Texas Commission on Environmental Quality

Chapter 101 - General Air Quality Rules

SUBCHAPTER H: EMISSIONS BANKING AND TRADING

DIVISION 4 : DISCRETE EMISSION CREDIT BANKING AND TRADING
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SUBCHAPTER H: EMISSIONS BANKING AND TRADING
DIVISION 4: DISCRETE EMISSION CREDIT PROGRAM
§§101.370 - 101.376, 101.378, 101.379
Effective June 25, 2015

§101.370. Definitions.

Unless specifically defined in the Texas Clean Air Act or in §3.2 or §101.1 of this title (relating to Definitions), the terms used by the commission have the meanings commonly ascribed to them in the field of air pollution control. In addition, the following words and terms, when used in this division, have the following meanings, unless the context clearly indicates otherwise.

(1) Activity--The amount of activity at a facility or mobile source measured in terms of production, use, raw materials input, vehicle miles traveled, or other similar units that have a direct correlation with the economic output and emission rate of the facility or mobile source.

(2) Actual emissions--The total emissions during a selected time period, using the facility's or mobile source's actual daily operating hours, production rates, or types of materials processed, stored, or combusted during that selected time period.

(3) Area source--Any facility included in the agency emissions inventory under the area source category.

(4) Baseline emissions--The facility's emissions, in tons per year, occurring before implementation of an emission reduction strategy and calculated as the lowest of the facility's historical adjusted emissions or state implementation plan (SIP) emissions, except that the SIP emissions value is only considered for a facility in a nonattainment area.

(5) Certified--Any emission reduction that is determined to be creditable upon review and approval by the executive director.

(6) Curtailment--A reduction in activity level at any facility or mobile source.

(7) Discrete emission credit--A discrete emission reduction credit or mobile discrete emission reduction credit.

(8) Discrete emission reduction credit--A certified emission reduction that is created by reducing emissions from a facility during a generation period, quantified after the generation period, and expressed in tenths of a ton.

(9) Emission rate--The facility's rate of emissions per unit of activity.

(10) Emission reduction--An actual reduction in emissions from a facility or mobile source.

(11) Emission reduction strategy--The method implemented to reduce the facility's or mobile source's emissions beyond that required by state or federal law, regulation, or agreed order.

(12) Facility--As defined in §116.10 of this title (relating to General Definitions).

(13) Generation period--The discrete period of time, not exceeding 12 months, over which a discrete emission reduction credit is created.

(14) Generator--The owner or operator of a facility or mobile source that creates an emission reduction.

(15) Historical adjusted emissions--The facility's emissions occurring before implementation of an emission reduction strategy and adjusted for any local, state, or federal requirement, calculated using the following equation.

Figure: 30 TAC §101.370(15)

$$E_H = \frac{(A_1 \times ER_1) + (A_2 \times ER_2)}{2}$$

Where:
EH = The historical adjusted emissions for a facility.
A1 = The facility's activity during the first of any two consecutive calendar years selected in accordance with §101.373(b)(2) of this title (relating to Discrete Emission Reduction Credit Generation and Certification), not to exceed any applicable local, state, or federal requirement.
ER1 = The facility's emission rate during the first of any two consecutive calendar years selected in accordance with §101.373(b)(2) of this title, not to exceed any applicable local, state, or federal requirement.
A2 = The facility's activity during the second of any two consecutive calendar years selected in accordance with §101.373(b)(2) of this title, not to exceed any applicable local, state, or federal requirement.

*ER*2 = The facility's emission rate during the second of any two consecutive calendar years selected in accordance with §101.373(b)(2) of this title, not to exceed any applicable local, state, or federal requirement.

(16) Mobile discrete emission reduction credit --A certified emission reduction from a mobile source that is created during a generation period, quantified after the period in which emissions reductions are made, and expressed in tons.

(17) Mobile source--On-road (highway) vehicles (e.g., automobiles, trucks, and motorcycles) and non-road vehicles (e.g., trains, airplanes, agricultural equipment, industrial equipment, construction vehicles, off-road motorcycles, and marine vessels).

(18) Mobile source baseline activity--The level of activity of a mobile source during the applicable mobile source baseline emissions period.

(19) Mobile source baseline emissions--The mobile source's actual emissions, in tons per year, occurring prior to a mobile emission reduction strategy calculated as the product of mobile source baseline activity and mobile source baseline emission rate not to exceed all limitations required by applicable local, state, and federal rules and regulations.

(20) Mobile source baseline emissions rate--The mobile source's rate of emissions per unit of mobile source baseline activity during the mobile source baseline emissions period.

(21) Ozone season--The portion of the year when ozone monitoring is federally required to occur in a specific geographic area, as defined in 40 Code of Federal Regulations Part 58, Appendix D, §2.5.

(22) Protocol--A replicable and workable method of estimating emission rates or activity levels used to calculate the amount of emission reduction generated or credits required for facilities or mobile sources.

(23) Quantifiable--An emission reduction that can be measured or estimated with confidence using replicable methodology.

(24) Real reduction--A reduction in which actual emissions are reduced.

(25) Shutdown--The cessation of an activity producing emissions at a facility or mobile source.

(26) Site--As defined in §122.10 of this title (relating to General Definitions).

(27) State implementation plan--A plan that provides for attainment and maintenance of a primary or secondary national ambient air quality standard as adopted in 40 Code of Federal Regulations Part 52, Subpart SS.

(28) State implementation plan (SIP) emissions--The emissions data in the state's emissions inventory (EI) required under 40 Code of Federal Regulations Part 51, Subpart A for the year used to represent the facility's emissions in a SIP revision. The applicable SIP revision must be for the nonattainment area where the facility is located and must be for the criteria pollutant, or include the precursor pollutant, for which the applicant is requesting credits. The SIP emissions may not exceed any applicable local, state, or federal requirement. A facility's SIP emissions are determined from the EI year that:

(A) was used to develop the projection-base year inventory for the modeling included in an attainment demonstration (AD) SIP revision or the attainment inventory for a maintenance plan SIP revision, whichever was most recently submitted to the United States Environmental Protection Agency (EPA) for the current National Ambient Air Quality Standard (NAAQS);

(B) if the SIP revisions identified in subparagraph (A) of this paragraph have not been submitted to the EPA, was used to develop the projection-base year inventory for the modeling included in an AD SIP revision or the attainment inventory for a maintenance plan SIP revision, whichever was most recently submitted to the EPA for an earlier NAAQS issued in the same averaging time and the same form as the current NAAQS;

(C) if the SIP revisions identified in subparagraphs (A) and (B) of this paragraph have not been submitted to the EPA, corresponds to the EI for the most recent EI SIP revision submitted to the EPA; or

(D) if the SIP revisions identified in subparagraphs (A) - (C) of this paragraph have not been submitted to the EPA, corresponds to the EI that will be used for the EI SIP revision that will be submitted to the EPA.

