

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 is proposing 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 fulfills 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

Before the issuance of a renewal or significant revision to a GOP by the executive director, the GOP must comply with the procedural requirements specified in 30 TAC Chapter 122, Subchapter F, including a 30-day public comment period with a notice and comment hearing, an affected state 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 members of the public may petition EPA to object to the GOP, discussed further below.

A notice of opportunity for public comment on the draft GOP will be published in the *Texas Register*, on the TCEQ Air Permits Division (APD) web page at:

www.tceq.texas.gov/permitting/air/titlev/generalpermits/air-gop

and in newspapers of the largest general circulation in the Austin, Dallas, and Houston metropolitan areas on September 26, 2025. The comment period is from September 26, 2025, through October 27, 2025, and offers the public an opportunity to review and submit comments on the draft GOP. A hybrid virtual and in-person public hearing on the draft GOP will be held in Austin on October 27, 2025, at 2:00 p.m. in Building F, room 2210 at the commission's central office located at 12100 Park 35 Circle, Austin, Texas. Simultaneous 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 EPA 45-day review period begins during which time EPA may object to the proposed GOP issuance. The executive director may issue the GOP after responding to comments consistent with 30 TAC §122.345 (Notice of Proposed Final Action) and 30 TAC §122.508 (Public Notice for General Operating Permits).

The GOP will be subject to public petition for 60 days from the date of issuance, as specified in 30 TAC § 122.360 (Public Petition). 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 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, 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 proposes 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. The PBR which authorizes ACIs 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 requires 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. 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 executive director is requesting comments on all the proposed revisions listed in this document.

Punctuation, typographical errors, and other changes for clarification or improved readability have been updated throughout the document and are not specifically listed below. These administrative changes do not require permit holders to apply for a new ATO.

The qualification criteria that sites must meet to be eligible to operate under this GOP are established under section (a) of the GOP. The qualification criteria specify the limitations of a GOP. Qualification criteria are used to exclude the types of emission units that are not commonly found at sites that would use the GOP or for emission units with applicable requirements slightly different from many of the other sites. Owners or operators of emission units excluded by qualification criteria must apply for a site operating permit (SOP) for those emission units or the entire site. Alternative means of compliance, alternative means of control, alternative emission limitations or standards, alternative monitoring, compliance plans, or equivalent requirements that must be approved by the executive director or the administrator of EPA, typically are not codified in a GOP due to the need for specific provisions.

The executive director is proposing these specific amendments for section (a).

- 518(a)(8) is proposed to be amended to reflect the current NO_x emission limit for the Dallas-Fort Worth nonattainment area, include the Bexar County nonattainment area, and remove the Beaumont-Port Arthur area.

The site-wide requirements for sites eligible to operate under this GOP are established in section (b) of the GOP. A site-wide requirement applies uniformly to the emission units at the site covered by this GOP. For example, the executive director has designated the opacity limits for stationary vents in 30 TAC Chapter 111 (Control of Air Pollution from Visible Emissions and Particulate Matter) as site-wide requirements. These requirements were designated as site-wide since many sites have numerous stationary vents and each must comply with the appropriate opacity limit. Additional information relating to site-wide requirements may be found in the APD document entitled "How to Read a General Operating Permit" located at www.tceq.texas.gov/assets/public/permitting/air/Title_V/General/howto_gops.pdf.

The executive director is proposing these specific amendments for section (b).

- 518(b)(6)(A) was amended to replace the reference to state-only requirements with "other requirements".
- 518(b)(6)(B) was amended to replace the reference to state-only requirements with "other requirements".
- 518(b)(8)(B) was added to include reference to the Permit by Rule (PBR) supplemental tables.
- 518(b)(15)(C)(i)(I) was amended to update the language to match the 40 CFR §60.2260 rule text.
- 518(b)(16)(D)(i)(I) was amended to update the language to match the 40 CFR §60.2973 rule text.

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.

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 tables contain technical corrections related to rule amendments:

- 518(c)(1) for Stationary Compression Ignited Internal Combustion Engines affected by 40 CFR Part 60, Subpart IIII (Standards of Performance for Stationary Compression Ignition Internal Combustion Engines) was updated to incorporate amendments to the regulation.
- 518(c)(2) for Stationary Spark Ignition Internal Combustion Engine affected by 40 CFR Part 60, Subpart JJJJ (Standards of Performance for Stationary Spark Ignition Internal Combustion Engines) was updated to incorporate amendments to the regulation.
- 518(c)(3) for 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) was updated to incorporate amendments to the regulation.

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
Federal Clean Air Act (FCAA), Title IV Acid Deposition Control	No
FCAA, Title V Permits	Yes
FCAA, Title VI Stratospheric Ozone Protection	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/forms/titlev/unit-attributes/air-all-ua-forms.

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 accessed electronically at the TCEQ Central Office, Office of Chief Clerk, Building F, First Floor, 12100 Park 35 Circle, Austin Texas. Individual applications to operate under a GOP may also be obtained from the TCEQ records webpage, also called TCEQ Records Online, at https://records.tceq.texas.gov/cs/idcplg?IdcService=TCEQ_SEARCH.

GOP Number 518 only covers sites containing emission units authorized by 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

To be eligible to qualify for an authorization to operate under a GOP, all units operating under a GOP must be certified to be in compliance at the time of initial issuance of the authorization to operate (ATO) and at a renewal of the ATO. After the 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 of the ATO. 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 were developed and are maintained by the TCEQ Office of Compliance and Enforcement. These forms are available at www.tceq.texas.gov/publications/search_forms.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.

Hearing

The draft GOP is subject to a 30-day comment period, during which time, any person may submit written comments. A hybrid virtual and in-person public hearing on the draft GOP will be held in Austin on October 27, 2025, at 2:00 p.m., in Building F, room 2210 at the commission's central office located at 12100 Park 35 Circle, Austin, Texas.

The hearing will be structured for the receipt of oral or written comments by interested persons. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the draft GOP 30 minutes prior to the hearing.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by Thursday, October 23, 2025. To register for the hearing, please email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on Friday, October 24, 2025, to those who register for the hearing.

Members of the public who do not wish to provide oral comments but would like to view the hearing virtually may do so at no cost at:

www.tceq.texas.gov/permitting/air/titlev/generalpermits/air-gop

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

Written comments may be submitted to Gwen Ricco, Office of Legal Services, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to fax4808@tceq.texas.gov. Electronic comments may be submitted at: <https://tceq.commentinput.com/>. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2024-044-OTH-NR.

The comment period closes at 11:59 p.m. on October 27, 2025.

Copies of the draft GOP may be obtained from the commission website at:

www.tceq.texas.gov/permitting/air/titlev/generalpermits/air-gop.

For further information, please contact Katy Montgomery, at (512) 239-4017. Si desea información en Español, puede llamar al 800-687-4040.