

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** May 15, 2015

Thru: Bridget C. Bohac, Chief Clerk
Richard A. Hyde, P.E., Executive Director

From: Steve Hagle, P.E., Deputy Director
Office of Air

Docket No.: 2014-0234-RUL

Subject: Commission Approval for Proposed Rulemaking
Chapter 101, General Air Quality Rules
Emissions Banking and Trading Updates
Rule Project No. 2014-007-101-AI

Background and reason(s) for the rulemaking:

This rulemaking would revise four divisions of the Emission Banking and Trading (EBT) Program rules. These programs are market-based and allow the generation, use, and trading of either allowances based on historical emissions or credits based on emission reductions for offsets in Nonattainment New Source Review permits and for compliance with various air rules.

The rule changes would revise the discrete emission reduction credit (DERC) limit in the Dallas-Fort Worth 1997 eight-hour ozone nonattainment (DFW) area from an annually calculated value to a fixed value. This amendment is linked to revisions for the state implementation plan (SIP) for this area. The other revisions include amendments to increase the flexibility of using allowances as offsets, increase flexibility for the generation of credits, and better synchronizing the four divisions. Amendments for updated federal programs would be made to the Emission Credit and Discrete Emission Credit Programs. The amendments would remove outdated and redundant language, improve clarity, and add, remove, and amend definitions and provisions. The rule revisions would be submitted to the United States Environmental Protection Agency (EPA) as a revision to the SIP.

The commission proposed to remove the provisions for generating credits from area and mobile sources because of implementation issues. However, proposed revisions to the ozone standard substantially increase the need for credits in the future. Additionally, the commission received significant public comment opposing the removal of these area source credit provisions. Therefore, the rules that allow an area or mobile source to generate credits would be retained. As noted in the proposal preamble concerning the possibility of retaining these provisions, all of the proposed changes to the rules in Chapter 101, Subchapter H, Divisions 1 and 4 also apply to area sources in the adopted rules, but only limited changes would be made that would affect mobile source provisions.

Scope of the rulemaking:

The rulemaking would amend most sections in Chapter 101, Subchapter H, Divisions 1, 3, 4, and 6 and would repeal only one of the three sections proposed for repeal. Division 1 covers the Emission Credit Program; Division 3 is the Mass Emission Cap and Trade

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(MECT) Program; Division 4 is the Discrete Emission Credit Program; and Division 6 is the Highly Reactive Volatile Organic Compound (HRVOC) Emissions Cap and Trade (HECT) Program.

A.) Summary of what the rulemaking will do:

The amendments for the Emission Credit and Discrete Emission Credit Programs would clarify the SIP emissions data used when generating credits; would update federal standard changes; would clarify provisions for substituting credits from one ozone precursor for another; would remove the requirement to submit original certificates for trades and use; would revise the equations for generating credits; and would clarify that limitations on protocols apply to both credit generation and use. For the Emission Credit Program only, the revisions would extend the deadline to submit an application to generate credits from reductions made at facilities in nonattainment areas; and allow HECT sources to generate volatile organic compound emission reduction credits (ERCs) from HRVOC reductions if HECT allowances are retired. For the Discrete Emission Credit Program only, the revisions would make the limit for the DFW area a fixed value and clarify that it only applies to nitrogen oxides (NO_x) DERCs.

The amendments for both the MECT and HECT Programs would clarify the use of allowances as offsets; would allow sites to stop reporting when the authorizations for all applicable facilities are voided; would clarify data substitution for reports when emissions are not determined per Chapter 115 or 117 and require deducting 10% more allowances if data substitution results from noncompliance; would add procedures for changing site ownership; and would update equations for allocating allowances. For the MECT Program only, the revisions would provide a deadline for acquiring allowances to cover deficits; remove the equation for data substitution; and that use of volatile organic compound discrete emission credits must meet the provisions for inter-pollutant use. For the HECT Program only, the revisions would correct an error by removing the requirement to report emission events and add deadlines for transferring allowance for compliance.

The proposed revisions would have removed the option for generating credits from area and mobile sources. However, proposed federal rule changes to the ozone standard may substantially increase the need for credits in the future. Additionally, the commission received significant public comment opposing the removal of these area source credit provisions. Therefore, the commission is retaining the rules that allow an area source to generate credits. As noted in the proposal preamble concerning the possibility of retaining these provisions, all of the changes to the rules in Chapter 101, Subchapter H, Divisions 1 and 4 would also apply to area sources in the adopted rules.

