

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 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 was 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 was from September 26, 2025, through October 27, 2025, and offered 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 was 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) had the opportunity to comment on the draft GOP. Comments were received and are responded to in the Response to Comments section of this document.

Following the public comment period, the EPA 45-day review period began on December 8, 2025, and ended on January 22, 2026. During this time, EPA had the opportunity to comment on and object to the proposed GOP issuance. No comments or objections were received from EPA.

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 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 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. 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 new source review (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

Punctuation, typographical errors, and other changes for clarification or improved readability are 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.

Specific amendments for section (a):

- 518(a)(8) is 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.

Specific amendments for section (b):

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

No new permit tables are 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) is 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) is 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) is 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 is 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/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.

NSR 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 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 and Commenters

The draft GOP was subject to a 30-day comment period from September 26, 2025, through October 27, 2025, during which time, any person was eligible to submit written comments on the draft GOP. A hybrid virtual and in-person public hearing on the draft GOP was 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. One attendee, Jen Powis ("commenter"), on behalf of Air Alliance Houston and the Coalition for Environment, Equity and Resilience along with the Texas Appleseed and the Citizens' Environmental Coalition in Houston as signatories in support, made formal written and oral comments requesting the elimination of the use of ACIs for mixed disaster waste disposal, or alternatively, requested that special conditions be added to the GOP for the use of ACIs after a disaster. No changes were made in the GOP in response to the comments.

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's 45-day review period began December 8, 2025, and ended on January 22, 2026, during which time EPA has the opportunity to comment on and object to the GOP's issuance. No comments were received from EPA.

Response to Comments

COMMENT 1: The commenter expressed concern for public health protections for communities after disasters by authorizing greater use of ACIs for mixed disaster waste disposal and requests that TCEQ exclude incineration of disaster debris as cited in Section (a)(5) and authorized under 30 TAC §106.496.

RESPONSE 1: The executive director respectfully notes that Term (a)(5) of the proposed GOP No. 518 was not amended during this renewal. Likewise, the materials authorized for combustion under Permit by Rule (PBR), 30 TAC §106.496 have remained unchanged since the provisions of 30 TAC §106.496 were adopted to be effective on June 30, 2004. The emission limits established in 30 TAC §106.4 apply to all ACIs authorized under 30 TAC §106.496 used for the burning of wood waste and clean lumber, regardless of whether those materials are generated from land-clearing as referenced in 40 CFR §60.2245, right-of-way maintenance, emergency clean-up operations, noncommercial industrial sites, and municipal solid waste sites.

COMMENT 2: The commenter stated that the proposed emission limits do not account for "legacy pollution" in nonattainment areas. Additionally, the commenter expressed concern that many counties "likely fail to meet the new National Ambient Air Quality Standards (NAAQS)"; therefore, the proposed emission limits should be re-evaluated and amended to further limit pollutants in these counties.

RESPONSE 2: The executive director notes that proposed GOP No. 518 does not authorize air emissions and instead codifies all state and federal applicable requirements as defined in 30 TAC §122.10. Additionally, TCEQ does not have the authority under the Operating Permits Program to directly regulate or reduce air emissions; therefore, revising emission limits are beyond the scope of the GOP. The Operating Permits Program requires owners and operators of sites subject to 30 TAC Chapter 122 obtain an operating permit that contains all applicable air requirements to facilitate compliance and improve enforcement. Emission limits for each site that obtains an ATO under GOP No. 518 are established in the PBRs that are incorporated by reference in the GOP through Term (a)(2) (PBRs 30 TAC §§106.263, 106.496, 106.511, and 106.512).

With Chapter 106, TCEQ has developed PBRs for authorization of facilities that will not significantly contribute air contaminants to the atmosphere. During development, all PBRs were evaluated for protectiveness, went to public notice, and were formally adopted into rule. General requirements for PBRs have been established in 30 TAC §106.4. In addition, any facility authorized by PBR shall comply with all rules and regulations of the commission and with the intent of the Texas Clean Air Act (TCAA). Emissions from a facility operating in accordance with the requirements of a PBR will be protective of human health and the environment as PBRs contain operational and control requirements and conditions which were developed to ensure the protection of health and property of the public.

