

TEHAMA COUNTY AIR POLLUTION CONTROL DISTRICT
Rule 2:3B Emission Reduction Credit And Banking Rule
Adopt 6/7/1994, Amended 04/21/1998, Repealed/Adopted 6/19/2001

- 1 Applicability: The provisions of this Rule apply to the deposit, transfer, and use of emission reduction credits (ERCs) from stationary sources and open biomass burning sources of air pollution emissions. References in this rule to non-permitted source, permit exempt, shutdown, curtailment, authority to construct and permit to operate do not apply to open biomass burning sources. Additional details and procedures covering open biomass burning sources can be found in the Manual of Procedures (MOP) for this rule.

- 2 Purposes:
 - 2.1 To provide a mechanism for permitted and non-permitted emission sources to deposit, transfer, and use ERCs as offsets as allowed by applicable laws and regulations. To ensure that all emission reductions are transferred through the District's emission reduction credit bank pursuant to the Health and Safety Code. All transfers and uses of emission reductions that are required under the District's New Source Review (NSR) Rule shall be processed in accordance with this rule.
 - 2.2 To define ERC eligibility standards, quantitative procedures, and administrative practices and to ensure that ERCs are real, permanent, quantifiable, surplus, and enforceable. Reductions in emissions from the required phase down of rice straw burning qualify as surplus pursuant to Section 41865 of the California Health and Safety Code.
 - 2.3 To provide a mechanism for intra-basin transfer and use of banked ERCs.
 - 2.4 To ensure that open biomass burning is prohibited for a parcel for which an ERC exists.

- 3 Definitions: Unless otherwise defined, terms as used in this Rule are defined in Regulation I, General Provisions or Regulation II - New Source Review (NSR).
 - 3.1 Applicant: The person, entity, landowner or their designee applying for an ERC certificate.
 - 3.2 Bankable Emissions: Reductions in affected pollutants which meet the applicable provisions of the District's banking and NSR rules.
 - 3.3 Banking System: The procedures of quantifying, certifying, recording, and storing ERCs for future use or transfer.
 - 3.4 Banking Register: The document that records all ERC applications, deposits, withdrawals, transfers, and other transactions including the claiming of open biomass burning offset credits by stationary sources existing prior to first adoption of this Rule.
 - 3.5 Biomass: Material derived from the harvesting of crops or removal of vegetation, including timber, except for material from processed dimensional timber.
 - 3.6 Emission Reduction Credits: Reductions of actual emissions from an emission source that are registered with the District in accordance with this banking rule. Reductions will be specified by pollutant, by location, and in units of pounds per calendar quarter.
 - 3.7 ERC Certificates: A document certifying title to defined quantities and types of emission reductions issued by the District to the owner(s) identified on the certificate.
 - 3.8 No-burn List: A list of parcels for which ERCs exist and which will not receive burn permits.

- 3.9 Non-permitted Emissions: Emissions of pollutants into the atmosphere from sources that do not have air pollution operating permits. Non-permitted sources include exempt facilities.
 - 3.10 Offsets: The use of an emission decrease from one or more sources to compensate for an emission increase in a non-attainment pollutant or its precursor from a new or modified source subject to the requirements of the District's NSR rule.
 - 3.11 Parcel(s): A legally identifiable piece of land, a portion of that land, or combined lands, under common ownership and as registered with the County Assessor's office for property tax purposes.
 - 3.12 Registered Owner: The person, entity, landowner or their designee in whose name the ERC certificate is issued and listed in the banking register.
 - 3.13 Source: Any building, structure, facility, or emission unit which emits or may emit any affected pollutant directly or as a fugitive emission. A source may have a permit to operate or be exempt from permit. For purposes of this rule open biomass burning will be considered a source and such activity requires an annual burning permit.
 - 3.14 Transfer: The conveyance of an ERC certificate from one entity to another.
- 4 Eligibility Of Emissions Reductions For Credits: Upon application to the District within 365 days of (date of rule adoption) or 365 days after the emission reductions occurred the following emission reductions may qualify for ERC certificates. For open biomass burning the application period and eligibility requirements are specified in other Sections of this Rule. Emission reductions will be deemed to have occurred on the date when emissions actually decreased. For open biomass burning the emission reduction will be deemed to have occurred when the parcel(s) have been put onto the no-burn list. The District may claim emission reductions not applied for as ERCs under this rule, from any source, and use such emission reductions toward attainment of air quality standards or deposit the emission reductions into the community bank. The following subsections of Section 4 do not apply to open biomass burning sources.
- 4.1 For non-permitted sources the following additional requirements shall apply:
 - 4.1.1 Emissions must have been included in the 1987 emissions inventory.
 - 4.1.2 The applicant for the ERCs must apply for and obtain a Permit to Operate from the District or execute a legally binding contract with the District or through other enforceable means.
 - 4.1.3 An applicant who proposes to bank emissions from permit exempt sources must relinquish the exempt status and obtain permits for any new or modified sources of the same type.
 - 4.1.4 If the emission reduction is due to the shutdown of a non-permitted source, the applicant must demonstrate to the satisfaction of the APCO that the emissions reductions from the source meet all applicable requirements of this rule. The source can no longer be operated within the District unless and until a Permit to Operate is obtained from the District.
 - 4.2 Under no circumstances shall any emissions reductions occurring before (date of rule adoption), other than as described in subsection 4.3 be eligible for ERC certificates.
 - 4.3 Emissions reductions occurring after December 31, 1987 and before (date of rule adoption).
 - 4.3.1 Emission reductions formally recognized by the District (in written form, emission databases, etc) shall be deemed eligible emission reductions, provided the APCO determines that such emission reductions comply with the definition of actual emission reduction.

