

Texas Chapter 101 - General Air Quality Rules

SUBCHAPTER H: EMISSIONS BANKING AND TRADING

GH6 DIVISION 6: HIGHLY-REACTIVE VOLATILE ORGANIC COMPOUND EMISSIONS CAP AND TRADE PROGRAM

As approved by EPA January 2, 2014 (79 FR 00057) effective February 3, 2014 (TXd145).

Unless otherwise indicated, all sections are as adopted by TCEQ March 10, 2010 effective April 1, 2010 (G-89) and submitted to EPA April 6, 2010 (TX-286) and approved by EPA January 2, 2014 (79 FR 00057) effective February 3, 2014 (TXd145), Regulations.gov docket EPA-R06-OAR-2013-0387 [TX147].

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Bryan W. Shaw, Ph.D., *Chairman*
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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 6, 2010

Docket No. 2009-0802-SIP, Project No. 2009-017-SIP-NR
Docket No. 2009-0932-RUL, Rule Project No. 2009-006-101-EN ←
Docket No. 2009-0867-RUL, Rule Project No. 2009-019-101-EN

Al Armendariz, Ph.D, Regional Administrator
U.S. Environmental Protection Agency - Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

Dear Dr. Armendariz:

On March 10, 2010, the Texas Commission on Environmental Quality (Commission) adopted revisions to the State Implementation Plan (SIP) for the control of ozone air pollution for the Houston-Galveston-Brazoria (HGB) area.

The Commission adopted amendments to 30 Texas Administrative Code (TAC) Chapter 101, Subchapter A, General Rules, Section 101.1; and Subchapter H, Emissions Banking and Trading, Division 6, Highly Reactive Volatile Organic Compound Emissions Cap and Trade Program, Sections 101.390 - 101.394, 101.396, and 101.399 - 101.401; 30 TAC Chapter 101, Subchapter H, Emissions Banking and Trading, Division 3, Mass Emissions Cap and Trade Program, Sections 101.350, 101.351, and 101.353 and corresponding revisions to the SIP; and an HGB Attainment Demonstration SIP Revision for the 1997 Eight-Hour Ozone Standard. These rule changes and SIP revisions demonstrate that the HGB area will attain the 1997 eight-hour ozone National Ambient Air Quality Standard by June 15, 2019.

Enclosed are the proposed revisions to the SIP, a public hearing certification, a complete record of the public hearings, and the accompanying orders. I look forward to your expeditious approval of these SIP revisions.

Sincerely,

A handwritten signature in black ink that reads "Bryan W. Shaw".

Bryan W. Shaw, Ph.D.
Chairman

BWS/jmm

Enclosures

cc: The Honorable Rick Perry, Governor of Texas
Mr. Toby Baker, Office of Budget, Planning and Policy, Office of the Governor
Mr. Mark R. Vickery, P.G., Executive Director, Texas Commission on Environmental Quality

The adopted amendments implement THSC, §§382.002, 382.011, 382.012, 382.016, and 382.017, FCAA, 42 USC, §§7401 *et seq.*

§101.390. Definitions.

The following words and terms, when used in this division, have the following meanings, unless the context clearly indicates otherwise.

(1) Allowance--The authorization to emit one ton of highly-reactive volatile organic compounds, expressed in tenths of a ton, during a control period.

(2) Authorized account representative--The responsible person who is authorized in writing to transfer and otherwise manage allowances for the site.

(3) Banked allowance--An allowance that is not used to reconcile emissions in the designated year of allocation, but is carried forward for up to one year and noted as banked in the compliance account or broker account.

(4) Baseline emissions period--The two consecutive calendar-year control periods from 2006 - 2009 with the highest monitored average actual HRVOC emissions for the purpose of establishing baseline emissions used for the allocation of allowances, except as allowed under §101.394(a)(1)(C) and (D) of this title (relating to Allocation of Allowances).

(5) Broker--A person that is not required to participate in the requirements of this division, but that opens an account under this division for the purpose of banking and trading allowances.

(6) Broker account--The account where allowances held by a broker are recorded.

Allowances held in a broker account may not be used to satisfy compliance requirements for this division.

(7) Compliance account--The account in which allowances held by a site are recorded for the purposes of meeting the requirements of this division.