(29) Strategy activity--The facility's or mobile source's level of activity during the discrete emission reduction credit generation period.

(30) Strategy emission rate--The facility's or mobile source's emission rate during the discrete emission reduction credit generation period.

(31) Surplus--An emission reduction that is not otherwise required of a facility or mobile source by any applicable local, state, or federal requirement and has not been otherwise relied upon in the state implementation plan.

(32) Use period--The period of time over which the user applies discrete emission credits to an applicable emission reduction requirement.

(33) User--The owner or operator of a facility or mobile source that acquires and uses discrete emission reduction credits to meet a regulatory requirement, demonstrate compliance, or offset an emission increase.

(34) Use strategy--The compliance requirement for which discrete emission credits are being used.

Adopted June 3, 2015 Effective June 25, 2015

§101.371. Purpose.

The purpose of this division is to allow the owner or operator of a facility or mobile source to generate discrete emission credits by reducing emissions beyond any applicable local, state, or federal requirement and to allow the owner or operator of another source to use these credits. Participation under this division is strictly voluntary.

Adopted June 3, 2015 Effective June 25, 2015

§101.372. General Provisions.

(a) Applicable pollutants.

(1) A discrete emission reduction credit (DERC) may be generated from a reduction of a criteria pollutant, excluding lead, or a precursor of a criteria pollutant. A DERC generated from the reduction of one pollutant or precursor may not be used to meet the requirements for another pollutant or precursor, except as provided in §101.376 of this title (relating to Discrete Emission Reduction Credit Use).

(2) Reductions of volatile organic compounds (VOC), nitrogen oxides (NO_X), carbon monoxide (CO), sulfur dioxide (SO_2) and particulate matter with an aerodynamic diameter of less than or equal to a nominal ten microns (PM_{10}) may qualify as mobile discrete emission reduction credits (MDERCs) as appropriate. Reductions of other criteria pollutants are not creditable. Reductions of one pollutant may not be used to meet the reduction requirements for another pollutant, unless urban airshed

modeling demonstrates that one may be substituted for another subject to approval by the executive director and the United States Environmental Protection Agency (EPA).

(b) Eligible generator categories. Eligible categories include the following:

(1) facilities (including area sources);

(2) mobile sources; or

(3) any facility, including area sources, or mobile source associated with actions by federal agencies under 40 Code of Federal Regulations Part 93, Subpart B, Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

(c) Discrete emission credit requirements.

(1) A DERC is a certified emission reduction that:

(A) must be real, quantifiable, and surplus at the time the DERC is generated;

(B) must occur after the year used to determine the state implementation plan (SIP) emissions for a facility in a nonattainment area; and

(C) must occur at a facility with SIP emissions reported before implementation of the emission reduction strategy for a facility in a nonattainment area.

(2) To be creditable as an MDERC, an emission reduction must meet the following:

(A) the reduction must be real, quantifiable, and surplus at the time it is created;

(B) the reduction must have occurred after the most recent year of emissions inventory used in the SIP for all applicable pollutants;

(C) the mobile source's emissions must have been represented in the emissions inventory used for the SIP; and

(D) the mobile sources must have been included in the attainment demonstration baseline emissions inventory. If a mobile reduction implemented is not in the baseline for emissions, this reduction does not constitute a discrete emission reduction.

(3) Emission reductions from a facility or mobile source which are certified as discrete emission credits under this division cannot be recertified in whole or in part as emission credits under another division within this subchapter.

(d) Protocol.

(1) All generators or users of discrete emission credits must use a protocol which has been submitted by the executive director to the EPA for approval, if existing for the applicable facility or mobile source, to measure and calculate baseline emissions. If the generator or user wishes to deviate from a protocol submitted by the executive director, EPA approval is required before the protocol can be used. Protocols shall be used as follows.

(A) The owner or operator of a facility subject to the emission specifications under §§117.110, 117.310, 117.410, 117.1010, 117.1210, 117.1310, 117.2010, 117.2110, or 117.3310 of this title (relating to Emission Specifications for Attainment Demonstration; Emission Specifications for Eight-Hour Attainment Demonstration; and Emission Specifications) shall use the testing and monitoring methodologies required under Chapter 117 of this title (relating to Control of Air Pollution for Nitrogen Compounds) to show compliance with the emission specification for that pollutant.

(B) The owner or operator of a facility subject to the control requirements or emission specifications under Chapter 115 of this title (relating to Control of Air Pollution from Volatile Organic Compounds) shall use the testing and monitoring methodologies required under Chapter 115 of this title to show compliance with the applicable requirements.

(C) The executive director may approve the use of a methodology approved by the EPA to quantify emissions from the same type of facility.

(D) Except as specified in subparagraph (C) of this paragraph, if the executive director has not submitted a protocol for the applicable facility or mobile source to the EPA for approval, the following applies:

(i) the amount of discrete emission credits from a facility or mobile source, in tons, will be determined and certified based on quantification methodologies at least as stringent as the methods used to demonstrate compliance with any applicable requirements for the facility or mobile source;

(ii) the generator shall collect relevant data sufficient to characterize the facility's or mobile source's emissions of the affected pollutant and the

facility's or mobile source's activity level for all representative phases of operation in order to characterize the facility's or mobile source's baseline emissions;

(iii) the owner or operator of a facility with a continuous emissions monitoring system or predictive emissions monitoring system in place shall use this data in quantifying emissions;

(iv) the chosen quantification protocol must be made available for public comment for a period of 30 days and must be viewable on the commission's website;

(v) the chosen quantification protocol and any comments received during the public comment period must, upon approval by the executive director, be submitted to the EPA for a 45-day adequacy review; and

(vi) quantification protocols may not be accepted for use with this division if the executive director receives a letter objecting to the use of the protocol from the EPA during the 45-day adequacy review or the EPA proposes disapproval of the protocol in the *Federal Register*.

