

RECYCLING COUNCIL OF TEXAS



Donna F. Huff, Deputy Director
Air Quality Division, MC 206
Texas Commission on Environmental Quality
VIA EMAIL: 185Rule@tceq.texas.gov

September 6, 2024

RE: Comments to TCEQ on Section 185 Fee Program in Texas for the 2008 Ozone NAAQS

Dear Deputy Director Huff,

The Recycling Council of Texas (RCOT) greatly appreciates the opportunity to provide informal comments on the Federal Clean Air Act (FCAA) Section 185 Penalty Fee program. On behalf of our members, the RCOT submits the following points for consideration to the Texas Commission on Environmental Quality (“TCEQ”) regarding a proposed FCAA Section 185 fee program for the Houston-Galveston-Brazoria and Dallas-Fort Worth “severe” nonattainment areas. A thoughtful, pragmatic approach to establishing the appropriate fee structure, or alternative equivalent program, is necessary to ensure economic growth and development continues in our largest metropolitan areas.

Key aspects of an effective FCAA Section 185 Fee program adopted by TCEQ must allow:

- An affected source to establish its baseline emissions using an averaging calculation across operative years. This approach will account for fluctuation in emissions from cyclical industries, such as recycling. TCEQ applied a similar approach for the 1-hour Ozone NAAQS; and
- Sources to aggregate VOCs and NO_x for baseline calculations and fee assessment purposes. TCEQ found this acceptable for the fee program for the 1-hour ozone NAAQS.

More importantly and critical to promoting industrial growth and prosperity, TCEQ should explore and propose options of collecting equivalent or greater fees and investigate alternative air pollution control programs resulting in equivalent or greater emission reductions. For example:

- Transportation projects will generate more emission reductions than draconian regulatory requirements on stationary sources; and
- The use of Congestion Mitigation and Air Quality Improvement (CMAQ) funds and projects to fund equivalent emission reductions that Section 185 intends to achieve. Equivalent programs are allowed under Section 172(e) of the Clean Air Act.

Thank you for your time in considering these comments. If you have any questions or would like additional information, please contact RCOT at your convenience.

Sincerely,
Mel Wright
President
Recycling Council of Texas