(8) Industry sector--One of the following sectors of industry in which participants of the Highly Reactive Volatile Organic Carbons (HRVOC) Emissions Cap and Trade program are to be assigned, according to the process type and products from which the largest share of HRVOC emissions is associated, for the purpose of assigning an industry sector share under the allocation equation located in §101.394(a)(1)(B) of this title (relating to Allocation of Allowances): petroleum refining, non-polymer chemical producers, polymer producers, and storage/loading/other.

(9) Level of activity--The amount of highly-reactive volatile organic compounds, as defined in §115.10 of this title (relating to Definitions), in pounds produced as an intermediate, by-product, or final product or used by a process unit during a given period of time, but excluding any recycled highly-reactive volatile organic compounds internal to the process unit.

(10) Uncontrolled emissions--The total emissions during routine normal operations from each applicable facility calculated as pre-control using the applicable control efficiency for the purpose of determining site allocations under §101.394(a)(1)(B) of this title (relating to Allocation of Allowances) .

§101.391. Applicability.

This division applies to each site, as defined in §122.10 of this title (relating to General Definitions), in the Houston-Galveston-Brazoria ozone nonattainment area, as defined in §115.10 of this title (relating to Definitions), that is subject to Chapter 115, Subchapter H, Division 1 of this title (relating to Vent Gas Control) or Division 2 of this title (relating to Cooling Tower Heat Exchange Systems). Applicable facilities include vent gas streams, flares, and cooling tower heat exchange systems that emit highly-reactive volatile organic compounds, as defined in §115.10 of this title, and that are located at a site subject to Chapter 115, Subchapter H of this title (relating to Highly-Reactive Volatile Organic Compounds). For the purpose of compliance with Chapter 115, Subchapter H, Division 1 or Division 2 of this title, each site that meets the applicability requirements of this section will always be subject to this division.

§101.392. Exemptions.

(a) Sites in the Houston-Galveston-Brazoria ozone nonattainment area that have the potential to emit, as defined in §116.12 of this title (relating to Nonattainment Review Definitions), ten tons per year or less of highly-reactive volatile organic compounds from all applicable facilities at the site are exempt from the requirements of this division.

(b) All sites in the Houston-Galveston-Brazoria ozone nonattainment area, excluding Harris County, are exempt from the requirements of this division except for §101.401(a) - (e) of this title (relating to Level of Activity Certification). The commission may revoke this exemption upon public notice of this revocation. If the exemption is revoked, sites subject to this division located in the Houston-Galveston-Brazoria ozone nonattainment area, excluding Harris County, will comply by January 1, 2007, or within 180 days of public notice, whichever is later.

§101.393. General Provisions.

(a) Allowances may be used only for the purposes described in this division and may not be used to meet or exceed the emission limitations authorized under Chapter 116, Subchapter B of this title (relating to New Source Review Permits), or any other applicable rule or law.

(b) The initial control period is January 1, 2007, through December 31, 2007. Each control period after December 31, 2007, shall begin January 1 and end December 31 of each year. No later than March 1 after each control period, a site subject to this division must hold a quantity of allowances in its compliance account that is equal to or greater than the total highly-reactive volatile organic compound emissions from the applicable facilities located at the site during the control period.

(c) Allowances may not be used to satisfy netting requirements under Chapter 116, Subchapter B, Divisions 5 and 6 of this title (relating to Nonattainment Review; and Prevention of Significant Deterioration Review).

(d) Allowances may be used simultaneously to satisfy the requirements of this division and the one-to-one portion of the offset requirements for new or modified covered facilities, subject to federal nonattainment new source review requirements as provided in Chapter 116, Subchapter B, Division 7 of this title (relating to Emission Reductions: Offsets).

(e) An allowance does not constitute a security or a property right.

(f) All allowances will be allocated, transferred, deducted, or used in tenths of tons. The number of allowances will be rounded down to the nearest tenth of a ton when determining excess allowances and

rounded up to the nearest tenth of a ton when determining allowances used.

(g) Each site shall have only one compliance account.

(h) The commission will maintain a registry of compliance accounts and broker accounts. The registry will not contain proprietary information.

§101.394. Allocation of Allowances.

(a) The executive director will deposit allowances into compliance accounts as follows.

(1) For sites located in Harris County, allowances for the emissions of one or more of the highly-reactive volatile organic compounds (HRVOC) as defined in §115.10 of this title (relating to Definitions), will be determined using the equations in subparagraphs (A) and (B) of this paragraph.