(2) If the monitoring and testing data specified in paragraph (1) of this subsection is missing or unavailable, the generator or user shall determine the facility's emissions for the period of time the data is missing or unavailable using the most conservative method for replacing the data and these listed methods in the following order:

(A) continuous monitoring data;

(B) periodic monitoring data;

(C) testing data;

(D) manufacturer's data;

(E) *EPA Compilation of Air Pollution Emission Factors* (AP-42), September 2000; or

(F) material balance.

(3) When quantifying actual emissions in accordance with paragraph (2) of this subsection, the generator or user shall submit the justification for not using the methods in paragraph (1) of this subsection and submit the justification for the method used.

(e) Credit certification.

(1) The amount of discrete emission credits must be rounded down to the nearest tenth of a ton when generated and must be rounded up to the nearest tenth of a ton when used.

(2) The executive director shall review an application for certification to determine the credibility of the reductions and may certify reductions. Each DERC certified will be assigned a certificate number. Reductions determined to be creditable will be certified by the executive director.

(3) The applicant will be notified in writing if the executive director denies the discrete emission credit notification. The applicant may submit a revised application in accordance with the requirements of this division.

(4) If a facility's or mobile source's emissions exceed any applicable local, state, or federal requirement, reductions of emissions exceeding the requirement may not be certified as discrete emission credits.

(f) Geographic scope. Except as provided in paragraph (7) of this subsection and §101.375 of this title (relating to Emission Reductions Achieved Outside the United States), only emission reductions generated in the State of Texas may be creditable and used in the state with the following limitations.

(1) VOC and NO_X discrete emission credits generated in an ozone attainment area may be used in any county or portion of a county designated as attainment or unclassified, except as specified in paragraphs (4) and (5) of this subsection and may not be used in an ozone nonattainment area.

(2) VOC and NO_X discrete emission credits generated in an ozone nonattainment area may be used either in the same ozone nonattainment area in which they were generated, or in any county or portion of a county designated as attainment or unclassified.

(3) VOC and NO_X discrete emission credits generated in an ozone nonattainment area may not be used in any other ozone nonattainment area, except as provided in this subsection.

(4) VOC discrete emission credits are prohibited from use within the covered attainment counties, as defined in §115.10 of this title (relating to Definitions), if generated outside of the covered attainment counties. VOC discrete emission credits

generated in a nonattainment area may be used in the covered attainment counties, except those generated in El Paso.

(5) NO_X discrete emission credits are prohibited from use within the covered attainment counties, as defined in §115.10 of this title, if generated outside of the covered attainment counties. NO_X discrete emission credits generated in a nonattainment area, except those generated in El Paso, may be used in the covered attainment counties.

(6) CO, SO_2, and PM_{10} discrete emission credits must be used in the same metropolitan statistical area (as defined in Office of Management and Budget Bulletin Number 93-17 entitled "Revised Statistical Definitions for Metropolitan Areas" dated June 30, 1993) in which the reduction was generated.

(7) VOC and NO_X discrete emission credits generated in other counties, states, or emission reductions in other nations may be used in any attainment or nonattainment county provided a demonstration has been made and approved by the executive director and the EPA, to show that the emission reductions achieved in the other county, state, or nation improve the air quality in the county where the credit is being used.

(g) Ozone season. In areas having an ozone season of less than 12 months (as defined in 40 Code of Federal Regulations Part 58, Appendix D)VOC and NO_X discrete emission credits generated outside the ozone season may not be used during the ozone season.

(h) Recordkeeping. The generator must maintain a copy of all forms and backup information submitted to the executive director for a minimum of five years, following the completion of the generation period. The user shall maintain a copy of all forms and backup information submitted to the executive director for a minimum of five years, following the completion of the use period. Other relevant reference material or raw data must also be maintained on-site by the participating facilities or mobile sources. The user must also maintain a copy of the generator's notice and backup information for a minimum of five years after the use is completed. The records must include, but not necessarily be limited to:

(1) the name, emission point number, and facility identification number of each facility or any other identifying number for mobile sources using discrete emission credits;

(2) the amount of discrete emission credits being used by each facility or mobile source; and

(3) the certificate number of each discrete emission credit used by each facility or mobile source.

(i) Public information. All information submitted with notices, reports, and trades regarding the nature, quantity of emissions, and sales price associated with the use, or generation of discrete emission credits is public information and may not be submitted as confidential. Any claim of confidentiality for this type of information, or failure to submit all information may result in the rejection of the discrete emission reduction application. All nonconfidential notices and information regarding the generation, use, and availability of discrete emission credits may be obtained from the registry.

(j) Authorization to emit. A discrete emission credit created under this division is a limited authorization to emit the specified pollutants in accordance with the provisions of this section, the Federal Clean Air Act, and the Texas Clean Air Act, as well as regulations promulgated thereunder. A discrete emission credit does not constitute a property right. Nothing in this division should be construed to limit the authority of the commission or the EPA to terminate or limit such authorization.

(k) Program participation. The executive director has the authority to prohibit a person from participating in discrete emission credit trading either as a generator or user, if the executive director determines that the person has violated the requirements of the program or abused the privileges provided by the program.

(l) Compliance burden and enforcement.

(1) The user is responsible for assuring that a sufficient quantity of discrete emission credits are acquired to cover the applicable facility or mobile source's emissions for the entire use period.

(2) The user is in violation of this section if the user does not possess enough discrete emission credits to cover the compliance need for the use period. If the user possesses an insufficient quantity of discrete emission credits to cover its compliance need, the user will be out of compliance for the entire use period. Each day the user is out of compliance may be considered a violation.

(3) A user may not transfer its compliance burden and legal responsibilities to a third-party participant. A third-party participant may only act in an advisory capacity to the user.

(m) Credit ownership. The owner of the initial discrete emission credit certificate shall be the owner or operator of the mobile source creating the emission reduction. The

executive director may approve a deviation from this subsection considering factors such as, but not limited to:

(1) whether an entity other than the owner or operator of the mobile source incurred the cost of the emission reduction strategy; or

(2) whether the owner or operator of the mobile source lacks the potential to generate one tenth of a ton of credit.

Adopted June 3, 2015 Effective June 25, 2015

§101.373. Discrete Emission Reduction Credit Generation and Certification.

(a) Emission reduction strategy.

