Texas Commission on Environmental Quality (TCEQ)
Emissions Banking and Trading Stakeholder Group Meetings

February 27, 2014
2:00 – 4:00 pm and 6:00 – 8:00 pm
February 28, 2014
9:00 – 11:00 am
TCEQ Region 4 Office

March 3, 2014
2:00 – 4:00 pm and 6:00 – 8:00 pm
March 4, 2014
9:00 – 11:00 am
Houston-Galveston Area Council

March 5, 2014
9:00 – 11:00 am
TCEQ Headquarters

Meeting Summary

I. Opening Remarks and Presentation

Joseph H. Thomas, Natural Resource Specialist, Emissions Banking and Trading Program (EBTP), Air Quality Division, TCEQ, welcomed stakeholders and presented information about rule revisions intended for 30 Texas Administrative Code (TAC), Chapter 101, Subchapter H and about the input desired from stakeholders. The presentation is posted on the Stakeholder Group: Emissions Banking and Trading Web page under Minutes and Agendas of Prior Meetings for the above dates.

II. Open Discussion

After the presentation at each meeting, stakeholders were asked if they had any questions or wished to discuss any issues related to the planned rulemaking. The following questions were asked and addressed:

A stakeholder asked when the fleet turnover value will cause the Dallas-Fort Worth ozone nonattainment area (DFW) discrete emission reduction credit (DERC) flow control limit to go to zero?

> The TCEQ estimates that flow control limit may reach zero sometime between 2017 and 2025. Because of ongoing increases in vehicle fuel efficiency for new vehicles, the fleet turnover value is the primary factor in the calculation of the flow control limit that is causing reduction of the limit.

A stakeholder expressed concern that the option to use Mass Emission Cap and Trade (MECT) allowances as offsets could have long term negative impacts for the highly successful MECT Program. The stakeholder suggested the rule proposal include an estimate of the total tons of MECT allowances that are not being used and the project growth values for the Houston-Galveston-Brazoria ozone nonattainment (HGB) area.

> The TCEQ will consider these concerns when drafting the proposed rule changes.

A stakeholder asked if the rulemaking will affect provisions related to the international use of credits?

> The initial changes identified by the EBTP did not include any changes to the provisions for the use of credits from international sources. However, this issue may be addressed based on stakeholder input or further review of the rules.

A stakeholder suggested the rule proposal address issues related to using area and mobile source credits for offsets, inter-pollutant trading, and inter-basin trading.

> The TCEQ will consider these suggestions when drafting the proposed rule changes.

A stakeholder asked if the TCEQ plans to add an option to generated credits for particulate matter with an aerodynamic diameter of 2.5 micrometers or less ($PM_{2.5}$) precursors?

> The TCEQ does not anticipate adding an option for generating credits from $PM_{2.5}$ precursors, but welcomes stakeholder input on this issue.

A stakeholder suggested the TCEQ consider revising the banking related definitions in 30 TAC §101.1.

> Opening this section is not anticipated for this rulemaking, but EBTP will review the definitions related to the program to determine whether any revisions are needed.

A stakeholder asked why the date to submit the *Notice of Intent to Use Discrete Emission Credits* (Form DEC-2) was being changed.

> There is no plan currently to change the due date of the Form DEC-2. The revision mentioned in the presentation concerning the due dates is for clarification. Most deadlines for submitting the Form DEC-2 are specified in §101.376(d), but a later submittal date is provided in §101.356(h)(9) for the use of nitrogen oxides (NO_X) DERCs to comply with MECT requirements. Adding this later date to §101.376(d) should avoid any confusion on when the Form DEC-2 must be submitted for complying with MECT requirements.

A stakeholder asked if the date to submit the Form DEC-2 for NO_X DERCs would continue to be August if the rules were revised to include a hard-capped flow control limit.

> The TCEQ anticipates that early submittal of Forms DEC-2 in the DFW area would not be needed if the flow control limit is changed to a hard-capped limit because annual calculation of the flow control limit would not be needed.