B.) Scope required by federal regulations or state statutes:

None of the changes are required by federal rules or state statutes.

C.) Additional staff recommendations that are not required by federal rule or state statute:

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All the revisions are staff recommendations. Although most of the sections are substantially rewritten for clarity, most of the changes are not substantive. However, there are also substantive revisions, as described above.

Statutory authority:

The rulemaking would be adopted under Texas Water Code (TWC), §5.102, concerning General Powers, TWC, §5.103, concerning Rules, and TWC, §5.105, concerning General Policy, that authorize the commission to adopt rules necessary to carry out its powers and duties under the TWC; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, that authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The rulemaking would also be adopted under THSC, §382.002, concerning Policy and Purpose, that establishes the commission's purpose to safeguard the state air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, that authorizes the commission to control the quality of the state's air; THSC, §382.012, concerning State Air Control Plan, that authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; THSC, §382.014, concerning Emission Inventory, that authorizes the commission to require a person whose activities cause air contaminant emissions to submit information to enable the commission to develop an emissions inventory; THSC, §382.016, concerning Monitoring Requirements; Examination of Records, that authorizes the commission to prescribe requirements for owners or operators of sources to make and maintain records of emissions measurements; and §382.021, concerning Sampling Methods and Procedures, that authorizes the commission to prescribe the sampling methods and procedures to determine compliance with its rules. The rulemaking would also be adopted under Federal Clean Air Act (FCAA), 42 United States Code, §§7401, *et seq.*, which requires states to submit SIP revisions that specify the manner in which the national ambient air quality standard will be achieved and maintained within each air quality control region of the state.

If adopted, the rulemaking will implement THSC, §§382.002, 382.011, 382.012, 382.014, 382.016, and 382.017.

Effect on the:

A.) Regulated community:

The rule amendments would increase flexibility of the programs overall but make some provisions more stringent. The rules are rewritten for clarity and to better reflect how the programs operate. The revisions may increase credit generation, but would also help ensure that the generation and use of credits improve air quality. The provisions for area and mobile sources would remain in the rules and qualified sources that meet all programmatic requirements may generate credits. Increased flexibility for using allowances as offsets would be provided. Inter-pollutant use of credits would be clarified to be consistent with current guidance. In the DFW 1997 eight-hour ozone nonattainment area, a fixed limit would allow better planning of future use of NO_x DERCs. The additional

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10% penalty for data substitution because of noncompliance would help ensure that the reported emissions are not less than the actual emissions and would give additional incentive to comply with the monitoring and testing requirements of Chapters 115 and 117.

B.) Public:

These programs historically have contributed to improved air quality in Texas. The increased flexibility should increase the utility of the programs, while certain increases in stringency would provide increased benefits to air quality. The increased flexibility for the generation and use of credits would allow companies more options for meeting compliance requirements, which may provide economic benefits in the nonattainment areas.

C.) Agency programs:

No significant impact is expected for agency programs for the rules as proposed. Although workloads may increase and certain processing times would be shortened, program staff should be able to meet the proposed changes. Changes to the EBT database are already being made for the use of allowances as offsets. Additional database changes may be necessary for allowing only one form to be submitted when using DERCs for offsets; and to implement the additional 10% allowance deductions when using alternative data in the HECT and MECT Programs because of noncompliance with Chapter 115 or 117.

Stakeholder meetings:

Seven open-participation stakeholder meetings were held in Houston, Fort Worth, and Austin between February 27 and March 5, 2014. The initial concepts for the rulemaking were discussed and stakeholder input was requested, especially on how credits could be generated by area and mobile sources. A total of 49 persons from industry, government, and consulting firms participated. In the month after the meetings, stakeholders (including several who did not attend a meeting) provided comments and suggestions for rule changes. Different stakeholders suggested various potential changes, some of which are included in the revisions. Most of the stakeholders that commented were opposed to deleting ERC and DERC generation by area sources, but no one provided input on how the emission reductions could be surplus to the SIP. Some stakeholders indicated that no rule changes should be made other than those they supported, while the EPA suggested significant changes throughout the divisions. Stakeholder concerns were addressed in several rule revisions, but practical ways to incorporate others were not found.