(1) A discrete emission reduction credit (DERC) may be generated using one of the following strategies or any other method that is approved by the executive director:

(A) the installation and operation of pollution control equipment that reduces emissions below the baseline emissions for the facility; or

(B) a change in the manufacturing process, other than a shutdown or curtailment, that reduces emissions below the baseline emissions for the facility.

(2) A DERC may not be generated using the following strategies:

(A) a shutdown or curtailment of an activity at a facility, either permanent or temporary;

(B) a modification or discontinuation of any activity that is otherwise in violation of a local, state, or federal requirement;

(C) an emission reduction required to comply with any provision under 42 United States Code (USC), Subchapter I regarding tropospheric ozone, or 42 USC, Subchapter IV-A regarding acid deposition control;

(D) an emission reduction of hazardous air pollutants, as defined in 42 USC, §7412, from application of a standard promulgated under 42 USC, §7412;

(E) an emission reduction from the shifting of activity from one facility to another facility at the same site;

(F) an emission reduction credited or used under any other emissions trading program;

(G) an emission reduction occurring at a facility that received an alternative emission limitation to meet a state reasonably available control technology requirement, except to the extent that the emissions are reduced below the level that would have been required had the alternative emission limitation not been issued;

(H) an emission reduction from a facility authorized in a flexible permit, unless the reduction is permanent and enforceable or the generator can demonstrate that the emission reduction was not used to satisfy the conditions for the facilities under the flexible permit;

(I) that portion of an emission reduction funded through a state or federal program, unless specifically allowed under that program;

(J) an emission reduction from a facility subject to Division 2, 3, or 6 of this subchapter (relating to Emissions Banking and Trading Allowances; Mass Emissions Cap and Trade Program; and Highly Reactive Volatile Organic Compound Emissions Cap and Trade Program); or

(K) an emission reduction from a facility without state implementation plan (SIP) emissions if the facility is located in a nonattainment area.

(b) DERC baseline emissions.

(1) For a facility located in an area designated as nonattainment for a criteria pollutant, and the pollutant being reduced is either the same criteria pollutant or a precursor of that criteria pollutant, the baseline emissions may not exceed the facility's SIP emissions. If the pollutant being reduced is not the same criteria pollutant for which the area is designated nonattainment or a precursor of that criteria pollutant, then baseline emissions are limited as specified in paragraph (3) of this subsection.

(2) The activity and emission rate used to calculate the facility's historical adjusted emissions must be determined from the same two consecutive calendar years, selected from the ten consecutive years immediately before the emission reduction is achieved.

(3) For a facility located in an area that is not designated nonattainment for the criteria pollutant being reduced, or the pollutant being reduced is not a precursor of that criteria pollutant, the historical adjusted emissions must be determined from two consecutive calendar years that include or follow the 1990 emission inventory.

(4) For emission reduction strategies that exceed 12 months, the baseline emissions are established after the first year of generation and are fixed for the life of each unique emission reduction strategy. A new baseline must be established if the commission adopts a SIP revision for the area where the facility is located.

(5) For a facility in existence less than 24 months or not having two complete calendar years of activity data, a shorter period of not less than 12 months may be considered by the executive director.

(c) DERC calculation.

(1) DERCs are calculated according to the following equation.

Figure: 30 TAC §101.373(c)(1)

$$DERC = \left[SA \times \left(BER - SER\right)\right]$$

Where:

DERC = The number of discrete emission reduction credits generated in tenths of a ton.
SA = Strategy activity, which is the facility's level of activity during the discrete emission reduction credit generation period.
BER = The facility's baseline emission rate, which is the lowest of the emission rate used in the historical adjusted emissions or the state implementation plan emissions.
SER = The facility's emission rate during the discrete emission reduction credit generation period.

(2) For a facility located in an area designated nonattainment for a criteria pollutant, and the pollutant being reduced is either the same criteria pollutant or a precursor of that criteria pollutant, the sum of the reduction generated under paragraph (1) of this subsection and the total strategy emissions must not be greater than the facility's historical adjusted emissions or SIP emissions, whichever is less.

(3) For a facility located in an area that is not designated nonattainment for the criteria pollutant being reduced, or the pollutant being reduced is not a precursor of that criteria pollutant, the sum of the reduction generated under paragraph (1) of this subsection and the total strategy emissions must not be greater than the facility's historical adjusted emissions.

(d) DERC certification.

(1) The application form designated by the executive director must be submitted to the executive director no later than 90 days after the end of the generation period and no later than 90 days after completing each 12 months of generation.

(2) A DERC must be quantified in accordance with §101.372(d) of this title (relating to General Provisions). The executive director shall have the authority to inspect and request information to assure that the emission reductions have actually been achieved.

(3) An application for DERCs must include, but is not limited to, a completed application form signed by an authorized representative of the applicant along with the following information for each pollutant reduced at each applicable facility:

(A) the generation period;

(B) a complete description of the generation activity;

(C) the amount of DERCs generated;

(D) for volatile organic compound reductions, a list of the specific compounds reduced;

(E) documentation supporting the activity, emission rate, historical adjusted emissions, SIP emissions, strategy emission rate, and strategy activity;

(F) emissions inventory data for each of the years used to determine the SIP emissions and historical adjusted emissions;

(G) the most stringent emission rate for the facility, considering all applicable local, state, and federal requirements;

(H) a complete description of the protocol used to calculate the DERC generated; and

(I) the actual calculations performed by the generator to determine the amount of DERCs generated.

Adopted June 3, 2015 Effective June 25, 2015

§101.374. Mobile Discrete Emission Reduction Credit Generation and Certification.

(a) Method of generation.

(1) Mobile discrete emission reduction credits (MDERC) may be generated by any mobile source emission reduction strategy that creates actual mobile source emission reductions under this division (relating to Discrete Emission Credit Banking and Trading), and is subject to the approval of the commission.

(2) MDERCs may not be generated from the following strategies:

(A) that portion of reductions funded through a state or federal program, unless specifically allowed under that program;

(B) through the transfer of emissions from one mobile source to another mobile source within the same nonattainment area and under common ownership or control; or

(C) reduction strategies resulting in secondary emissions increases that exceed limits established under state or federal rules or regulations.

(b) MDERC baseline emissions.

(1) Mobile source baseline emissions must be calculated with either measured emissions of an appropriately sized sample for the participating mobile sources using a United States Environmental Protection Agency (EPA)-approved test procedure, or estimated emissions of the participating mobile sources using the most recent edition of the EPA on-road or non-road mobile emissions factor model or other model as applicable.

