contains sections including a Facility Description, Federal Regulatory Applicability Determinations, Operational Flexibility, New Source Review Requirements, Periodic and Compliance Assurance Monitoring, and Compliance Status.

# **OPERATING PERMIT BASIS OF DETERMINATION**

## **DESCRIPTION OF THE PROJECT**

The Texas Commission on Environmental Quality (TCEQ or commission) executive director is proposing revisions to and the renewal of General Operating Permit (GOP) Number 518, Air Curtain Incinerators (ACIs) located in Texas. The Federal Clean Air Act (FCAA) authorizes the issuance of general permits covering numerous similar sources. [42 USC, § 7661c(d)]. This GOP contains revisions for ACIs subject to 30 TAC Chapter 113, Subchapter D, Division 4 (Emission Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units That Commenced Construction On or Before November 30, 1999), and 30 TAC Chapter 113, Subchapter D, Division 5 (Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004). In addition, 30 TAC Chapter 117 (Control of Air Pollution from Nitrogen Compounds), 40 Code of Federal Regulations (CFR) Part 60 Subpart IIII, Compression Ignited Internal Combustion Engines; and Subpart JJJJ, Spark Ignited Internal Combustion Engines have been included. The requirements for Subparts IIII and JJJJ are indexed in Section (c) of this GOP as tables 1 and 2 respectively.

## **DESCRIPTION OF THE GOP PROCEDURAL REQUIREMENTS**

Before the issuance of a GOP by the executive director, the GOP must comply with the 30 TAC Chapter 122, Subchapter F, procedural requirements, including a 30-day public comment period, a notice and comment hearing, an affected state review, and a 45-day United States Environmental Protection Agency (EPA) review. Once issued, the GOP will be subject to a 60-day public petition period, during which the public may petition the EPA to object to the GOP.

Before issuance, notice of the public comment and hearing on the draft GOP will be published in the *Texas Register*, the TCEQ Air Permits Division (APD) Internet site, and in a newspaper of the largest general circulation in the Austin, Dallas, and Houston metropolitan areas. The comment period offers the public an opportunity to review and submit comments on the draft GOP. Concurrent with the public comment period, affected states (Arkansas, Colorado, Kansas, Louisiana, New Mexico, and Oklahoma) have the opportunity to comment on the draft GOP. Following the public comment period, the 45-day EPA review period begins, during which time the EPA may object to the proposed GOP issuance. The executive director may issue the GOP after responding to any EPA comments.

From the date of issuance, the GOP will be subject to public petition for 60 days, as specified in 30 TAC § 122.360 (Public Petition). If the EPA does not file an objection with the executive director during the EPA review period, any person affected by a decision of the executive director to issue the GOP may petition the EPA to make an objection. Petitions shall be based only on objections to the GOP that were raised with reasonable specificity during the public comment period, unless the petitioner demonstrates in the petition to the EPA that it was not possible to raise the objections within the public comment period, or that the grounds for the

objection arose after the public comment period. The petition shall identify all objections. A copy of the petition shall be provided to the executive director by the petitioner. The executive director shall have 90 days from the receipt of an EPA objection to resolve any objection and, if necessary, terminate or revise the GOP.

Applications for an authorization to operate (ATO) under a GOP are reviewed by the executive director to ensure that the site qualifies for the GOP. Individual GOP applications are not subject to public notice, affected state review, EPA review, and public petition requirements, because these procedural requirements occur during the development of the GOPs by the executive director. After the application review process is complete, the executive director approves ATOs under a GOP without further public notice.

## **DESCRIPTION OF THE FACILITY**

The GOP Number 518 was developed for use by Title V major and minor, permanent and temporary source ACIs. ACIs (both fireboxes and trench burners) used for the disposal of 100 percent wood waste, 100 percent clean lumber, or 100 percent mixture of only wood waste and/or clean lumber that are subject to 40 CFR Part 62, Subpart III (Federal Plan Requirements for Commercial and Industrial Solid Waste Incineration Units That Commenced Construction On or Before November 30, 1999) or 40 CFR Part 60, Subpart EEEE (Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006) are required to obtain a Title V permit and may apply to operate under the ACI GOP Number 518. Title 40 CFR Parts 60 (Standards of Performance for New Stationary Sources) and 62 (Approval and Promulgation of State Plans for Designated Facilities and Pollutants), require ACIs disposing of 100 percent yard waste to obtain a Title V permit, however this type of waste will not be permitted by this GOP. The current permit by rule (PBR) contained in 30 TAC Chapter 106 (Permits by Rule) which authorizes ACIs does not authorize the use of ACIs for yard waste; however it does authorize ACIs for wood waste and land clearing. All New Source Review (NSR) permits must be codified in the GOP. The GOP only permits sources authorized by a PBR or standard permit. Sources authorized by a case-by-case NSR permit are excluded from the GOP. ACIs burning wood waste and land clearing may be permitted by the GOP because they are authorized by the PBR; ACIs burning yard waste cannot.