4.4 Emissions reductions occurring after (date of rule adoption).

The following criteria must be met in order to deem such emissions reductions eligible for ERC banking:

4.4.1 Emission reductions are calculated in accordance with District procedures contained in the NSR Rule or, for biomass burning, in this rule and comply with the definition of actual emission reductions.

4.5 A source which obtained offsets pursuant to the District's NSR Rule and was issued an Authority to Construct after December 31, 1987, may apply to bank such offsets if the Authority to Construct is canceled or if the Permit to Operate is voluntarily modified or surrendered or is revoked by the District.

4.6 The following emission reductions are not eligible for ERCs for banking:

4.6.1 Emission reductions from the shutdown or curtailment of retail gasoline dispensing or retail dry cleaning operations. These facilities may be eligible if they can demonstrate to the satisfaction of the APCO that their emission reductions are not offset by increases in demand and emissions from other similar sources within the District.

4.6.2 Emission reductions occurring from the shutdown or curtailment of a stationary source for which the offsets originally provided are no longer enforceable by the District.

4.6.3 Emission reductions occurring from the shutdown or curtailment of a stationary source for which the District originally provided the required offsets.

4.7 Emission reduction credits resulting from shutdowns or curtailment of sources shall not be more than the quantity of emissions that would have been emitted had the source operated in compliance with rules and regulations applicable to the source at the time of shutdown or curtailment.

5 Application Procedures For Emission Reduction Credits:

5.1 Any person, entity, landowner, or authorized agent, which owns or operates a source at which an eligible emission reduction has occurred or will occur may apply for an ERC certificate in accordance with the requirements of this Rule. For open biomass burning sources, if the applicant is not the landowner, written authorization from the landowner must be included with the application for an ERC certificate.

5.2 The person or entity requesting the ERC certificate shall make an application on forms supplied by the District.

5.3 The application may be for reductions in one or more affected pollutants. The application shall contain sufficient information to allow for adequate evaluation of actual emission reductions. The application for an ERC certificate for open biomass burning may include more than one parcel but must have separate emission calculations for each parcel or portion of a parcel covered in the application.

5.4 In accordance with the provisions of the Federal Clean Air Act, Government Code, and the Health and Safety Code applicants may claim confidentiality of information contained in the application.

5.5 Applications shall be submitted within 365 days after the emission reduction occurs or within 365 days of (the adoption date of this Rule) whichever is later. Applications for reductions in open

biomass burning must be submitted by May 1 of each year. The applications may be submitted for any burning reductions occurring in the previous calendar year or for the current calendar year ending on December 31.