(2) Mobile source baseline emissions for each year of the proposed mobile source reduction strategy must be the same as, or lower than, those used or proposed to be used in the state implementation plan (SIP) in which the reduction strategy is proposed.

(3) Baseline emissions for quantifying MDERCs should include, but not be limited to, the following information and data as appropriate:

(A) the emission standard to which the mobile source is subject or the emission performance standard to which the mobile source is certified;

(B) the estimated or measured in-use emissions levels per unit of use from all significant mobile source emissions sources;

(C) the number of mobile sources in the participating group;

(D) the type or types of mobile sources by model year; and

(E) the actual activity level, hours of operation, or miles traveled by type and model year.

(c) MDERC calculation. The quantity of MDERCs must be calculated from the annual difference between the mobile source baseline emissions and the strategy emissions. The MDERC must be based on actual in-use emissions of the modified or substitute mobile source.

(d) Emission offsets. Mobile source reduction strategies that reduce emissions in one criteria pollutant or precursor for which an area is designated as nonattainment or near nonattainment, yet result in an emissions increase from the same mobile source in another criteria pollutant or precursor for which that same area is nonattainment or near nonattainment, must be offset at a 1:1 ratio with DERCs or MERCs.

(e) MDERC certification.

(1) An MDEC-1 Form, Notice of Generation and Generator Certification of Mobile Discrete Emission Credits, shall be submitted to the executive director no later than 90 days after the discrete emission reduction strategy activity has been completed, or no later than 90 days after the completion of the first 12 months of generation. Submission of the MDEC-1 Form shall continue every 12 months thereafter for each subsequent year of generation.

(2) MDERCs will be determined and certified in accordance with §101.372(d) of this title (relating to General Provisions) using:

(A) EPA methodologies, when available;

(B) actual monitoring results, when available;

(C) calculations using the most current EPA mobile emissions factor model or other model as applicable; or

(D) calculations using creditable emission reduction measurement or estimation methodologies that satisfactorily address the analytical uncertainties of mobile source emissions reduction strategies. The generator shall collect relevant data sufficient to characterize the process emissions of the affected pollutant and the process activity level for all representative phases of source operation during the period under which the MDERCs are created or used.

(3) An application for MDERCs must include, but is not limited to, a completed MDEC-1 Form signed by an authorized representative of the applicant along with the following information for each pollutant reduced for each mobile source:

(A) the date of the reduction;

(B) a complete description of the generation activity;

(C) the amount of discrete mobile source emission credits generated;

(D) documentation supporting the mobile source baseline activity, mobile source baseline emission rate, mobile source baseline emissions, and the mobile source strategy emissions;

(E) a complete description of the protocol used to calculate the discrete mobile source emission reduction generated;

(F) the actual calculations performed by the generator to determine the amount of discrete mobile source emission credits generated; and

(G) a demonstration that the reductions are surplus to all local, state, and federal rules and to emissions modeled in the SIP.

Adopted November 10, 2004 Effective December 2, 2004

§101.375. Emission Reductions Achieved Outside the United States.

(a) A facility may use emission reductions achieved outside the United States of criteria pollutants or precursors of criteria pollutants if the facility meets the requirements of subsection (c) of this section.

(b) A facility may use emission reductions achieved outside the United States of criteria pollutants or precursors of criteria pollutants and substitute these reductions for reductions in other criteria pollutants or precursors of criteria pollutants if the facility meets the requirements of subsection (c) of this section; and

(1) the reduction is substituted for the reduction of another criteria pollutant and the substitution results in a greater health benefit and is of equal or greater benefit to the overall air quality of the area; or

(2) a reduction of an air contaminant for which the area in which the facility is located has been designated as nonattainment or which leads to the formation of a criteria pollutant for which an area has been designated as nonattainment is substituted for any air contaminant for which the area has been designated as nonattainment or leads to the formation of any criteria pollutant for which the area has been designated as nonattainment.

(c) The use of reductions outside the United States must be approved by the executive director and the United States Environmental Protection Agency (EPA), and the user of the emission reduction must:

(1) demonstrate to the executive director and EPA that the reduction is real, permanent, enforceable, quantifiable, and surplus to any applicable Mexican, federal, state, or local law;

(2) demonstrate that the use of the reduction does not cause localized health impacts, as determined by the executive director and EPA;

(3) submit all supporting information for calculations and modeling, and any additional information requested by the executive director and EPA; and

(4) be located within 100 kilometers of the Texas - Mexico border.

(d) This section does not apply to reductions in emissions of lead.

Adopted October 4, 2006 Effective October 26, 2006

§101.376. Discrete Emission Credit Use.

(a) Requirements to use discrete emission credits. Discrete emission credits may be used if the following requirements are met.

(1) The user shall have ownership of a sufficient amount of discrete emission credits before the use period for which the specific discrete emission credits are to be used.

(2) The user shall hold sufficient discrete emission credits to cover the user's compliance obligation at all times.

(3) The user shall acquire additional discrete emission credits during the use period if it is determined the user does not possess enough discrete emission credits to cover the entire use period. The user shall acquire additional credits as allowed under this section prior to the shortfall, or be in violation of this section.

(4) The user may acquire and use only discrete emission credits listed in the registry.

(5) The user shall obtain executive director approval to use nitrogen oxides (NO_X) discrete emission reduction credits (DERCs) in Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties as provided by subsection (f) of this section.

(6) A DERC may not be used unless it is available in the account for the site where it will be used.