(A) For calendar-year control periods 2007 - 2010, the following equation will be used to determine the allocation for each site:

$$S = \frac{LA}{\sum_{i=1}^n LA_i} \times AC^1$$

Where:

S = the allocation for the site.

i = each site located in Harris County and subject to this division.

n = the total number of sites subject to this division.

LA = the level of activity baseline for a site, calculated as the annual level of activity for any 12 consecutive months during the period of 2000 - 2004 for the site, as certified by the executive director.

AC¹ = 3,106.3 tons per year of highly-reactive volatile organic compounds less the total amount allocated to those sites receiving a minimum allocation .

(B) For calendar-year control periods 2011 and later the following allocation

methodology will apply:

$$S = AC^1 \times (\text{Industry Sector Share}) \times (\text{Site Share})$$

Where:

S = the allocation for the site.

Industry Sector Share = Total actual average emissions for the industry sector during the baseline emissions period divided by the total actual average emissions for all participating sites during the baseline emissions period.

Site Share = The sum of the total average actual emissions for vents, cooling towers, and other facilities and uncontrolled emissions for flares, heaters, boilers, furnaces, thermal and catalytic oxidizers, and other combustion control devices combusting highly-reactive volatile organic compound (HRVOC) streams, during the baseline emissions period divided by the total uncontrolled actual average emissions for the industry sector during the baseline emission period.

AC¹ = the amount of HRVOC tons defined in (1) - (5) of this figure less the total amount allocated to those sites receiving a minimum allocation under §101.394(a)(1)(E) of this title .

(1) For 2011 - 2013, AC¹ = 3,451.5 tons;

(2) For 2014, AC¹ = 3,105.9 tons;

(3) For 2015, AC¹ = 2,932.9 tons;

(4) For 2016, AC¹ = 2,761.2 tons; and

(5) For 2017 and all subsequent calendar-year control periods, AC¹ = 2,588.6 tons.

(C) Qualifying sites not in operation or with HRVOC emissions that are not representative of permitted normal routine operation due to an authorized modification that resulted in an

HRVOC emission reduction during the baseline emissions period may request from the executive director the use of any allowance stream acquired from facilities previously participating in the HRVOC Emissions Cap and Trade program in lieu of reallocation until the alternate baseline emissions are established for the site, according to the following:

(i) this allowance stream is less than the HRVOC permit allowable limit in effect at the time the facility commences operation;

(ii) the baseline emissions period for any site under this subparagraph will be any consecutive 24 months from 2010 - 2012; and

(iii) beginning with the 2014 calendar-year control period, all sites will receive an allocation in accordance with the methodology under subparagraph (B) of this paragraph.

(D) A site meeting the following conditions may request to use an alternative baseline emissions period consisting of the two consecutive calendar-year control periods immediately preceding the baseline emissions period defined under §101.390 of this title (relating to Definitions):

(i) the site used continuous flow rate monitoring and speciation of HRVOC to determine HRVOC emissions during the alternative baseline period;

(ii) the site had permanent, voluntary, and quantifiable HRVOC emission reductions in an amount equal to or greater than 25 tons resulting in a site-wide reduction in HRVOC emissions of at least 25% as calculated by comparing the average HRVOC emissions from the alternate

baseline period to the baseline emissions period defined under §101.390 of this title;

(iii) qualifying HRVOC emission reductions must have been made enforceable by a permit application submitted under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) or other submittal to the executive director no later than April 1, 2010; and

(iv) a request for an alternative baseline period must be received by the executive director no later than July 1, 2010.

(2) For sites located in Brazoria, Chambers, Fort Bend, Galveston, Liberty, Montgomery, and Waller Counties, allowances for emissions of ethylene and propylene for each site will be determined using the equation in the following figure.

$$S = \frac{LA}{\sum_{i=1}^n LA_i} \times AC$$

Where:

S = the greater of 5.0 tons or the allocation for the site.

i = each site located in Brazoria, Chambers, Fort Bend, Galveston, Liberty, Montgomery, and Waller Counties and subject to this division.

n = the total number of sites subject to this division.

LA = the level of activity baseline for a site, calculated as the annual level of activity for 12 consecutive months during the period of 2000 - 2004 for the site, as certified by the executive director.