Public comment:

The commission held public hearings on January 15, 2015 and January 20, 2015, and received oral comments from three individuals. The comment period closed on February 11, 2015. The commission received written comments from the United States Environmental Protection Agency, Region VI (EPA); The Law Office of C. William Smalling, PC (Smalling); Texas Oil & Gas Association (TXOGA); Western Refining, Inc. (Western); Wisdom Law, PLLC, on behalf of the Texas Association of Manufacturers (TAM); Linn Energy, LLC (LINN); Delek Refining, Ltd. (Delek); Sage Environmental Consulting, LP (Sage); Texas Chemical Council (TCC); Luminant; SuperAll Environmental, LLC (SAE); Baker Botts, LLP, on behalf of Texas Industry Project (TIP); El Paso Electric

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Company (EPEC); Total Petrochemicals & Refining USA, Inc. (Total); Stolt-Nielsen USA, Inc. (Stolt); Texas Pipeline Association (TPA); Hamman Oil and Refining Company (Hamman); and one individual. Specific changes to the rules were suggested in five comments. Significant public comments are summarized as follows.

Area and Mobile Source Credits

- TCC, TIP, TXOGA, TPA, Western, Delek, EPEC, Linn, Sage, SAE, Smalling, and four individuals opposed removing options to generate credits from both area and mobile sources. Hamman Oil and Refining Company, TAM, and Total opposed removing options to generate credits from area sources. Stolt opposed removing options to generate credits from mobile sources. EPA commented that it is not taking a formal position on the need to remove the rules providing for the generation of credits from area and mobile sources. No comments supported removing the option to generate credits from area and mobile sources. *In response to these comments, and given recently proposed changes to federal rules that may increase the need for credits the rules that allow area and mobile source to generate credits are retained. All of the proposed changes to these rules also apply to area sources in the adopted rules. The rules were restructured to ensure the mobile source rules were not changed as a part of this rulemaking.*

Deadline to Submit an Application to Generate ERCs

- TCC and TPA supported extending the deadline to submit an application to generate ERCs from 180 days to two years after the implementation of an emissions reduction strategy. TIP and Luminant suggested extending the application deadline to 54 months and Western and Delek recommended extending the application deadline to five years. Sage recommended removing the deadline from the rule so that applications could be submitted up to the expiration date of the potential ERCs. TCC requested the commission consider allowing reductions in new nonattainment areas to be claimed anytime “before the next nonattainment SIP” consistent with a five-year ERC and requested the change in deadline apply retroactively. *No changes are made in response to these comments. As discussed in the preamble to the proposed rules, the two-year period provides ample time for a company to submit the application while ensuring any ERCs generated are included in the modeling demonstration for a required SIP revision and leaving a significant portion of the five-year lifespan of an ERC to provide the flexibility needed by users.*

NO_x DERC Use in the DFW 1997 Eight-hour Ozone Nonattainment Area

- The EPA, Luminant, and TIP supported replacing of the annually calculated limit with a fixed limit. Luminant and TIP supported the 17.0 tons per day (tpd) limit. The EPA supported excluding Wise County from the limit and recommended reducing the limit to improve the possibility of reaching attainment for the 2008 standard by the FCAA deadline. *No changes are made in response to these comments. The 17.0 tpd limit on NO_x DERC use is consistent with the attainment and maintenance of the 1997 and 2008 eight-hour ozone National Ambient Air Quality Standard (NAAQS) because the*

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modeling sensitivity conducted indicates the adopted limit will not cause any additional monitor to exceed the standard. The Attainment Demonstration SIP Revision for the DFW 2008 Eight-Hour Ozone Nonattainment Area adopted concurrently with this rulemaking provides details regarding the modeled ozone impacts of the new NO_x DERC limit in Section 3.7.4.3: DERC Sensitivity.

- Luminant did not support changing the deadline to submit an application to use NO_x DERCs in the DFW area from August 1 to October 1. *In response to these comments, the proposed change is not being adopted since the change was intended to provide additional flexibility to affected sources.*
- The EPA asked how the current revisions to the DFW attainment demonstration SIP accounted for the exemption for ERCOT-declared emergencies and requested a historical accounting of how the ERCOT-declared emergency exemption has been used in the DFW area and its impact on the attainment demonstration. *No changes are made in response to this comment. The proposed changes did not revise this provision but only moved it within the rule. The original provision was added because the commission determined that the effect of an electrical grid emergency and potential blackout because of increased air emissions could be more significant than the use of DERCs above the limit. No DERCs have ever been used in the DFW area as a result of an ERCOT-declared emergency and historical NO_x DERC use in the DFW area is lower than the fixed limit of 17.0 tpd.*