(b) Use of discrete emission credits. With the exception of uses prohibited in subsection (c) of this section or precluded by a commission order or a condition within an authorization under the same commission account number, discrete emission credits may be used to meet or demonstrate compliance with any facility or mobile regulatory requirement including the following:

(1) to exceed any allowable emission level, if the following conditions are met:

(A) in ozone nonattainment areas, permitted facilities may use discrete emission credits to exceed permit allowables by no more than 10 tons for nitrogen oxides or 5 tons for volatile organic compounds in a 12-month period as approved by the executive director. This use is limited to one exceedance, up to 12 months within any 24-month period, per use strategy. The user shall demonstrate that there will be no adverse impacts from the use of discrete emission credits at the levels requested; or

(B) at permitted facilities in counties or portions of counties designated as attainment or, attainment/unclassifiable, or unclassifiable, discrete emission credits may be used to exceed permit allowables by values not to exceed the prevention of significant deterioration significance levels as provided in 40 Code of Federal Regulations (CFR) §52.21(b)(23), as approved by the executive director before use. This use is limited to one exceedance, up to 12 months within any 24-month period, per use strategy. The user shall demonstrate that there will be no adverse impacts from the use of discrete emission credits at the levels requested;

(2) as new source review (NSR) permit offsets, if the following requirements are met:

(A) the user shall obtain the executive director's approval prior to the use of specific discrete emission credits to cover, at a minimum, one year of operation of the new or modified facility in the NSR permit;

(B) the amount of discrete emission credits needed for NSR offsets equals the quantity of tons needed to achieve the maximum allowable emission level set in the user's NSR permit. The user shall also purchase and retire enough discrete emission credits to meet the offset ratio requirement in the user's ozone nonattainment area. The user shall purchase and retire either the environmental contribution of 10% or the offset ratio, whichever is higher; and

(C) for the use of mobile discrete emission reduction credits, the NSR permit must meet the following requirements:

(i) the permit must contain an enforceable requirement that the facility obtain at least one additional year of offsets before continuing operation in each subsequent year;

(ii) prior to issuance of the permit, the user shall identify the discrete emission credits; and

(iii) prior to start of operation, the user shall submit a completed application form specified by the executive director;

(D) for the use of DERCs, the user shall submit a completed application form specified by the executive director at least 90 days before the start of operation and at least 90 days before continuing operation for any period in which DERCs not included in a prior application will be used as offsets;

(3) to comply with the Mass Emissions Cap and Trade Program requirements as provided by §101.356(h) of this title (relating to Allowance Banking and Trading); or

(4) to comply with Chapter 115 or 117 of this title (relating to Control of Air Pollution from Volatile Organic Compounds; and Control of Air Pollution from Nitrogen Compounds), as allowed.

(c) Discrete emission credit use prohibitions. A discrete emission credit may not be used under this division:

(1) before it has been acquired by the user;

(2) for netting to avoid the applicability of federal and state NSR requirements;

(3) to meet (as codified in 42 United States Code (USC), Federal Clean Air Act (FCAA)) requirements for:

(A) new source performance standards under FCAA, §111 (42 USC, §7411);

(B) lowest achievable emission rate standards under FCAA, §173(a)(2) (42 USC, §7503(a)(2));

(C) best available control technology standards under FCAA, §165(a)(4) (42 USC, §7475(a)(4)) or Texas Health and Safety Code, §382.0518(b)(1);

(D) hazardous air pollutants standards under FCAA, §112 (42 USC, §7412), including the requirements for maximum achievable control technology;

(E) standards for solid waste combustion under FCAA, §129 (42 USC, §7429);

(F) requirements for a vehicle inspection and maintenance program under FCAA, §182(b)(4) or (c)(3) (42 USC, §7511a(b)(4) or (c)(3));

(G) ozone control standards set under FCAA, §183(e) and (f) (42 USC, §7511b(e) and (f));

(H) clean-fueled vehicle requirements under FCAA, §246 (42 USC, §7586);

(I) motor vehicle emissions standards under FCAA, §202 (42 USC, §7521);

(J) standards for non-road vehicles under FCAA, §213 (42 USC, §7547);

(K) requirements for reformulated gasoline under FCAA, §211(k) (42 USC, §7545); or

(L) requirements for Reid vapor pressure standards under FCAA, §211(h) and (i) (42 USC, §7545(h) and (i));

(4) to allow an emissions increase of an air contaminant above a level authorized in a permit or other authorization that exceeds the limitations of §106.261 or §106.262 of this title (relating to Facilities (Emission Limitations); and Facilities (Emission and Distance Limitations)) except as approved by the executive director and the United States Environmental Protection Agency (EPA). This paragraph does not apply to limit the use of DERC or mobile DERC in lieu of allowances under §101.356 of this title;

(5) to authorize a facility whose emissions are enforceably limited to below applicable major source threshold levels, as defined in §122.10 of this title (relating to General Definitions), to operate with actual emissions above those levels without triggering applicable requirements that would otherwise be triggered by such major source status;

(6) to exceed an allowable emission level where the exceedance would cause or contribute to a condition of air pollution as determined by the executive director; or

(7) in Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties, if the NO_X DERC usage requested exceeds the limit specified in subsection (f) of this section.

(d) Notice of intent to use.

(1) A completed application form specified by the executive director, signed by an authorized representative of the applicant, must be submitted to the executive director in accordance with the following requirements.

(A) Discrete emission credits may be used only after the applicant has submitted the notice and received executive director approval.

(B) The application must be submitted:

(i) except as provided in subsection (f)(4) of this section, for NO_X DERC use in Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties, by August 1 before the beginning of the calendar year in which the DERCs are intended for use;

(ii) for DERC use for the Mass Emissions Cap and Trade Program in accordance with §101.356 of this title, by October 1 of the control period in which the DERC are intended for use; or

(iii) for DERC use for NSR offsets, as required by subsection (b)(2)(D) of this section; or

(iv) for all other discrete emission credit use, at least 45 days before the first day of the use period if the discrete emission credits were generated from a facility, 90 days if the discrete emission credits were generated from a mobile source, and every 12 months thereafter for each subsequent year if the use period exceeds 12 months.

(C) A copy of the application must also be sent to the federal land manager 30 days prior to use if the user is located within 100 kilometers of a Class I area, as listed in 40 CFR Part 81 (2001).

(D) The application must include, but is not limited to, the following information for each use:

(i) the applicable state and federal requirements that the discrete emission credits will be used to comply with and the intended use period;

(ii) the amount of discrete emission credits needed;

(iii) the baseline emission rate, activity level, and total emissions for the applicable facility or mobile source;

(iv) the actual emission rate, activity level, and total emissions for the applicable facility or mobile source;

(v) the most stringent emission rate and the most stringent emission level for the applicable facility or mobile source, considering all applicable local, state, and federal requirements;

(vi) a complete description of the protocol, as submitted by the executive director to the United States Environmental Protection Agency for approval, used to calculate the amount of discrete emission credits needed;

(vii) the actual calculations performed by the user to determine the amount of discrete emission credits needed;

(viii) the date that the discrete emission credits were acquired or will be acquired;

(ix) the discrete emission credit generator and the original certificate number of the discrete emission credits acquired or to be acquired;

(x) the price of the discrete emission credits acquired or the expected price of the discrete emission credits to be acquired, except for transfers between sites under common ownership or control;

(xi) a statement that due diligence was taken to verify that the discrete emission credits were not previously used, the discrete emission credits were not generated as a result of actions prohibited under this regulation, and the discrete emission credits will not be used in a manner prohibited under this regulation; and

(xii) a certification of use, that must contain certification under penalty of law by a responsible official of the user of truth, accuracy, and completeness. This certification must state that based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

(2) Discrete emission credit use calculation.

