

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

**Air Curtain Incinerator**

**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 permit conditions. It contains sections including a Facility Description, Federal Regulatory Applicability Determinations, Operational Flexibility, New Source Review Requirements, Compliance Assurance and Periodic Monitoring, and Compliance Status.

## **Operating Permit Basis of Determination**

### **Description of the Project**

The Texas Commission on Environmental Quality (TCEQ) executive director issues a revised and renewed Air Curtain Incinerator (ACI) General Operating Permit (GOP) Number 518. The ACI GOP is issued by the TCEQ executive director under the requirements in Title 30 Texas Administrative Code (30 TAC) Chapter 122, Subchapter F (General Operating Permits). The GOP contains revisions resulting from amended federal rules, which are applicable requirements under the Federal Operating Permit Program. The GOP also contains revisions to correct typographical errors, and to update language for administrative preferences. Descriptions of the specific revisions are in the section Description of the General Operating Permit Revisions. This GOP is renewed to fulfill the obligation to renew the ACI GOP Number 518 every five years as required by 30 TAC § 122.501 (General Operating Permits).

### **Description of the GOP Procedural Requirements**

The procedural requirements for the renewal of a GOP by the executive director are in 30 TAC Chapter 122, Subchapter F. The requirements include a 30-day public comment period with a notice and comment hearing, an affected states review, and a 45-day United States Environmental Protection Agency (EPA) review. Once issued, the GOP is subject to a 60-day public petition period, during which the public may petition the EPA to object to the GOP.

On December 4, 2020, a notice of the opportunity for public comment and hearing on the draft GOP was published in the *Texas Register*, on the TCEQ Air Permits Division (APD) webpage at [www.tceq.texas.gov/permitting/air/nav/titlev\\_news.html](http://www.tceq.texas.gov/permitting/air/nav/titlev_news.html), and in a newspaper of the largest general circulation in the Austin, Dallas, and Houston metropolitan areas. The comment period was from December 4, 2020, through January 7, 2021, and offered the public an opportunity to review and submit comments on the draft GOP. Rather than waiting for a notice and comment hearing to be requested, the executive director scheduled a hearing by telephone conference, on January 5, 2021.

Simultaneous with the public comment period, affected states (Arkansas, Colorado, Kansas, Louisiana, New Mexico, and Oklahoma) had the opportunity to comment on the draft GOP. The EPA 45-day review period began on December 4, 2020 and ended on January 18, 2021, during which time the EPA had the opportunity to object to the GOP's issuance. No EPA objections or comments were received.

The GOP is subject to public petition for 60 days from the date of issuance, as specified in 30 TAC § 122.360 (Public Petition). The EPA did not file an objection with the executive director during the EPA review period. As such, 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 have raised 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. After receiving the petition, the EPA may object to the issuance of the GOP only if it is not in compliance with the applicable requirements or the requirements of 30 TAC Chapter 122 (Federal Operating Permits Program). 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 and that proper requirements are identified. Individual applications for an ATO under a GOP are not subject to public notice, affected state review, EPA review, or 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 Facilities

TCEQ issues GOP Number 518 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 the following: 40 Code of Federal Regulations (CFR) Part 60, Subpart CCCC, Standards of Performance for Commercial and Industrial Solid Waste Incineration Units, 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. In 40 CFR Parts 60, Standards of Performance for New Stationary Sources and 62, Approval and Promulgation of State Plans for Designated Facilities and Pollutants, ACIs disposing of 100 percent yard waste are required to obtain a Title V permit, however this type of waste is not 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. Sources authorized by a case-by-case NSR permit or a standard 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 are not permitted by the GOP.

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. GOP Number 518 is a permitting mechanism for owners or operators of ACIs subject to this requirement. Operating an ACI unit also requires the use of an engine. Applicable requirements for engines are also included in GOP 518(c).

For thresholds by which sources are classified as major, see the Texas State Implementation Plan website: [www.tceq.texas.gov/airquality/sip](http://www.tceq.texas.gov/airquality/sip). Different thresholds apply to different sites, based on the attainment status of the county in which the site is located.

## Description of the General Operating Permit Revisions

The GOP contains revisions to correct typographical errors, to update language for administrative preferences, and to correct numbering.

No changes were made to section (a).

Section (b):

- 518(b)(10)(C)(i) was amended with the removal of “unless the executive director approves another format” to identify the acceptable means for maintaining records as paper copy or electronic format.
- 518(b)(15)(A)(I) and (II) were amended with the addition of descriptive language regarding the six-minute average to be consistent with 40 CFR § 60.2250(a) and (b).
- 518(b)(15)(B)(iii) was amended with the addition of descriptive language regarding opacity to be consistent with 40 CFR § 60.2255(c).
- 518(b)(15)(C)(ii) was amended with the removal of “unless the TCEQ approves another format” to identify the acceptable means for maintaining records as paper copy or electronic format.

Section (c) of the GOP contains permit tables that codify applicable requirements, including regulatory monitoring, testing, recordkeeping, and reporting requirements, for units covered by the GOP. Additional information relating to permit tables may be found in the APD guidance document “How to Read a General Operating Permit” located at [www.tceq.texas.gov/assets/public/permitting/air/Title\\_V/General/howto\\_gops.pdf](http://www.tceq.texas.gov/assets/public/permitting/air/Title_V/General/howto_gops.pdf).

No existing permit tables were removed from the GOP.