AC² = 4,390.8 tons per year of highly-reactive volatile organic compounds less the total amount allocated to those sites receiving a minimum of 5.0 tons.

(3) Uncontrolled emissions for applicable facility types for use in determining site allocations under paragraph (1)(B) of this subsection shall be calculated as follows:

(A) For flares, the uncontrolled emissions are equal to actual average HRVOC emissions from routine normal operation during the baseline emissions period for that facility divided by one minus the average percent control efficiency specifications for flares in §115.725(d) of this title (relating to Monitoring and Testing Requirements).

(B) For heaters, boilers, furnaces, thermal and catalytic oxidizers, and other combustion control devices combusting HRVOC streams, the uncontrolled emissions shall be calculated by dividing actual average emissions from routine normal operation during the baseline emissions period for each facility by one minus 99%, or by one minus the actual monitored HRVOC control efficiency for the facility, not to exceed 99.9%, if that facility has demonstrated the actual monitored HRVOC control efficiency through stack performance testing.

(C) For all other facilities without a demonstrated combustion control efficiency, the control efficiency is equal to zero; therefore, the uncontrolled emissions will be equal to the actual HRVOC emissions from routine normal operation.

(D) For sites that employ flare or vent gas recovery or flare minimization control strategies that are not requesting the use of an alternative baseline emissions period under paragraph (1)(D) of this subsection, the owner or operator may request to include the amount of any quantifiable reduction in actual HRVOC emissions attributable to the use of flare or vent gas recovery as uncontrolled emissions, subject to approval by the executive director. The amount of quantified reductions is equal to the difference of the average actual HRVOC emissions from routine normal operation during a consecutive

12-month period prior to the 2006 - 2009 baseline emissions period and the implementation of the HRVOC gas recovery or flare minimization control strategy and the enforceable allowable HRVOC permit limit for the applicable facilities after the recovery-based emissions reduction strategy implementation. The average actual HRVOC emissions used for quantifying the reductions under this subparagraph must be determined through continuous flow rate monitoring and HRVOC speciation testing. This allowable emissions limit must be made enforceable through a permit application submitted under Chapter 116 of this title to the executive director no later than April 1, 2010. Credit allocated for reductions due to flare or vent gas recovery cannot also be creditable if the HRVOC stream is sent to another control device. The creditable emissions from flare gas recovery calculated in this subparagraph are then converted to uncontrolled emissions through the use of the average control efficiency specifications under §115.725(d) of this title.

(E) For sites that have purchased HRVOC allowance streams, uncontrolled emissions shall be the greater of their uncontrolled emissions calculated under subparagraphs (A) - (C) of this paragraph, or the sum of their original existing HRVOC allowance allocated according to paragraph (1) of this subsection and the amount of the allowance stream in tons. In the event that a site's actual two-high year emissions is less than the sum of its original existing HRVOC allowance and the amount of the allowance stream in tons, the difference shall be added to the uncontrolled emissions as actual emissions.

(b) The level of activity of a site will be determined by summing the levels of activity from the chosen 12 consecutive month period for each process unit, as defined in §115.10 of this title, located at the site that produce one or more HRVOCs as an intermediate, by-product, or final product or that use one or more HRVOCs as a raw material or intermediate to produce a product.

(c) Sites subject to the requirements of this division or electing to opt-in to the requirements of this

division that receive an HRVOC allocation of less than 5.0 tons based on the allocation methodologies under subsection (a)(1)(A) of this section will be eligible to receive a minimum allocation of 5.0 tons of HRVOC allowances per year.

(d) Sites subject to the requirements of this division that receive an HRVOC allocation of less than 5.0 tons based on the allocation methodology under subsection (a)(1)(B) of this section will be eligible to receive a minimum allocation of 5.0 tons of HRVOC allowances per year. Sites subject to the requirements of this division that receive an HRVOC allocation of greater than or equal to 5.0 tons but less than 10.0 tons based on the allocation methodology under subsection (a)(1)(B) of this section will be eligible to receive a minimum allocation of 10.0 tons of HRVOC allowances per year .

(e) If the total actual HRVOC emissions from the covered facilities at a site during a control period exceed the amount of allowances in the compliance account for the site on March 1 following the control period, allowances for the next control period will be reduced by an amount equal to the emissions exceeding the allowances in the compliance account plus 10% of the exceedance. This allocation reduction does not preclude the executive director from initiating an enforcement action. If a compliance account does not hold sufficient allowances to accommodate the reduction, the executive director may issue a notice of deficiency to the owner or operator. The owner or operator will purchase or transfer allowances sufficient to accommodate the reduction within 30 days of issuance of the notice of deficiency from the executive director.