(A) To calculate the amount of discrete emission credits necessary to comply with §§117.123, 117.320, 117.323, 117.423, 117.1020, 117.1220, or 117.3020 of this title (relating to Source Cap; and System Cap), a user may use the equations listed in those sections, or the following equations.

(i) For the rolling average cap:

Figure: 30 TAC §101.376(d)(2)(A)(i)

$$DERCs = \sum_{i=1}^{N} \left[\left(EH_i \times ER_i \right) - \left(H_i \times R_i \right) \right] \times \frac{d}{2000}$$

Where:

N = The total number of emission units in the source or system cap.
i = Each emission unit in the source or system cap.
EH_i = The expected new daily heat input, in MMBtu per day.
ERi = The expected new emission rate, in lb/MMBtu.
H_i = The actual daily heat input, in million British thermal units (MMBtu) per day, as calculated according to §§117.123(b)(1), 117.320(c)(1) and (2), 117.323(b)(1), 117.423(b)(1), 117.1020(c)(1), 117.1220(c)(1), or 117.3020(c) of this title as applicable.

R_i = The actual emission rate, in pounds (lb)/MMBtu, as defined in §§117.123(b)(1), 117.320(c)(1) and (2), 117.323(b)(1), 117.423(b)(1), 117.1020(c)(1), 117.1220(c)(1), or 117.3020(c) of this title as applicable.
d = The number of days that emissions are expected to exceed the source or system cap.

(ii) For maximum daily cap:

Figure: 30 TAC §101.376(d)(2)(A)(ii)

$$DECs = \sum_{i=1}^{N} \left[\left(EH_{Mi} \times ER_i \right) - \left(H_{Mi} \times R_i \right) \right] \times \frac{d}{2000}$$

Where:

N = The total number of emission units in the source or system cap.
i = Each emission unit in the source or system cap.
EH_{Mi} = The expected new maximum daily heat input, in MMBtu per day.
ER_i =The expected new emission rate, in lb/MMBtu.
H_{Mi} = The maximum daily heat input, in MMBtu/day, as defined in §§117.123(b)(2), 117.320(c)(3), 117.323(b)(2), 117.423(b)(2), 117.1020(c)(2), or 117.1220(c)(2) of this title as applicable.
Ri = In lb/MMBtu, is defined as in §§117.123(b)(2), 117.320(c)(3), 117.323(b)(2), 117.423(b)(2), 117.1020(c)(2), or 117.1220(c)(2) of this title as applicable.
d = The number of days in the use period.

(B) The amount of discrete emission credits needed to demonstrate compliance or meet a regulatory requirement is calculated as follows.

Figure: 30 TAC §101.376(d)(2)(B)

$$DECs = \left(ELA \right) \times \left(EER - RER \right)$$

Where:

ELA = The expected level of activity.
EER = The expected emission rate per unit activity.
RER = The regulatory emission rate per unit activity.

(C) The amount of discrete emission credits needed to exceed an allowable emissions level is calculated as follows.

Figure: 30 TAC §101.376(d)(2)(C)

$$DECs = \left(ELA - PLA\right) \times \left(PER\right)$$

Where:

ELA = The expected level of activity.
PLA = The permitted level of activity.
PER = The permitted emission rate per unit activity.

(D) The user shall retire 10% more discrete emission credits than are needed, as calculated in this paragraph, to ensure that the facility or mobile source environmental contribution retirement obligation will be met.

(E) If the amount of discrete emission credits needed to meet a regulatory requirement or to demonstrate compliance is greater than 10 tons, an additional 5.0% of the discrete emission credits needed, as calculated in this paragraph, must be acquired to ensure that sufficient discrete emission credits are available to the user with an adequate compliance margin.

(3) A user may submit a late application in the case of an emergency, or other exigent circumstances, but the notice must be submitted before the discrete emission credits can be used. The user shall include a complete description of the situation in the notice of intent to use. All other notices submitted less than 45 days prior to use, or 90 days prior to use for a mobile source, will be considered late and in violation.

(4) The user is responsible for determining the credits it will purchase and notifying the executive director of the selected generating facility or mobile source in the application. If the generator's credits are rejected or the application is incomplete, the use of discrete emission credits by the user may be delayed by the executive director. The user cannot use any discrete emission credits that have not been certified by the executive director. The executive director may reject the use of discrete emission credits by a facility or mobile source if the credit and use cannot be demonstrated to meet the requirements of this section.

(5) If the facility is in an area with an ozone season less than 12 months, the user shall calculate the amount of discrete emission credits needed for the ozone season separately from the non-ozone season.

(e) Notice of use.

(1) The user shall calculate:

(A) the amount of discrete emission credits used, including the amount of discrete emission credits retired to cover the environmental contribution, as described in subsection (d)(2)(D) of this section, associated with actual use; and

(B) the amount of discrete emission credits not used, including the amount of excess discrete emission credits that were purchased to cover the environmental contribution, as described in subsection (d)(2)(D) of this section, but not associated with the actual use, and available for future use.

(2) Discrete emission credit use is calculated by the following equations.

(A) The amount of discrete emission credits used to demonstrate compliance or meet a regulatory requirement is calculated as follows.

Figure: 30 TAC §101.376(e)(2)(A)

$$DECs = (ALA) \times (AER - RER)$$

Where:

ALA = actual level of activity
AER = actual emission rate per unit activity

RER = regulatory emission rate per unit activity

(B) The amount of discrete emission credits used to comply with permit allowables is calculated as follows.

Figure: 30 TAC §101.376(e)(2)(B)

$$DECs = \left(ALA - PLA\right) \times \left(AER\right)$$

Where:

ALA = actual level of activity
PLA = permitted level of activity
AER = permitted emission rate per unit activity

(3) A form specified by the executive director for using credits must be submitted to the commission in accordance with the following requirements.