No new permit tables were added to the GOP.

Permit holders operating under an index number in a permit table that was revised may need to update their applications if applicability determinations and the determination of basis affecting the emission units have changed. The following permit table contains technical corrections unrelated to rule changes:

518(c)(3) - Stationary internal combustion engines affected by 40 CFR Part 63, Subpart ZZZZ (National Emission Standard for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines).

### Compliance Assurance Monitoring (CAM)

CAM is a federal monitoring program established under 40 CFR Part 64, Compliance Assurance Monitoring. It 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. Each applicable regulation was evaluated for CAM and it was determined that CAM is not applicable.

### 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. All terms, conditions, index numbers, and their correlating applicable requirements in the GOP were evaluated for periodic monitoring and it has been determined that they provide sufficient periodic monitoring.

### 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)
Prevention of Significant Deterioration (PSD)	No
Nonattainment NSR	No
Minor NSR	Yes
40 CFR Part 60 Standards of Performance for New Stationary Sources	Yes
40 CFR Part 61 National Emission Standards for Hazardous Air Pollutants	No
40 CFR Part 62 Approval and Promulgation of State Plans for Designated Facilities and Pollutants	Yes
40 CFR Part 63 National Emission Standards for Hazardous Air Pollutants for Source Categories	Yes
Title IV (Acid Rain) of the Clean Air Act (CAA)	No
Title V (Federal Operating Permits) of the CAA	Yes
Title VI (Stratospheric Ozone Protection) of the CAA	No

The permit tables include applicability determinations for the emission units based on the index number(s) and all relevant unit attribute information. Each combination of unit attributes information forms the basis of the applicability determination. The unit attribute information is a description of the physical properties of an emission unit that is used to determine the requirements with which the permit holder must comply. For more information about the descriptions of the unit attributes, specific Unit Attribute Forms may be viewed at [www.tceq.texas.gov/permitting/air/nav/air\\_all\\_ua\\_forms.html](http://www.tceq.texas.gov/permitting/air/nav/air_all_ua_forms.html).

### **Operational Flexibility**

Operation of ACIs may vary so long as owners or operators meet the terms and conditions of this permit and the requirements of the PBR.

### **New Source Review Requirements**

NSR authorizations are incorporated by reference in the GOP application and are enforceable under it. Each individual application to operate under a GOP can be found in the main TCEQ file room, located on the first floor of Building E, 12100 Park 35 Circle, Austin, Texas. Previously approved applications can be viewed at <https://www.tceq.texas.gov/agency/data/records-services/welcome-to-tceq-records-online>.

GOP Number 518 only covers sites containing emission units authorized by permit by rule (PBR) and codified into this GOP. The PBRs codified into GOP Number 518 include:

- 30 TAC § 106.263 (Routine Maintenance, Start-up and Shutdown of Facilities, and Temporary Maintenance Facilities);
- 30 TAC § 106.496 (Air Curtain Incinerators);
- 30 TAC § 106.511 (Portable and Emergency Engines and Turbines); and
- 30 TAC § 106.512 (Stationary Engines and Turbines).

### **Compliance Status**

All owners and operators must report all units in compliance with an initial permit application or with a renewal application. The owner or operator must certify compliance with the terms and conditions of the permit for at least every 12-month period following initial issuance of the permit. Annual compliance certifications should be submitted to the executive director and the EPA administrator no later than 30 days after the end of the certification period.

Additionally, the owner or operator shall report, in writing, any deviations, the probable cause of the deviations, and any corrective actions or preventative measures taken for each emission unit authorized to operate under a GOP. A deviation report should be submitted for at least each six-month period after the 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 during the six-month reporting period. Deviation reports shall be submitted no later than 30 days after the end of each reporting period. Reports submitted under 30 TAC § 101.201 (Emissions Event Reporting and Recordkeeping Requirements), or 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 are available at [https://www.tceq.texas.gov/compliance/investigation/acguide\\_title5post.html](https://www.tceq.texas.gov/compliance/investigation/acguide_title5post.html). Owners or operators needing information regarding annual compliance certifications or deviation reports should contact the TCEQ Office of Compliance and Enforcement, Program Support Section, at (512) 239-0400 or the Small Business and Local Government Assistance program at 1-800-447-2827.

### **Available Forms**

The ACI application form applicable to GOP Number 518 is located at [www.tceq.texas.gov/permitting/air/titlev/generalpermits/gop\\_no\\_518.html](http://www.tceq.texas.gov/permitting/air/titlev/generalpermits/gop_no_518.html).

## **Hearing and Commenters**

The draft GOP and tables were subject to a 30-day comment period, during which time, any person could submit written comments. The comment period ended on January 7, 2021. A notice and comment hearing was held in Austin on January 5, 2021 at 10:00 a.m. by conference call. No attendees made formal comments during the hearing.

Simultaneous with the public comment period, affected states (Arkansas, Colorado, Kansas, Louisiana, New Mexico, and Oklahoma) had the opportunity to comment on the draft GOP. No comments were received from affected states.

The EPA 45-day review period began on December 4, 2020 and ended on January 18, 2021. No EPA objections or comments were received.

## **Response to Comments**

No public comments were received.

## **Other Changes**

During final preparation of the GOP documents, the language was adjusted to reflect issuance instead of proposal, and the following changes were made:

- Minor grammatical adjustments to be consistent with TCEQ formatting requirements.