Use of credits as offsets

- The EPA requested confirmation that the revised rules still require a user to obtain and retire the same amount of discrete emission credits as an environmental contribution. *The commission is not adopting any of the proposed changes in §101.376 referenced by the commenter.*
- TCC supported removing the requirement to identify the ERCs to be used as offsets before permit issuance to allow additional time to obtain the ERCs. TCC, TIP, and Luminant supported the proposed requirement for ERC users to submit a completed application to use ERCs at least 90 days before the start of operation for an ERC used for nonattainment new source review (NNSR) offsets. *No changes are made in response to these comments.*
- TIP offered a technical correction to clarify that an application to use DERCs for NNSR offsets is not required to be submitted more than once. *In response to this comment, the commission is revising §101.376(b)(2)(D) to require the user to submit the application at least 90 days before the start of operation and before continuing operation for any subsequent period for which the offset requirement was not covered under the initial application.*

Use of allowances as offsets

- TCC expressed concerns regarding the potential devaluation of MECT allowances used for the 1:1 portion of the offset ratio due to future regulatory changes and suggested not devaluing MECT allowances that are used as offsets for new facilities that meet Best Available Control Technology or Lowest Achievable Emission Reduction requirements.

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TIP requested revisions to allow MECT allowances used for the 1:1 portion of the offset requirement to be permanently retired to prevent devaluation. *No changes are made in response to these comments. The NNSR offset requirement for a new or modified major source is a requirement of the FCAA. Unlike credits that are used one time for offsets, enough allowances must be surrendered on a yearly basis to meet the full offset amount. If allowances are devalued through future regulatory actions, enough additional allowances must be obtained to continue to meet the full offset requirement.*

- TIP opposed the amendments to allow MECT and HECT allowances to be used for the entire NNSR offset requirement because this could be handled through guidance. *No changes are made in response to these comments. The commission is adopting these revisions to provide additional flexibility for sources to use allowances for NNSR offsets and to provide clarification for certain administrative issues related to this use.*
- The EPA and TCC supported revisions that allow MECT and HECT allowances to be used for the entire NNSR offset requirement. TPA supported revisions that allow MECT allowances to be used for the NO_x offset requirements for any facility required to participate in the MECT program. *No changes are made in response to these comments. The commission appreciates support for the revised rules.*

Generating ERCs from facilities in the MECT and HECT Programs

- TIP requested the rules be revised to require that MECT allowances be retired only when NO_x ERCs are generated by MECT facilities that were permitted and built before 2001. *No changes are made in response to this comment. The prior rules already require an owner or operator that generates ERCs from any facility subject to the MECT rules to make an enforceable and permanent reduction of annual allowances. The commenters suggested revision would lessen the SIP-approved requirements and require a demonstration of noninterference under FCAA, §110(l) showing why those amendments do not negatively affect the status of the state's progress towards attainment with the ozone NAAQS, do not interfere with control measures, and do not prevent reasonable further progress toward attainment of the ozone NAAQS.*
- TPA supported the revisions that allow volatile organic compounds (VOC) ERCs to be generated from reducing HRVOC emissions if one ton per year of HECT allowances is surrendered for each ton per year of ERCs generated from HRVOC emissions. TPA supported enhancing a source's ability to generate VOC ERCs, which are currently in short supply. *No changes are made in response to these comments.*

Inter-pollutant use of credits

- TIP opposed the new provisions that require a showing that inter-pollutant use of ERCs or DERCs will not adversely affect the overall air quality or regulatory design value in the nonattainment area of use. *No changes are made in response to these comments.*
- The EPA and TCC supported revisions to require photochemical, as opposed to the urban airshed, modeling for each request for the inter-pollutant use of credits. *No changes are made in response to these comments.*

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- The EPA expressed concern that the new language seemed to require the applicant to only demonstrate the use would not adversely affect the overall air quality or the regulatory design value and suggested revising the proposed rules to require the applicant to demonstrate both. *In response to this comment, the commission is revising the language to clarify that a credit may be used to meet the NNSR offset requirements for the other ozone precursor if photochemical modeling demonstrates that the overall air quality and the regulatory design value in the nonattainment area of use will not be adversely affected by the substitution.*
- TCC encouraged the agency to consider additional ways to calculate use of inter-pollutant ERCs in order to provide flexibility to the regulated community. *No changes are made in response to this comment. The commission developed the method for calculating the use of inter-pollutant ERCs to be consistent with federal and state requirements. Based on comments from the EPA on this provision, the method, as clarified at adoption, appears to be consistent with EPA requirements. Since both commission and EPA approval of the inter-pollutant use of ERCs is required, no changes to the rule were made in response to this comment.*