(f) Allowances will be allocated by the executive director, who will deposit allowances into each compliance account:

(1) initially, by January 1, 2007; and

(2) subsequently, by January 1 of each following year.

(g) The executive director may adjust the deposits for any control period to reflect new or existing state implementation plan requirements.

(h) The executive director may add or deduct allowances from compliance accounts based on the review of reports required under §101.400 of this title (relating to Reporting).

§101.396. Allowance Deductions.

(a) On March 31 of each year after a control period, allowances representing the total highly-reactive volatile organic compounds (HRVOC) emissions from the applicable facilities at a site during the previous control period will be deducted from the compliance account for the site. The amount of HRVOC emissions will be based upon the monitoring and testing protocols established in §115.725 and §115.764 of this title (relating to Monitoring and Testing Requirements), as appropriate.

~~(b) The amount of HRVOC emissions from applicable facilities will be calculated for each hour of the year and summed to determine the annual emissions for compliance. For emissions from scheduled maintenance, startup, or shutdown activities subject to the requirements of §101.211 of this title (relating to Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements), the hourly emissions to be included in the summation shall not exceed the short-term limit of §115.722(e) and §115.761(e) of this title (relating to Site-wide Cap and Control Requirements; and Site-wide Cap).~~

~~(c) If the monitoring and testing data referenced in subsection (a) of this section does not exist or is~~

Subsection 101.396(b) is as adopted by TCEQ December 1, 2004 effective December 23, 2004 (G-77) and approved by EPA September 6, 2006 (71 FR 52659) effective October 6, 2006 (TXd78).

(b) The amount of HRVOC emissions from covered facilities shall be calculated for each hour of the year and summed to determine the annual emissions for compliance. For emissions from emissions events subject to the requirements of §101.201 of this title (relating to Emissions Event Reporting and Recordkeeping Requirements) or emissions from scheduled maintenance, startup, or shutdown activities subject to the requirements of §101.211 of this title (relating to Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements); the hourly emissions to be included in the summation shall not exceed the short-term limit of §115.722(c) and §115.761(c) of this title (relating to Site-wide Cap and Control Requirements; and Site-wide Cap).

~~(2) subsequently, by January 1 of each following year.~~

~~(g) The executive director may adjust the deposits for any control period to reflect new or existing state implementation plan requirements.~~

~~(h) The executive director may add or deduct allowances from compliance accounts based on the review of reports required under §101.400 of this title (relating to Reporting).~~

~~§101.396. Allowance Deductions.~~

~~(a) On March 31 of each year after a control period, allowances representing the total highly-reactive volatile organic compounds (HRVOC) emissions from the applicable facilities at a site during the previous control period will be deducted from the compliance account for the site. The amount of HRVOC emissions will be based upon the monitoring and testing protocols established in §115.725 and §115.764 of this title (relating to Monitoring and Testing Requirements), as appropriate.~~

~~(b) The amount of HRVOC emissions from applicable facilities will be calculated for each hour of the year and summed to determine the annual emissions for compliance. For emissions from scheduled maintenance, startup, or shutdown activities subject to the requirements of §101.211 of this title (relating to Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements), the hourly emissions to be included in the summation shall not exceed the short-term limit of §115.722(c) and §115.761(c) of this title (relating to Site-wide Cap and Control Requirements; and Site-wide Cap).~~

~~(c) If the monitoring and testing data referenced in subsection (a) of this section does not exist or is~~

unavailable, the site may determine its HRVOC emissions for that period of time using the following methods and in the following order: continuous monitoring data; periodic monitoring data; testing data; data from manufacturers; and engineering calculations. When determining the amount of HRVOC emissions under this subsection, the site will include a justification for using the substitute method or methods in lieu of the methods referenced in subsection (a) of this section.

(d) When deducting allowances from the compliance account of a site for a control period, the executive director will deduct the allowances beginning with the most recently allocated allowances before deducting banked vintage allowances.

§101.399. Allowance Banking and Trading.

(a) Allowances allocated for a control period that are not used for compliance in that control period may be banked for use in demonstrating compliance for the next control period or transferred.