COMMENT 3: The commenter stated that if incineration of debris after a disaster is not excluded from the GOP, TCEQ should modify reporting requirements and opacity limits, as well as add operational controls when operating during disasters, especially for ash disposal.

RESPONSE 3: The monitoring and deviation reporting requirements included in Term (b)(3)(C)(i)-(ii) are outlined in 30 TAC §122.145. Regarding the relocation of units in response to a disaster, incinerators authorized by PBR 30 TAC §106.496 are required to submit notifications in accordance with 30 TAC §106.496(h)(2)(C) and §106.496(h)(3).

The opacity limits of 30% and 10% specified in the GOP 518 terms are both applicable. The 10% opacity limit in Term (b)(15)(A)(i) applies to the air curtain incinerator as specified in 40 CFR Part 60, Subpart CCCC, §60.2250(a). The 30% opacity limit specified in Term (b)(9)(A) applies to all sources subject to 30 TAC §111.111(a)(8) that are not categorized as a stationary vent, gas flares, motor vehicles, railroad locomotives or ships, buildings, enclosed facilities, or other structures which fall under 30 TAC §§111.111(a)(1)-(7). Title 30 TAC §111.111(a)(8) would apply to fugitive particulate matter sources such as ash or other debris piles that may emit fugitive emissions that are not covered under the 10% opacity limit that applies directly to the air curtain incinerator.

The Operational Limits in 30 TAC §106.496(c) establish limits on how long a facility can operate during a given period as well as daily operation limits. Additionally, ash disposal requirements are addressed under 30 TAC §106.496(f)-(g). This includes compliance with state waste and water regulations. ACIs authorized under 30 TAC §106.496 are limited to burning certain specified materials, including trees, clean lumber, and brush. If an ACI is authorized as part of a temporary debris management site resulting from a disaster, provisions must be in place to exclude the burning of putrescible waste, treated wood, tires, electronics, white goods, paints/solvents, plastics, insulated wire, batteries, appliances, asbestos materials, aerosol or pressurized containers, and other household and non-household hazardous waste. Any hazardous materials, asbestos, and polychlorinated biphenyls (PCBs) must be separated and disposed of appropriately.

COMMENT 4: The commenter indicated that special conditions regarding distance limitations in relation to residential properties and critical infrastructure should be added.

RESPONSE 4: TCEQ notes that PBR 30 TAC §106.496(c), which is incorporated by reference in Term (a)(2), establishes distance limitations for ACI units.

COMMENT 5: The commenter states that Continuous Emissions Monitoring (CEM) requirements should be added for any GOP 518 permit holder.

RESPONSE 5: The monitoring requirements for units that meet the criteria for this GOP are established in the GOP Terms and Permit Tables. 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. Likewise, each applicable regulation was evaluated for CAM, and it was determined that CAM is not applicable.

Further, CEMS are not required for ACIs that only burn 100 percent wood waste, 100 percent clean lumber, or 100 percent mixture of only wood waste and/or clean lumber that qualify for GOP 518.

COMMENT 6: The commenter indicated that the “Permit Tables” were missing from the posted draft Terms document on the agency GOP webpage.

RESPONSE 6: While the Permit Tables were not included in the Terms document in Section (c), TCEQ notes that the Permit Tables were available for reference alongside the Cover Letter, Terms, Statement of Basis, Notice of Hearing, and Plain Language Summary on the TCEQ Website at www.tceq.texas.gov/permitting/air/titlev/generalpermits/air-gop. The existing format of the Permit Tables is an Excel file that has been designed to be viewed electronically and to ensure consistency with other GOP Tables.

COMMENT 7: The commenter stated that TCEQ should protect people where the federal government fails.

RESPONSE 7: TCEQ ensures its permits comply with all federal and state permitting requirements. Permits that meet those requirements are protective of human health and the environment. With Chapter 106, TCEQ has developed PBRs for authorization of facilities that will not significantly contribute air contaminants to the atmosphere. General requirements for PBRs have been established in 30 TAC §106.4. In addition, any facility authorized by PBR shall comply with all rules and regulations of the commission and with the intent of the TCAA, including protection of health and property of the public. Therefore, emissions from a facility operating in accordance with the requirements of a PBR will be protective of human health and the environment. All PBRs have formally been adopted into rule and went to public notice at the time of their adoption.