SIP emissions

- The EPA requested clarification on and examples of how the new definition of SIP emissions would apply to credit generation and use. The EPA questioned if the definition expanded the ERC program to attainment areas. The EPA commented the proposed definition seemed to allow credits to be generated before an area is designated nonattainment and at this time, EPA could not identify what regulations would be approvable or allow credits generated in an attainment area to be used for NNSR offsets if the same area later becomes nonattainment. *In response to this comment, the definition has been revised to clearly indicate that SIP emissions are only considered for a facility located in a nonattainment area. The SIP emissions definition is intended to provide a mechanism for the generation of ERCs and DERCS upon the effective date of the area's nonattainment designation, which is consistent with when new or modified facilities become subject to the NNSR offset requirements. Additional explanation and examples are included in the preamble discussion as requested.*
- Sage commented that, for counties newly designated as nonattainment, the rule change should be expanded to keep the emissions used in the EI or maintenance SIP available after an attainment demonstration (AD SIP) is adopted if they have not already been used for an offset. *No changes are made in response to this comment. When an AD SIP is developed or revised, the prior emission reductions are incorporated into the modeling used to demonstrate attainment; therefore, credits could not be generated from reductions because they are no longer surplus to the SIP.*
- TIP and TCC expressed concern that the proposed definition of SIP emissions would reset the baseline year for areas such as the Houston-Galveston-Brazoria ozone nonattainment area (HGB) for which an EI SIP revision, but not an AD or maintenance plan SIP revision, has been submitted for the current NAAQS. *In response to this comment, the adopted definition of SIP emissions clarifies that the EI SIP would only*

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be used if an AD or maintenance SIP had not been submitted. The definition of "SIP emissions" does not reset the baseline year in the HGB area.

- TCC commented that companies should be able to adjust the EI to evaluate emissions based on recent, actual performance testing in lieu of emission factors if such factors were used in the baseline EI. *No changes are made in response to this comment. The EI requires actual emissions to be reported using the best available method during the reported calendar year. EI revisions are reviewed on a case-by-case basis. However, the processing of such a revision will not necessarily change the baseline emissions for credit generation, since the revision must have been represented in the SIP emissions.*
- TIP opposed amendments that prevent credits from being generated from emissions that exceed any local, state, or federal requirement. *No changes are made in response to this comment. The referenced revisions were non-substantive changes. The definition of "surplus" has and continues to require that emission reductions certified as credits cannot have been relied upon in the SIP and cannot be mandated by any local, state, and federal requirement.*

Miscellaneous comments

- TCC and TIP opposed the proposed 10% allowance penalty for MECT sources because the standard for "non-compliance" is unclear and tightens the MECT cap without improving emissions quantification. TCC stated that if the commission moves forward with the proposed penalty then the rules should allow 60 days to respond to the Notice of Deficiency. *No changes are made in response to these comments. The additional 10% of allowances will only be assessed in cases where there is a clear requirement for monitoring or testing in Chapter 117 but the owner or operator of the facility has failed to meet that requirement well after the implementation date. This issue will be addressed in the annual compliance letter for a site and the commission will continue to allow revisions to an annual compliance report within 90 days of the issuance of that letter. The additional allowance assessment will be voided if the owner or operator demonstrates that the noncompliance with Chapter 117 has been addressed within that period.*
- Western and Delek supported the commission's decision to not make any changes to provisions allowing credits be generated for reductions in Mexico. *No changes are made in response to these comments.*
- The EPA agreed with the proposed deletion of the "ownership" provisions and agreed that the revised general ERC and DERC provisions were clear that the owner or operator of a stationary source is the owner of the credit. *The proposed repeal of the provisions in §101.302(l) and §101.372(m) are no longer being considered.*
- The EPA noted inconsistency between the protocol provisions for the ERC and DERC programs and encouraged the commission to review both sections and to identify common language for use. *In response to this comment, non-substantive revisions were made in these sections of the rules to promote consistency between these rules.*
- The EPA supported the repeal of the Emission Monitoring and Compliance Demonstration in §101.358 and agreed that the provisions in §101.354 provide more

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detailed requirements regarding emissions monitoring and compliance demonstration. *No changes are made in response to this comment.*

