



North Central Texas Council of Governments

June 18, 2025

Texas Commission on Environmental Quality

Texas Register Team - MC 205

General Law Division

Office of Legal Services

TCEQ

P.O. Box 13087

Austin, TX 78711-3087

RE: Comments on Proposed Rule – Chapter 101 – General Air Quality Rules (Rule Project No. 2023-131-101-AI)

On behalf of the North Central Texas Council of Governments, I appreciate the opportunity to submit the following comments on the Texas Commission on Environmental Quality's (TCEQ) proposed rule implementing the Federal Clean Air Act (FCAA) Section 185 Failure to Attain Fee Program for the 2008 eight-hour ozone standard. The intent to provide regulatory flexibility while maintaining compliance with federal law is commendable.

It is the State's responsibility under federal law to outline how a region can reach attainment of the National Ambient Air Quality Standards (NAAQS) as soon as possible, through a State Implementation Plan. Unfortunately, recent design value trends in the Dallas-Fort Worth area are significantly worsening which prolongs attainment to both the 2008 and 2015 ozone NAAQS, necessitating additional focus on reduction measures and/or air chemistry assessments.

The Regional Transportation Council (RTC) supports TCEQ efforts for the region to ultimately meet attainment. The RTC continues to implement on-road mobile source emission reduction programs and projects and continues adherence to transportation conformity requirements that remain below source apportionment allotments identified in the SIP.

Since the ultimate goal is to reach attainment of the ozone NAAQS as outlined in the FCAA, Section 185 fee offsets should not come from the existing TERP Trust Fund. TERP Trust funds collected each biennium are already used to implement emissions-reducing projects, and full expenditure of these funds in the past few years has not resulted in improvement in ozone levels. Rather, fee offsets should come from the TERP Fund Balance to ensure that projects are additional to those already awarded through typical TERP funding cycles and thus achieve real-world air quality improvements above and beyond those that are already occurring. Currently, approximately \$2.1 billion make up the TERP Fund Balance from dedicated TERP revenues that were collected, but not appropriated, by the Texas Legislature prior to 2022.

TCEQ should increase the amount of TERP funds awarded to the DFW area in an amount not less than the fees that would have been collected under Section 185. We recommend that TCEQ request an apportionment for the DFW region from the TERP Fund Balance in the upcoming 90th Legislative Session (in 2027) so that funds would be available at the beginning of fiscal year 2028. Funding available from the TERP Fund Balance in 2028 is consistent with projected collection start of Section 185 fees should the forthcoming attainment deadline be missed.

In the event that the TCEQ is unable to proceed with its proposal to credit grant revenue from TERP as offsets, and instead begins assessing fees on major source, the NCTCOG stands ready to assist in designing a program that maximizes benefits to reach attainment of the ozone standards.

NCTCOG is committed to continuing to assist the TCEQ in SIP development and implement impactful projects and programs to reduce emissions in the DFW region. Should you have any questions, please contact me at cklaus@nctcog.org or (817) 695-9286.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Klaus", is displayed within a light gray rectangular box.

Chris Klaus
Senior Program Manager
North Central Texas Council of Governments

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