Typically, a site is required to obtain a Title V permit when the site is a major source. However, 40 CFR Part 62, Subpart III and 40 CFR Part 60, Subpart EEEE require minor source ACIs to obtain a federal operating permit. The GOP Number 518 was developed as a permitting mechanism for owners or operators of ACIs subject to this requirement.

The following table demonstrates the thresholds by which sites are classified as major. Different thresholds apply to different sites, based on the attainment status of the county in which the site is located. If the ACI is located on a site classified as major because of other units at the site, the site cannot be permitted under GOP Number 518.

County and [O3 Nonattainment Status]	Major Source Thresholds (tpy)								
	VOC	NOx	SO <sub>2</sub>	PM-10 <sub>1</sub>	CO	Pb	HAP <sub>2</sub>	HAPs <sub>3</sub>	Other
Bexar, Comal, Guadalupe [Basic]	100	100	100	100	100	100	10	25	100
Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Wallers [Severe]	25	25	100	100	100	100	10	25	100
Collin, Dallas, Denton and Tarrant <sub>6</sub> [Serious]	50	50	100	100	100	100	10	25	100
Ellis, Johnson, Kaufman, Parker, Rockwall <sub>7</sub> [Moderate]	100	100	100	100	100	100	10	25	100
Harding, Jefferson, and Orange <sub>4</sub> [Serious]	50	50	100	100	100	100	10	25	100
All Other Texas Counties <sub>8</sub> [Unclassified or Attainment]	100	100	100	100	100	100	10	25	100
<b>Notes:</b> 1. Particulate matter (PM) may be used as a surrogate to demonstrate that PM-10 levels are below the major source threshold. For example, if data demonstrates that PM is less than 100 tpy, the data can be used to demonstrate that PM-10 is less than 100 tpy. However, if PM levels are greater than or equal to 100 tpy, then additional data must be provided to demonstrate that PM-10 levels are less than 100 tpy. 2. TPY limit of any single HAP. Elemental lead is not included in lead compounds per FCAA §112(b)(7). 3. Any combination of HAP. 4. The BPA area was reclassified to serious for the 1-hr ozone standard before the 1 hour standard was revoked. 5. The October 31, 2008 8-hr ozone reclassification made the major source thresholds equal to the 1-hr thresholds. 6. Per the Dec. 22, 2006 partial vacatur of the Phase one, 8-hr ozone rule. 7. Counties added for the 8-hr ozone rule (NAAQS = 0.08). 8. El Paso; Serious (50tpy) for VOC under 1-hr ozone; Moderate (100 tpy) partial for PM <sub>10</sub> under 8-hr.									

## DESCRIPTION OF THE GENERAL OPERATING PERMIT REVISIONS

Section (a) of GOP Number 518 establishes the qualification criteria for this GOP. Only ACIs authorized by the current or previous versions of the PBR in 30 TAC § 106.496 (Air Curtain Incinerators) qualify for the GOP. ACIs authorized by a case-by-case NSR permit do not qualify for operation under the GOP and must apply for a site operating permit (SOP). Since this GOP cannot contain compliance provisions or schedules, owners or operators must apply for a SOP that contains a compliance schedule if the ACI is out of compliance at the time of application submittal. In addition, the ACIs may only combust materials authorized under 30 TAC § 106.496. All units other than ACIs are excluded from coverage under this GOP. Alternative means of compliance, alternative means of control, alternative emission limitations or standards, or equivalent requirements that must be approved by the executive director or the administrator of the EPA, typically, are not codified in a GOP due to the need for specific provisions. Owners or operators of emission units excluded by qualification criteria or having applicable requirements not codified in the GOP must apply for an SOP for those emission units or the entire site.

With the exception of incorporating a variety of format, language, and rule referencing changes, the qualification criteria and terms and conditions remain consistent with the previous GOP Number 518. However, the 30 TAC Chapter 113 revisions effective May 14, 2009, added new Division 4 (Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units That Commenced Construction On or Before November 30, 1999), and new Division 5 (Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004) to incorporate the emission guidelines found in 40 CFR Part 60 (Standards of Performance for New Stationary Sources). In addition, 30 TAC Chapter 117 Minor Sources for engines, 40 CFR Part 60 Subpart III, Compression Ignited Internal Combustion Engines; and Subpart JJJJ, Spark Ignited Internal Combustion Engines have been included. The requirements for Subparts III and JJJJ are indexed in Section (c) of this GOP as tables 1 and 2 respectively.

## **COMPLIANCE ASSURANCE MONITORING**

Compliance Assurance Monitoring (CAM) is a federal monitoring program established under 40 CFR Part 64 (Compliance Assurance Monitoring). CAM applies to emission units at major sources that are subject to 30 TAC Chapter 122 and meet all the following: the emission unit is subject to an emission limitation or standard in an applicable requirement; the emission unit uses a control device to achieve compliance with the emission limitation or standard; and the emission unit has the pre-control device potential to emit greater than or equal to the amount in tons per year required for a site to be classified as a major source. CAM is not applicable to ACIs. The preamble for 40 CFR Part 60, Subpart EEEE which regulates ACIs, states “air pollution control devices are unavailable for air curtain incinerators.” (69 FR 71482) Since the use of control devices on ACIs is not anticipated, and one of the requirements for CAM applicability is the presence of a control device, CAM for ACI units is not addressed in the GOP.