- The EPA recommended revising the proposed language in the DERC rules since this program applies statewide in both attainment and nonattainment areas. *In response to this comment, §101.372(c) is revised to clarify it will only apply if the emission reduction is made at a facility that is located in an area designated as nonattainment for the pollutant for which the DERC will be generated.*
- The EPA commented that any protocols used to quantify DERC generation and use must be submitted to the EPA for SIP approval or the individual methodologies should be developed under the existing SIP requirements for EPA review and approval of protocols. *Changes are made in response to this comment. The commission agrees that the DERC rules require the use of an approved quantification protocol to determine the amount of DERCs generated or used. However, in response to this comment §101.302(d)(1)(C) and §101.372(d)(1)(C) are revised to specify that the executive director can approve the use of a methodology approved by the EPA to quantify emissions from the same type of facility.*
- The EPA noted what it considered a typographical error in the DERC rule and suggested using "as a criteria pollutant" instead of "or a criteria pollutant". *The noted word is not a typographical error but the rule is revised to clarify it is intended to both NO_x and carbon monoxide, as well as any other criteria pollutants if any emission specifications and testing requirements are adopted in the future. The emission specification for carbon monoxide has not been submitted to the EPA for SIP approval, but the testing requirements that the provision requires to be used have been approved by the EPA as part of the SIP.*
- TCC commented that the proposed revisions to the definition of "baseline emissions" would not allow ERCs to be generated from shutdowns after the applicable SIP baseline year and added that credit should be available for sources that were shut down, even when those sources were not included in the SIP baseline year. *No changes are made in response to this comment. The revisions to the definition of "baseline emissions" were proposed to ensure the definition is consistent with other portions of this division but did not impose any new requirements or restrictions on ERC generation. ERCs could not be generated from sources that do not have SIP emissions.*
- TCC commented that the proposal notes an ERC cannot be generated from shutdown of a facility that is not in the SIP, and requested confirmation that emissions covered by Permits by Rule (PBR) are "in the SIP." *No changes are made in response to this comment. If emissions from a facility authorized under a PBR were included in the AD SIP baseline emissions for that area, then the facility is included in the SIP. If not, then the facility is not eligible to generate credits.*

Significant changes from proposal:

Based on public comment, several changes are made at adoption for these rules:

- The removal of credit generation by area and mobile sources, including the repeal of §101.304 and §101.374, are not made at adoption;

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- Clarification about the modeling requirement for the inter-pollutant use of ERCs and DERCs is added; and
- Changes to the proposed definition of “state implementation plan emissions” for ERCs and DERCs are made for clarity.

Potential controversial concerns and legislative interest:

Historically, there has been legislative interest on increasing the flexibility of credit generation, but no specific legislative interest was expressed concerning the revisions . Based on public comment input, the repeal of specific provisions for credit generation by area sources and mobile sources is retained although the problems with such generation remain challenges to the approval of such credits, including the significant regulatory and financial responsibility associated with implementing an area source program consistent with federal requirements. Additionally, some commenters were concerned with amending provisions outside of the changes they supported because of possible risk of the EPA not approving the provisions.

Will this rulemaking affect any current policies or require development of new policies?

The rulemaking incorporates existing guidance for the inter-pollutant use of credits and the use of allowances for offsets into the rules but has no impact on any existing policies. To implement the provisions for area and mobile sources to generate credits, additional policies and possibly rulemaking may be needed. Changes to the database for the program will need to be made to be consistent with the rule changes.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

This rulemaking is not required by federal regulation or state statute, so the changes are not mandatory. However, the changes, as revised at adoption, should make the rules clearer and the programs more efficient. The only part of the rulemaking that would have a direct consequence if not adopted is the revision of the DERC limit for the DFW 1997 ozone eight-hour nonattainment area. This change is reflected in the SIP revisions that are also being considered for adoption at the same time.

Key points in the proposal rulemaking schedule:

***Texas Register* proposal publication date:** December 26, 2014

Anticipated *Texas Register* adoption publication date: June 19, 2015

Anticipated effective date: June 25, 2015

Six-month *Texas Register* filing deadline: June 26, 2015

Agency contacts:

Joseph Thomas, Rule Project Manager, (512) 239-0012, Air Quality Division

Amy Browning, Staff Attorney, (512) 239-0891

Kris Hogan, Texas Register Coordinator, (512) 239-6812

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Attachments

None

cc: Chief Clerk, 2 copies
Executive Director's Office
Marshall Coover
Pattie Burnett
Stephen Tatum
Office of General Counsel
Joseph Thomas
Kris Hogan