



June 18, 2025

Submitted electronically at <https://tceq.commentinput.com/>

Office of Legal Services
Texas Commission on Environmental Quality
12100 Park 35 Circle
Austin, TX 78711-3087

Re: Section 185 Fee for the 2008 Ozone NAAQS - RPN 2023-131-101-AI

Background

Holcim (US) Inc. owns and operates a cement manufacturing facility in Midlothian, Ellis County, Texas, featuring two kiln lines commissioned in 1987 (Line 1) and 2000 (Line 2). The facility has a long-standing commitment to best available combustion control technology, incorporating low-NO_x burners, staged combustion, and flue gas recirculation. Notably, in 2006, Holcim installed Selective Non-Catalytic Reduction (SNCR) systems on both lines to significantly reduce NO_x emissions. These were among the very first SNCR systems deployed at a U.S. cement plant, and the first in Texas, routinely achieving a 55% NO_x reduction on both lines.

Demonstrating continuous environmental leadership, the Midlothian plant has invested over \$90 million in pollution control technologies in the last 20 years, incurring additional operational costs exceeding \$2 million annually. More recently, Holcim invested over \$28 million to install innovative pollution control technologies to reduce volatile organic compounds, including the *first-ever voluntary installation of selective catalytic reduction (SCR)* in a U.S. cement plant.

In sum, with both kilns utilizing Best Available Control Technologies (BACT) and Maximum Available Control Technologies (MACT) for particulate matter (PM), sulfur dioxide (SO₂), nitrogen oxides (NO_x), carbon monoxide (CO), and organic hazardous air pollutants (OHAPs), the Holcim Midlothian plant stands as one of the best-controlled cement kilns globally. Beyond these extensive emission controls, the facility is also equipped with state-of-the-art continuous monitoring devices to constantly measure emissions, ensuring ongoing compliance and transparency.

Though there have been significant reductions in ozone-forming emissions from most source categories in the DFW nonattainment area since 2006, if the region fails to reach attainment by 2027, the requirements outlined in this rule will remain in effect as long as the classification is retained.

As Holcim's Midlothian plant is located within the DFW nonattainment area, it would be subject to this rulemaking and the associated Section 185 fees. We respectfully offer the following comments for TCEQ's consideration.

Comments

While we acknowledge the State Implementation Plan's objective to improve air quality, we submit that the proposed rule contains significant oversights and disincentives that must be addressed to ensure impartiality, maximize environmental benefit, and avoid penalizing proactive industry leaders. Our core concerns revolve around the following points:

I. No Credit for Early and Voluntary Emission Reductions: A Disincentive to Proactive Environmental Stewardship

The proposed rule fundamentally penalizes early action by neglecting to include a robust mechanism to give credit for emission reductions implemented before the historical time window used for baseline calculations.

- **Undermining Early Action:** The current approach overlooks significant early emissions reductions achieved by major sources, such as those undertaken by Holcim. For instance, Holcim installed Selective Non-Catalytic Reduction (SNCR) systems on both kiln lines at our Midlothian (DFW) facility in 2006. These improvements, which substantially reduced NOx emissions, occurred well before the proposed 10-year baseline window (prior to the presumed effective date of this rule). Under the current draft, these substantial reductions would not be recognized in fee calculations.
- **Creating an Inequitable System:** This approach creates an inequitable system where facilities that made early investments in air quality improvements are disadvantaged compared to those that may have delayed such actions. If the same reductions had occurred at a later time, within the proposed baseline window, the pre-upgrade emissions would qualify, leading to a lower fee burden. This retrospective penalty for environmental stewardship is counterproductive to the overall goal of improving air quality.
- **Recommendation:** We strongly urge the TCEQ to evaluate and adopt sufficient mechanisms that would credit facility operators who reduced emissions well before the baseline window. The rule must be revised to explicitly recognize and credit early reductions that improved air quality. This will incentivize, rather than penalize, industry leaders who have already made substantial contributions to cleaner air.

II. Ineffectiveness of Section 185 Fees Alone in Achieving Ozone Precursor Reductions, Especially Given Mobile and Area Source Dominance and Increases

While Section 185 fees are a mandated levy on certain source categories, we contend that they alone are insufficient to guarantee a meaningful reduction in ozone precursor emissions, particularly in the face of rapidly rising NO_x emissions driven by population growth and the resulting increase in mobile and area source numbers and emissions.

- **Limited Impact of Point Source Reductions:** As presented by the North Central Texas Council of Governments (NCTCOG) on June 10, 2025, during a Section 185 stakeholder meeting, operators of point sources subject to the Section 185 fees in the DFW area will account for only about 18% of the future 2026 NO_x emissions. Assuming the ideal and optimistic case that their emissions were to decrease enough to reduce their Section 185 fee to zero, it would optimistically reduce their NO_x contribution by a mere 6.8 tons per day.
- **Growing Dominance of Area Sources and Offsetting Increases:** Meanwhile, in the same presentation, NCTCOG highlighted significant projections for area source NO_x emissions by 2026. This area source category has become a very significant and growing source of NO_x emissions over the last two decades. Notably, in 2006, point source NO_x emissions in DFW were substantially higher than those of area sources. However, since then, area source NO_x emissions in the DFW area have overtaken point source emissions. Whereas point sources as a category in DFW reduced their emissions by 42% from a 2006 baseline to a 2026 future estimate, area sources as a category are expected to *increase* their emissions by 22.4% over the same period. Indeed, according to NCTCOG data, five of all six category types of NO_x emission sources in the DFW area will decrease their NO_x emissions since 2006, with the singular exception being the category of area sources. This projected increase in NO_x emissions from area sources during this period (projected at 6.3 tons per day) almost entirely negates the most optimistic scenario of reductions by point sources, even if point sources were to reduce their Section 185 fee to zero.
- **Population Growth as a Primary Driver:** This trend should not surprise anyone familiar with NCTCOG's population projections: they project that the DFW area population will increase by a substantial 63% from 2019 to 2050. If recent history is any indication, this future population growth is highly likely to increase the amount of NO_x emitted by area sources, not to mention mobile sources, by a larger margin than the optimistic scenario resulting from the implementation of Section 185 fees, given the strong correlation between area source emissions and population increases.
- **Recommendation:** To achieve tangible air quality improvements, the rule must be complemented by additional, robust programs targeting other significant

emission sources, especially mobile and area sources. We strongly support and advocate for mechanisms that allow for further offsets of Section 185 obligations through Texas Emissions Reduction Program (TERP)-funded mobile source reductions, beyond what is currently proposed in Section 185. Such an approach directly benefits regional air quality by addressing a larger share of the emissions inventory.

Conclusion

We respectfully urge TCEQ to allow some flexibility in determining the appropriate baseline emission level for affected cement facilities in order to recognize significant investments and reductions achieved and to preserve the Texas cement industry. A truly effective and equitable rule must acknowledge and credit past environmental efforts, recognize the broader landscape of emission sources, and implement policies that genuinely drive regional air quality improvements rather than merely imposing fees with limited impact. We remain committed to working collaboratively with the TCEQ to develop a rule that achieves our shared environmental goals.

Thank you for the opportunity to comment on these draft rules.

Sincerely,

A handwritten signature in black ink, appearing to read "RCM".

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