

Texas Commission on Environmental Quality

Chapter 117 - Control of Air Pollution from Nitrogen Compounds

Subchapter H : Administrative Provisions

DIVISION 2 : COMPLIANCE FLEXIBILITY

Section 117.9800 as approved by EPA April 13, 2016 (81 FR 21747), effective May 13, 2016 (TXd183), Regulations.gov docket EPA-R06-OAR-2015-0497 [TX175].

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Outline:

§117.9800. Use of Emission Credits for Compliance. 7-34, TXd183, TX175

§117.9810. Use of Emission Reductions Generated from the Texas Emissions Reduction Plan (TERP). 7-34, TXd195, TX176

***** End Outline *****

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Section §117.9810. Use of Emission Reductions Generated from the Texas
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SUBCHAPTER H: ADMINISTRATIVE PROVISIONS
DIVISION 2: COMPLIANCE FLEXIBILITY
§117.9800, §117.9810
Effective June 25, 2015

§117.9800. Use of Emission Credits for Compliance.

(a) An owner or operator of a unit not subject to Chapter 101, Subchapter H, Division 3 of this title (relating to Mass Emissions Cap and Trade Program) may meet emission control requirements of the sections specified in paragraphs (1) - (8) of this subsection, in whole or in part, by obtaining an emission reduction credit (ERC), mobile emission reduction credit (MERC), discrete emission reduction credit (DERC), or mobile discrete emission reduction credit (MDERC) in accordance with Chapter 101, Subchapter H, Division 1 or 4 of this title (relating to Emission Credit Banking and Trading; and Discrete Emission Credit Banking and Trading), unless there are federal or state regulations or permits under the same commission account number that contain a condition or conditions precluding such use:

(1) §§117.105, 117.405, or 117.1005 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT));

(2) §117.110 or §117.1010 of this title (relating to Emission Specifications for Attainment Demonstration);

(3) §117.1015 of this title (relating to Alternative System-Wide Emission Specifications);

(4) §117.115 of this title (relating to Alternative Plant-Wide Emission Specifications);

(5) §§117.123, 117.423, or 117.3120 of this title (relating to Source Cap);

(6) §§117.2010, 117.3010, or 117.3110 of this title (relating to Emission Specifications);

(7) §§117.410, 117.1310, 117.2110, or 117.3310 of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration); or

(8) §117.3123 of this title (relating to Dallas-Fort Worth Eight-Hour Ozone Attainment Demonstration Control Requirements).

(b) An owner or operator of a unit subject to §§117.320, 117.1020, 117.1220, or 117.3020 of this title (relating to System Cap) may meet the emission control requirements of these sections in whole or in part, by complying with the requirements of Chapter 101, Subchapter H, Division 1 or 4 of this title, by obtaining an ERC, MERC, DERC, or MDERC, unless there are federal or state regulations or permits under the same commission account number that contain a condition or conditions precluding such use.

(c) For the purposes of this section, the term "reduction credit (RC)" refers to an ERC, MERC, DERC, or MDERC, whichever is applicable.

(d) Any lower nitrogen oxides (NO_x) emission specification established under this chapter for the unit or units using RCs requires the user of the RCs to obtain additional RCs in accordance with Chapter 101, Subchapter H, Division 1 or 4 of this title and/or otherwise reduce emissions prior to the effective date of such rule change. For units using RCs in accordance with this section that are subject to new, more stringent rule limitations, the owner or operator using the RCs shall submit a revised final control plan to the executive director in accordance with §§117.156, 117.356, 117.456, 117.1056, 117.1256, and 117.1356 of this title (relating to Revision of Final Control Plan) to revise the basis for compliance with the emission specifications of this chapter. The owner or operator using the RCs shall submit the revised final control plan as soon as practicable, but no later than 90 days prior to the effective date of the new, more stringent rule. The owner or operator of the unit(s) currently using RCs shall calculate the necessary emission reductions per unit as follows.

Figure: 30 TAC §117.9800(d)

$$\Delta E = \left[LA \times (ER_{old} - ER_{new}) \times \frac{d}{2000} \right]$$

Where:

ΔE = the differential of emissions;

LA = the maximum level of activity;

ER_{old} = the existing NO_x emission rate for the affected unit in pounds per unit of activity;

ER_{new} = the new NO_x emission rate for the affected unit in pounds per unit of activity; and

d = (A) to calculate annual emission reductions, d = 365; and

(B) to calculate emission reductions for the remainder of a control period, d = thenumber of days remaining in the control period.

Adopted June 3, 2015

Effective June 25, 2015

§117.9810. Use of Emission Reductions Generated from the Texas Emissions Reduction Plan (TERP).

(a) An owner or operator of a unit located in the Dallas-Fort Worth eight-hour ozone nonattainment area or in the Houston-Galveston-Brazoria ozone nonattainment area that is not subject to Chapter 101, Subchapter H, Division 3 of this title (relating to Mass Emissions Cap and Trade Program) may meet emission control requirements of the sections specified in paragraphs (1) and (2) of this subsection, by obtaining emission reductions generated from the TERP as specified in subsection (b) of this section:

(1) §117.405 of this title (relating to Emission Specifications for Reasonably Available Control Technology (RACT));

(2) §117.410 or §117.1310 of this title (relating to Emission Specifications for Eight-Hour Attainment Demonstration).

(b) An owner or operator may obtain emission reductions generated from TERP, as provided in subsection (a) of this section, if:

(1) the owner or operator of the site as defined in §122.10 of this title (relating to General Definitions) contributes to the TERP fund, \$75,000 per ton of nitrogen oxides emissions used, not to exceed 25 tons per year or 0.5 tons per day on a site-wide basis;

(2) the owner or operator of the site demonstrates to the executive director that the site will be in full compliance with the applicable emission reduction requirements of this chapter no later than the fifth anniversary of the date that the emission reductions would otherwise be required;

(3) emissions from the site are reduced by at least 80% of the required reductions;

(4) the reductions accomplished under the TERP have not been previously used to meet reduction requirements under a state implementation plan attainment demonstration;

(5) the reductions accomplished under the TERP are used in the same nonattainment area that they are generated; and

(6) the executive director approves a petition submitted by the owner or operator of the site that demonstrates that it is technically infeasible to comply with

applicable emission reduction requirements of this chapter above 80% of the required reductions. When considering technical infeasibility the executive director may consider, but will not be limited to:

- (A) current technology;
- (B) adaptability of technology to a particular source;
- (C) age and projected useful life of a source; and
- (D) cost benefits at the time of application.

(c) The emissions reductions funded under the TERP, and used to offset commission requirements, must be used to benefit the community where the site using the emissions reductions is located. If there are no eligible emissions reduction projects within the community, the commission may authorize projects in an adjacent community. For purposes of this section, a community means a Justice of the Peace precinct.

Adopted June 3, 2015

Effective June 25, 2015