A stakeholder asked if Highly-Reactive Volatile Organic Compound Emissions Cap and Trade (HECT) allowances can be used to satisfy volatile organic compound (VOC) offset requirements.

> Yes, current agency policy allows using HECT allowances for the full VOC offset requirement of a Nonattainment New Source Review (NNSR) permit for the sources subject to the HECT Program.

A stakeholder asked if allowances used to satisfy the 1:1 portion of the offset would devalue under the option included in the presentation.

> No, the option in the presentation would prevent devaluation of allowances as used to satisfy the 1:1 portion of the offset. However, the same allowances would devalue at the same rate as all allowances for the purposes of complying with the HECT or MECT program.

A stakeholder asked if the photochemical modeling data was going to be included in the DERC forms.

> No, there is no plan to add modeling requirements to the DERC forms. The only times that modeling is required for DERC use is for inter-basin and inter-pollutant use and as provided in 30 TAC §101.376(b)(1) to demonstrate no adverse impact from the specified uses.

A stakeholder asked if the TCEQ was planning to change the once-in-always-in provision for the HECT or MECT programs.

> No. We intend to add clarification to the rule on when a site ceases to be a site for the purposes of the HECT or MECT program and on how to report for control periods when there is no activity at a site, but sites would remain subject to the HECT or MECT program as long as they meet the definition of a site.

A stakeholder asked if the TCEQ is considering moving the *Notice of Intent to Use Emission Credits* (Form EC-3) submittal date from prior to construction to prior to operation.

> The TCEQ recognizes the differences between ERC, DERC, and NNSR requirements in regards to the date of submittal of forms for using credits and are considering what rule changes are appropriate to rectify the differences. We welcome stakeholder input on this issue.

A stakeholder asked why the TCEQ is considering removing the option to generate credits from mobile and area sources.

> Because of the difficulties in demonstrating that emission reductions are surplus to the state implementation plan, mobile and area credits have only been generated on very rare occasions. The TCEQ is requesting input from stakeholders on ways to make these types of generation practical under the Economic Incentive Program guidance from U.S. Environmental Protection Agency. If no practical method of generation is possible, these options may be removed from the rules.

A stakeholder asked if surrendering allowances in a 1:1 ratio when generating credits from MECT and HECT sources is a new requirement or a clarification of the TCEQ's current practice.

> This change is consistent with current practice.

A stakeholder asked if there is any consideration for adding incentives for installing additional controls.

> The ability to generate ERCs and DERCs from over-control of emissions is the incentive under the EBTP to install additional controls. In the HGB area, companies subject to HECT and/or MECT might also need fewer allowances each year. The TCEQ has no plans to add other incentives, but welcomes input from stakeholders on this issue.

A stakeholder asked when the draft rule language would be available to the public.

> Draft rule language is made public at backup, which is 19 days before the Agenda session at which the rules are presented to the Commission for proposal.

A stakeholder asked if the DERC flow control limit was going to apply to sources in the HGB area.

> No, the TCEQ does not intend to apply a DERC flow control limit to the HGB area.

A stakeholder asked if the term “emission credit” was going to change to “emission reduction credits” since the latter is the term most commonly used by stakeholders participating in this program.

> The TCEQ may consider revising this and other terms to be consistent with the terminology commonly used by stakeholders when referring to this program.

A stakeholder asked if the submittal requirements for the Form DEC-2 would change for everyone using DERCs.

> No, the change covered in the presentation (i.e., possibly allowing the submittal of forms to cover multiple years) was only for those using DERCs as offsets since this is a fixed amount that will not change over time.

A stakeholder suggested adding dates to the website for the most recent emissions inventory used in the SIP for each nonattainment area.

> The dates will be posted on the Web pages for the ERC and DERC programs.

A stakeholder requested that the TCEQ clarify when emission reductions become enforceable and suggested this date should be when the permit is altered/amended and not when the company begins testing the process changes that will result in the emission reductions.

> The TCEQ will consider this request when drafting the proposed rule changes.