

Stakeholder's Meeting Minutes
February 27, 2002

■ **Opening Remarks**

Explanation of primary purposes for opening rule 30 TAC 101 Subchapter H, Division 1 and 4:

- Improve readability and understanding
- Focus on future issues such as MDERC's
- Gain EPA's approval of ERC's and DERC's for SIP.
- Complete the ERC and DERC rules to include them as part of the MECT.

Introduction of Mr. Cory Chism and Mr. Steve Sun as the leads for the opening of this rule package.

■ **Discussion Topics**

■ **Division 1**

Mr. Chism opens the discussion on the changes to be made to the ERC and MERC portion of rule provisions and what these changes will do.

- Largest change to Division 1 will be to reorganize this section to improve readability and segregate stationary and mobile source references.
- The segregation will have two basic sections for both stationary and mobile sources that will address generation and certification.
- Address EPA's concerns with quantification protocols for credit generation. EPA wants to ensure that they have the opportunity to comment on protocols used within the program since credits are a means of alternative compliance with the SIP. The EPA's would require a 45 day period for comment and approval of new quantification protocols.
- Recordkeeping requirements need to be aligned as the TNRCC requires 2 years and the EPA guidance suggests 5 years.

The rule changes will also address:

- Source vs. Facility definition clarification. Credits are generated by facilities (pieces of equipment, not EPN's necessarily).
- Outlining equations for ERC use. Actual equations on calculating the amount of emission credits needed for use will be included in rule.
- Clarification by rule that selling price will be public information included on the registry web sites.

Open for questions:

Question: Is the term facility to include fugitive sources?

Answer: Yes, fugitives would still be able to generate ERC credit.

Question: What drives the need for ERC price inclusion?

Answer: History prompted us to provide these as public information and to dissuade disadvantageous selling practices. In most part to ensure fair free market knowledge for small businesses.

Question: What has the EPA not approved (TNRCC programs)?

Answer: ERC and DERC rules, although they have approved the MECT program.

Question: What happens if the EPA does not approve these rules?

Answer: This is not an issue. Our goal is to have them approve these rules however, if they do not approve, they could require site specific SIP revisions at sites which use ERC's and DERC's.

Question: What are some specific EPA concerns?

Answer: They would like us to list quantification protocols for all facility types. They want to see a list and we would like to keep it more general to allow for some flexibility.

Question: Have similar programs in the Northeast states been held to such specificity by the EPA?

Answer: No and we are coming from that stance. The EPA would like that these methodologies be given full public disclosure and that the public as well as the EPA would be allowed to comment on them.

Question: Any rule changes expected for Division 3?

Answer: We are not sure. We would like to clarify the intent of public disclosure on selling prices and trends to the public. These could potentially be part of the rule package changes.

Mr. Baker and Mr. Chism give explanation of ERC generation equation.

Question: What are the relationships of ERC, DERC's, MDERC's to the Cap and Trade?

Answer: In terms of using credits in lieu of allowances, ERC's generated prior to Dec.1, 2000 can be used at 1:1 ratio. DERC's generated prior to 2005 may be used at a 1:1 ration. Starting in 2005, DERC's generated prior to 2005 will be used at a increased exchange ratio of 4:1, then 7:1 and finally 10:1. There were a large amount of DERC's in the bank. We did not want to increase the cap through DERC usage so the ratio changes were necessary.

Question: Can you give us examples of MDERC generation mechanisms?

Answer: We are open at this point. We are looking to review reduction strategies and are willing to consider any ideas.

Question: Will the flexibility in quantitative methods in the rule change the amount of credit certified in the past?

Answer: We want to be very thorough and ensure that the credit is genuine. Of course there could be changes that take place that would change credit value based on new methodologies.

Mr. Baker explains that new methodologies used for calculating allowances can change allowance allocations, but we will not mix calculation methods. The old and new allocations would be configured based on the new methods.

■ **Division 4**

Mr. Sun opens the discussion for changes to Subchapter H Division 4, the DERC and MDERC rules.

Issues to be addressed:

- Address EPA concerns regarding quantification protocols.
- Improve readability.
- Restructuring format to increase segregation of DERC's and MDERC's.
- Clarify definitions in subsections.

Mr. Sun continues with the specifics of each of these topics:

- Clarification of DERC generation equations and the 30 day rolling average emissions, maximum daily emission limit for source and system cap equations.
- Correct miscellaneous typographical errors.
- In section 101.370 definitions- clarify and elaborate. The term "facility" is to replace "source".
- In section 101.372 reorder some subsections. New subsection (d) protocols: relocated from 101.373(a) and (b). Subsection (e) will be added to state that DERC's must be certified and that a certificate will be issued.
- In section 101.373 - changing format.
- Section 101.374 - MDERC's will have three components:
 1. MDERC generation.
 2. Generation methodologies and calculations.
 3. Certification
- Section 101.376 - DERC usage. In prior rule the only requirement was notice of use. Now the rule will include the necessity to submit certificate and get approval

for use.

Open for questions:

Question: Will 101.376 address DERC usage for MECT?

Answer: That will be contained in Cap and Trade division.

Question: What is the time frame for certification of mobile credits?

Answer: Indefinite at this time. We are currently working to determine the proper quantification methods. MDERC's present some interesting issues such as lack of data and history. We also want to work with the EPA and are going back and forth on these issues and we want to ensure that the emissions are surplus to the SIP. Hopefully the first MDERC credits can be certified in 1 to 2 months. Then our goal is to certify approved projects within 2 to 3 months time.

Question: What are some examples of EPA protocols?

Answer: Basically they do not have any. AP-42 could be an example. They just want the ability to review and comment on the protocols. Our goal is to have the protocols approved so as not to have to devalue previously generated credit in the future.

Question: What is the schedule?

Answer: Proposal to Commission at the May 22nd agenda. Public comment period would begin the first week of June with public hearings held in July. Expect to present rule package for adoption by the Commissioners the first week of October.

Question: Does it require EPA approval after?

Answer: We would like to coordinate a parallel approval process.

Question: Any other milestones?

Answer: Have draft rule complete by April 15th and posted on the web by the first part of May.

Question: How much information is made public about trades?

Answer: Company name, price paid for credits or allowances, amount, type of pollutant, non attainment area. We want to make sure that is clear in the rule, that this is public information.

Question: Why is a name necessary?

Answer: Make comments regarding your concerns about this information.

Question: What if transaction involves trades within companies with different accounts?

Answer: We might denote this as an internal trade without a price.

Question: Is the 90% reduction in the HGA firm?

Answer: Yes. The scientific study is continuing, but until a formal change is made, 90% is the reduction.

Question: Is there another stakeholder meeting?

Answer: There will be another meeting on March 13th. We will take more ideas and comments at this meeting.

Question: Could there be another stakeholder's meeting after the draft?

Answer: Yes if it is necessary.

Further discussion of the draft rule. It will be posted on the web as a flexible document and on May 3rd the official document is to go to the Commissioners.

Mr. Baker emphasized the necessity of input before proposal as after proposal it is difficult to change or make additions to the rule. The rough draft will be available in two weeks and it is the goal for the two meetings to include as much input as possible before proposal.

■ **Closing Remarks/Action Items**

- Mr. Baker invites the public to visit the banking website.
- Contact Mr. Chism or Mr. Sun with questions.
- Get ideas and input to these contacts before the two weeks before draft.
- Minutes will be located at:
www.tceq.state.tx.us/permitting/air/nav/air_banking.html