(b) Allowances that have not expired or been used may be transferred at any time during a control period, except as provided in this section.

(1) The person desiring to transfer the allowances shall apply for approval of the transaction to the executive director by submitting a completed Form ECT-2, Application for Transfer of Allowances.

(2) The ECT-2 form must include the purchase price per allowance proposed to be paid, except for transactions between sites under common ownership or control.

(3) All information regarding the quantity and purchase price of the allowances will be immediately made available to the public.

(4) If the executive director approves the application, the executive director will send a letter to the seller and purchaser reflecting the transaction. The transaction is final upon issuance of the letter.

(c) A person receiving allowances on an annual basis may permanently transfer ownership of current and future allowances to any person in accordance with the following requirements.

(1) The person desiring to transfer the allowances shall apply for approval of the transaction to the executive director by submitting a completed Form ECT-4, Application for Permanent Transfer of Allowance Ownership.

(2) The ECT-4 form must include the purchase price per allowance proposed to be paid, except for transactions between sites under common ownership or control.

(3) All information regarding the quantity and purchase price of the allowances will be immediately made available to the public.

(4) If the executive director approves the application, the executive director will send a letter to the seller and purchaser reflecting the transaction. The transaction is final upon issuance of the letter.

(d) A person may transfer allowances that are scheduled to be allocated in a future control period but have not yet been deposited into an account.

(1) The person desiring to transfer the allowances shall apply for approval of the transaction to the executive director by submitting a completed Form ECT-5, Application for Transfer of Individual Future Year Allowances.

(2) The ECT-5 form must include the purchase price per allowance proposed to be paid, except for transactions between sites under common ownership or control.

(3) All information regarding the quantity and purchase price of the allowances will be immediately made available to the public.

(4) If the executive director approves the application, the executive director will send a letter to the seller and purchaser reflecting the transaction. The transaction is final upon issuance of the letter.

(e) Allowances that were provided under §101.394(a)(1)(C) of this title (relating to Allocation of Allowances) are not eligible for transfer under subsections (b), (c), or (d) of this section.

(f) Allowances generated from sites located in counties other than Harris County may not be used at sites located in Harris County. Allowances generated from sites located in Harris County may not be used at sites located in counties other than Harris County.

(g) Only authorized account representatives may transfer allowances.

(h) Allowances subject to an approved transaction will be deposited into the purchaser's broker or compliance account within 30 days of receipt of a completed transfer application.

(i) Volatile organic compound emission reduction credits (ERC) certified in accordance with Division 1 of this subchapter (relating to Emission Credit Banking and Trading) may be converted to a yearly highly-reactive volatile organic compound (HRVOC) allocation.

(1) Qualified volatile organic compound (VOC) ERCs must be generated:

(A) from a reduction at a site located in the Houston/Galveston/Brazoria nonattainment area;

(B) from a reduction strategy implemented after December 31, 2004; and

(C) from a reduction in VOC species other than those defined as HRVOCs under §115.10 of this title (relating to Definitions).

(2) VOC reductions due to the installation of best available control technology do not qualify for conversion under this subsection.

(3) In addition to the requirements of Division 1 of this subchapter, a qualified VOC ERC must meet the following requirements:

(A) the ERC must be quantifiable, real, surplus, enforceable, and permanent as required in §101.302 of this title (relating to General Provisions) at the time the ERC is converted;

(B) the baseline emissions to which the VOC reduction is compared must consist of the average actual emissions for any two consecutive calendar years preceding the emission reduction strategy and that include or follow the most recent year of emission inventory used in the state implementation plan;

(C) the quantification of VOC reductions must be performed using the monitoring and testing methods required under §115.725 or §115.764 of this title (relating to Monitoring and Testing Requirements) and subject to the recordkeeping and reporting requirements under §115.726 and §115.766 of this title (relating to Recordkeeping and Reporting Requirements);

(D) the ERC must not have expired; and

(E) the owner of the ERC shall have prior approval from the executive director to convert the ERC to an HRVOC allocation.

(4) VOC ERCs must be converted to HRVOC allowances at a ratio calculated using the equation in the following figure.

$$A = \frac{1}{1157} \sum (R_i \times E_i)$$

Where:

A = yearly allocation of highly-reactive volatile organic compound allowances.