(A) The notice must be submitted within 90 days after the end of the use period. Each use period must not exceed 12 months.

(B) The notice is to be used as the mechanism to update or amend the notice of intent to use and must include any information different from that reported in the notice of intent to use, including, but not limited to, the following items:

(i) purchase price of the discrete emission credits obtained prior to the current use period, except for transfers between sites under common ownership or control;

(ii) the actual amount of discrete emission credits possessed during the use period;

(iii) the actual emissions during the use period for volatile organic compounds and nitrogen oxides;

(iv) the actual amount of discrete emission credits used;

(v) the actual environmental contribution; and

(vi) the amount of discrete emission credits available for future use.

(4)Discrete emission credits that are not used during the use period are surplus and remain available for transfer or use by the holder. In addition, any portion of the calculated environmental contribution not attributed to actual use is also available.

(5) The user is in violation of this section if the user submits the report of use later than the allowed 90 days following the conclusion of the use period.

(f) DERC use in Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties.

(1) For the 2015 calendar year, the use of NO_X DERCs in Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties may not exceed 42.8 tons per day.

(2) Beginning in the 2016 calendar year, the use of NO_X DERCs in Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties may not exceed 17.0 tons per day.

(3) If the total number of DERCs submitted for the upcoming calendar year in all applications received by the August 1 deadline in subsection (d)(1)(B)(i) of this section is greater than the applicable limit in paragraph (1) or (2) of this subsection, the executive director shall apportion the number of DERCs for use.

(A) In determining the amount of DERC use to approve for each application, the executive director may take into consideration:

(i) the total number of DERCs existing in the nonattainment area bank;

(ii) the total number of DERCs submitted for use in the upcoming control period;

(iii) the proportion of DERCs requested for use to the total amount requested;

(iv) the amount of DERCs required by the applicant for compliance;

(v) the technological and economic aspects of other compliance options available to the applicant; and

(vi) the location of the facilities for which owners or operators are requesting use of DERCs.

(B) The executive director shall consider the appropriate amount of DERCs allocated for each application submitted on a case-by-case basis.

(4) If the total number of DERCs submitted for use during the upcoming calendar year in all applications received by the August 1 deadline in subsection (d)(1)(B)(i) of this section is less than the limit, the executive director may:

(A) approve all requests for DERC usage provided that all other requirements of this section are met; and

(B) consider any late application submitted as provided under subsection (d)(3) of this section that is not an Electric Reliability Council of Texas, Inc. (ERCOT)-declared emergency situation as defined in paragraph (5) of this subsection, but will not otherwise approve a late submittal that would exceed the limit established in this subsection.

(5) If the applications are submitted in response to an ERCOT-declared emergency situation, the request will not be subject to the limit established in this subsection and may be approved provided all other requirements are met. For the purposes of this paragraph, an ERCOT-declared emergency situation is defined as the period of time that an ERCOT-issued emergency notice or energy emergency alert (EEA) (as defined in ERCOT Nodal Protocols, Section 2: Definitions and Acronyms (June 1, 2012) and issued as specified in ERCOT Nodal Protocols, Section 6: Adjustment Period and Real-Time Operations (June 1, 2012)) is applicable to the serving electric power generating system. The emergency situation is considered to end upon expiration of the emergency notice or EEA issued by ERCOT.

(g) Inter-pollutant use of DERCs. With prior approval from the executive director and the EPA, a NO_X or VOC DERC may be used to meet the NNSR offset requirements for the other ozone precursor if photochemical modeling demonstrates that overall air quality and the regulatory design value in the nonattainment area of use will not be adversely affected by the substitution.

Adopted June 3, 2015 Effective June 25, 2015

§101.378. Discrete Emission Credit Banking and Trading.

(a) The credit registry. All discrete emission credit generators, users, and holders will be included in the commission's credit registry.

(1) All notices submitted by a generator, holder, or user will be reviewed for credibility; and when deemed certified, posted to the credit registry.

(2) The credit registry will assign a unique number to each certificate which will include the amount of emission reductions generated to the tenth of a ton.

(3) The credit registry will maintain a listing of all credits available or used for each ozone nonattainment area. One combined listing for all the counties or portions of counties designated as attainment or unclassifiable will be provided by the credit registry.

(4) The registry shall not contain proprietary information.

(b) Life of a discrete emission credit. A discrete emission credit is available for use after the application form specified by the executive director has been received, deemed creditable by the executive director, and deposited in the commission credit registry in accordance with subsection (a) of this section, and may be used anytime thereafter except as stated in this subsection. All credits are deposited in the credit registry and reported as available credits until they are used or withdrawn. A DERC generated from a shutdown may not be used.

(c) Trading. Discrete emission credits are freely transferable in whole or in part, and may be traded or sold to a new owner at any time after certification.

(1) Before the transfer, the seller shall submit to the executive director a completed application form specified by the executive director.

(2) The executive director will issue a new certificate number to the purchaser reflecting the discrete emission credits purchased, and a new certificate number to the seller reflecting any remaining discrete emission credits available. A trade is considered final only after the executive director grants approval of the transaction.

(3) The trading of discrete emission credits may be discontinued by the executive director in whole or in part and in any manner, with commission approval, as a remedy for problems resulting from trading in a localized area of concern.

Adopted June 3, 2015 Effective June 25, 2015

§101.379. Program Audits and Reports.

(a) The executive director will audit this program every three years.

(1) The audit will evaluate the timing of credit generation and use, the impact of the program on the state's attainment demonstration and the emissions of hazardous air pollutants, the availability and cost of credits, compliance by the participants, and any other elements the executive director may choose to include.

(2) The executive director will recommend measures to remedy any problems identified in the audit. The trading of discrete emission credits may be discontinued by the executive director in part or in whole and in any manner, with commission approval, as a remedy for problems identified in the program audit.

(3) The audit data and results will be completed and submitted to the United States Environmental Protection Agency (EPA) and made available for public inspection within six months after the audit begins.

(b) No later than February 1 of each calendar year, the executive director shall develop and make available to the general public and the EPA a report that includes the following information for the previous calendar year:

(1) the amount of each pollutant emission credits generated under this division;

(2) the amount of each pollutant emission credits used under this division;

(3) a summary of all trades completed under this division; and

(4) the amount of discrete emission reduction credits approved for use under §101.376(f) of this title (relating to Discrete Emission Credit Use).

Adopted June 3, 2015 Effective June 25, 2015