## **PERIODIC MONITORING**

Periodic monitoring applies to emission units at a site that are subject to 30 TAC Chapter 122, provided that the emission unit is subject to an emission limitation or standard for an air pollutant (or surrogate thereof) in an applicable requirement, excluding those emission limitations or standards identified in 30 TAC § 122.602(b) (Periodic Monitoring Applicability), such as the opacity standards in this GOP required by 40 CFR Parts 60 and 62. Periodic monitoring requirements for ACI units are included in GOP 518 for 30 TAC Chapter 111.

## FEDERAL REGULATORY APPLICABILITY DETERMINATIONS

The following chart summarizes the applicability of the principal air pollution regulatory programs that may apply to areas permitted under GOP Number 518.

Regulatory Program	Applicability (Yes/No)
PSD	No
Nonattainment NSR	No
State NSR	Yes
40 CFR Part 60	Yes
40 CFR Part 61	No
40 CFR Part 62	Yes
40 CFR Part 63	No
Title IV	No
Title V	Yes
Title VI	No

## OPERATIONAL FLEXIBILITY

Operation of ACIs may vary so long as the terms and conditions of this permit are satisfied and the requirements of the PBR are met.

## NEW SOURCE REVIEW REQUIREMENTS

New source review permits are incorporated by reference in the GOP application and are enforceable under it. The only NSR authorization permitted is 30 TAC § 106.496 and all previous versions.

## COMPLIANCE STATUS

All owners and operators operating under a GOP must report all units in compliance at the time of initial issuance of the ATO. After initial issuance of an ATO under a GOP, the owner or operator must certify compliance with the terms and conditions of the permit for at least every 12-month period following the initial issuance. Annual compliance certifications should be submitted no later than 30 days after the end of the certification period. For example, an ATO is issued on February 27, 2011. The compliance period ends on February 27, 2012, however, the additional 30 days allows the certification to be submitted no later than March 29, 2012. Another compliance certification is then due March 29, 2013. A copy of the compliance certification will also be made accessible to the EPA.

Additionally, the owner or operator shall report, in writing, all instances of deviations, the probable cause of the deviations, and any corrective actions or preventative measures taken. A deviation report should be submitted for at least each six-month period after ATO issuance or at the frequency required by an applicable requirement which requires more frequent reporting. However, no report is required if no deviations occurred over the six-month reporting period.

The deviation reports should be submitted no later than 30 days after the end of each reporting period. It is also important to note that reports submitted under 30 TAC § 101.201 (Emissions Event Reporting and Recordkeeping Requirements) and 30 TAC § 101.211 (Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements) do not substitute for deviation reports. Annual compliance certification and deviation reporting forms were developed and are maintained by the TCEQ Office of Compliance and Enforcement. Owners or operators needing information regarding annual compliance certifications or deviation reports should contact the TCEQ Office of Compliance and Enforcement, Field Operations Division, at (512) 239-0400.

## **AVAILABLE UNIT ATTRIBUTE FORMS**

Unit attribute forms were not developed and are not needed for GOP Number 518. The GOP, as a whole, applies only to the ACI, so the GOP contains only terms and conditions.

## **PUBLIC HEARING**

The draft GOP and tables are subject to a 30-day comment period. During the comment period, any person may submit written comments on the draft GOP. A hearing will be held in Austin on January 27, 2012, in Building C, Room 131E at 10:00 a.m. at the commission's central office, located at 12100 Park 35 Circle. The hearing will be structured for the receipt of oral or written comments by interested persons. Individuals may present statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, a TCEQ staff member will be available to discuss the draft GOP 30 minutes prior to the hearing and will also be available to answer questions after the hearing. The GOP documents can be accessed at [http://www.tceq.texas.gov/permitting/air/nav/titlev\\_news.html](http://www.tceq.texas.gov/permitting/air/nav/titlev_news.html) or [http://www.tceq.texas.gov/permitting/air/nav/air\\_genopermits.html](http://www.tceq.texas.gov/permitting/air/nav/air_genopermits.html)

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the TCEQ at (512) 239-4900. Requests should be made as far in advance as possible.

## **SUBMITTAL OF COMMENTS**

Written comments may be mailed to Johnny Bowers, Office of Air, Air Permits Division, MC 163, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-7130. All comments should reference the draft ACI GOP. Comments must be received by 5:00 p.m. February 6, 2012. To inquire about the submittal of comments or for further information, contact Johnny Bowers with the Office of Air, Air Permits Division, at (512) 239-6770.