R_i = the reactivity of each speciated volatile organic compound reduced as specified in California Code of Regulations, Title 17, Chapter 1, §94700, concerning MIR Values for Compounds, as amended.

E_i = the actual emissions reduced, in tons per year, of each speciated volatile organic compound.

(5) For each site eligible to receive allowances under §101.394(a) of this title, additional HRVOC allowances received from the conversion of VOC ERCs under this subsection must be limited to a quantity not to exceed more than 5% of the site's initial HRVOC allocation.

(6) In addition to paragraph (5) of this subsection, sites subject to this division may receive an HRVOC allocation from the conversion of VOC ERCs under this subsection equivalent to any HRVOC emissions increases from new or modified covered facilities not in operation prior to January 2, 2004, and that were included in an application for a permit under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) that was deemed administratively complete by the executive director within one year of the effective date of this rule.

§101.400. Reporting.

(a) No later than March 31 after each control period, each site will submit a completed Form ECT-1H, Highly-Reactive Volatile Organic Compound (HRVOC) Emissions Cap and Trade Annual Compliance Report, to the executive director, which will include the following:

(1) the total amount of actual HRVOC emissions from applicable facilities at the site during the preceding control period;

(2) the method or methods used to determine the actual HRVOC emissions, including, but

not limited to, monitoring protocol and results, calculation methodologies, and emission factors;

(3) a summary of all final transactions for the preceding control period; and

(4) the total amount and respective dates of HRVOC emissions from emissions events subject to the requirements of §101.201 of this title (relating to Emissions Event Reporting and Recordkeeping Requirements).

(b) For sites failing to submit an ECT-1H form by the required deadline in subsection (a) of this section, the executive director may withhold approval of any proposed trades from that site involving allowances allocated for the control period for which the ECT-1H form is due or to be allocated in subsequent control periods.

§101.401. Level of Activity Certification.

(a) No later than April 30, 2005, the owner or operator of each site subject to this division will submit to the executive director a completed Form ECT-3H, Highly-Reactive Volatile Organic Compound Emissions Cap and Trade Level of Activity Certification Form.

(b) For each process unit subject to this division, the owner or operator will certify in the ECT-3H form the level of activity for the selected 12 consecutive months during the period of 2000 through 2004.

(c) The owner or operator will attach to the ECT-3H form information and documentation necessary to support the proposed level of activity baseline.

(d) The owner or operator of the site may mark any portion of the ECT-3H form, or supporting information and documentation, as confidential under Texas Health and Safety Code, §382.041.

(e) In conjunction with submission of the ECT-3H form, the owner or operator of the site subject to this division will provide enforceable documentation of the maximum allowable emission rate of highly-reactive volatile organic compounds from facilities located at that site.

(f) No later than July 1, 2010, the owner or operator of each site subject to this division will submit to the executive director a completed Form ECT-6H, Highly Reactive Volatile Organic Compound Emissions Cap and Trade Baseline Emissions Certification Form.

(g) For each site subject to this division, the owner or operator will certify in the ECT-6H form the two highest consecutive calendar-year control periods selected from the period of 2006 - 2009 to establish the baseline emissions period.

§101.403. Program Audits and Reports.

As adopted by TCEQ December 1, 2004 effective December 23, 2004 (G-77).
Approved by EPA September 6, 2006 (71 FR 52659) effective October 6, 2006
(TXd78).

(a) No later than three years after the effective date of this division, and every three years thereafter, the executive director will audit this program.

(1) The audit will evaluate the impact of the program on the state's ozone attainment demonstration, the availability and cost of allowances, 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 allowances may be limited or 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 and made available for public inspection within six months after the audit begins.

(b) No later than June 30, following the end of each control period, the executive director shall develop and make available to the general public and the United States Environmental Protection Agency, a report that includes:

(1) number of allowances allocated to each compliance account;

(2) total number of allowances allocated under this division;

(3) number of actual highly-reactive volatile organic compound allowances subtracted from each compliance account based on the actual highly-reactive volatile organic compound emissions from the site; and

(4) a summary of all trades completed under this division.

Adopted December 1, 2004, Effective December 23, 2004 (G-77).

end tx101.403G-77***EPA-R06-OAR-2005-TX-0033***TX039***TXd78***h32***

*****end tx GH6***G-92***EPA-R06-OAR-2013-0387***TX147***TXd145***uzp*****