- 5.6 To verify emission reductions claimed in conjunction with an application for an ERC certificate, the District may require source tests by ARB approved methods, continuous monitoring, production records, fuel use records, or any other appropriate means. For open biomass burning, verification of emission reductions shall be in accordance with Section 11. and the MOP.
- 6 Administrative Procedures And Timetable: For ERCs for open biomass burning reductions, a separate administrative timetable is found in the Manual of Procedures.
- 6.1 The APCO shall determine whether an ERC application is complete not later than thirty (30) calendar days following receipt of the application, or after a longer time period agreed upon in writing by both the applicant and the APCO.
 - 6.2 If the APCO determines that the application is not complete, the applicant shall be notified in writing of the decision, specifying the additional information that is required. The applicant shall have sixty (60) days, or a longer time period agreed upon in writing by both the applicant and the APCO, to submit the requested information. Upon receipt of additional information, the APCO shall have another thirty (30) days to determine completeness. If no information is submitted or the application is still incomplete, the APCO may cancel the application with written notification to applicant.
 - 6.3 Upon determination that the application is complete, the APCO shall notify the applicant and ARB in writing. Thereafter, only information to clarify, correct, or otherwise supplement the information submitted in the application may be requested by the District.
 - 6.4 Withdrawal of a ERC application by an applicant shall result in cancellation of the application; any re-submittal will be processed as a new application.
 - 6.5 Upon acceptance of an application as complete, the APCO shall have 180 days to take final action on the application after considering all written comments. Upon completion of the initial assessment, the APCO shall provide written notice of such to the applicant and shall also provide written notice to the ARB and the EPA and publish notice in a local newspaper of general circulation. The notice shall specify the applicant, the quantity of emission reduction credits requested and a copy of the initial assessment.
 - 6.5.1 The notice requirements may be waived by the APCO if the emission reduction credits applied for are less than 10,000 pounds per quarter per pollutant except for CO which is 20,000 pounds per quarter, and open biomass burning credits for less than 500 acres per parcel.
 - 6.6 Publication of the notice shall commence a thirty (30) day public comment period during which the APCO shall accept written comments on the merits of the ERC application. Upon conclusion of this thirty (30) day period, the APCO shall have another thirty (30) days to render a decision to approve, conditionally approve, or deny the application. This decision shall be provided in writing to the applicant.
 - 6.7 The applicant or any other party may appeal the APCO's decision following provisions specified in District regulations.
- 7 Registration Of Emission Reduction Credits:
- 7.1 The District shall maintain a bank register, which shall consist of the following:

- 7.1.1 A record of all deposits, withdrawals, and other transactions with regard to the District's banking system.
- 7.1.2 A record of all open biomass burning offset credits derived from reduced burning within the District which credits are claimed by stationary sources existing prior to the adoption of this rule (pre-existing source).
- 7.2 Offset credits claimed from reduced open biomass burning by a pre-existing stationary source within the District shall be reported to the District for incorporation into the banking register. Such offsets shall be incorporated into the banking register within two years after the date of Rule adoption. The offsets shall not be subject to adjustments under Section 8 of this Rule. In the event that open burning biomass offset credits are claimed by a pre-existing stationary source and obtained from outside the District, the District shall report the claiming of such credits to the District of origin of the biomass material.
- 7.3 In the event that open burning biomass emission credits are claimed by a new or modified stationary source as offsets and obtained from outside the District, the District shall report the claiming of such offset credits to the District of origin of the biomass material.
- 7.4 The APCO may only grant an ERC certificate after the emission reductions have actually occurred and upon satisfaction of the following applicable provisions:
 - 7.4.1 If the emission reductions were created as a result of greater operating efficiencies, reduced throughput, shortened operating hours, or from the application of more efficient control technology a revised Permit to Operate must be issued. This revised permit must include specific quantifiable emission limits reflecting the reduced emissions.
 - 7.4.2 If the emission reductions were created as a result of the shutdown of a permitted source or emitting unit, the Permit to Operate has been surrendered and voided or modified to ensure that the emissions reductions are permanent.
- 7.5 When all the requirements of this rule have been satisfied and the emission reduction has actually occurred, the APCO shall issue the ERC certificate. After granting an ERC certificate, title to such certificate shall be entered into the banking register. Such information may be made available for public inspection.
- 7.6 All ERC certificate information concerning titles, interests, liens, restrictions, encumbrances, and other changes of record shall be identified in the District's banking register until the certificate is canceled or nullified by operation of law.
- 7.7 Each ERC certificate shall be numbered, bear the date of issuance, be signed by the APCO, bear the seal of the District, and contain information regarding the quantity and type of ERCs. One copy of the ERC certificate shall be retained by the District and the original shall be delivered to the applicant. Transmittal of the ERC certificate to the owner shall be accomplished in person or by registered mail. The person accepting the ERC certificate shall sign a receipt therefor and provide such proof of identity as the APCO may require.
- 7.8 At the option of joint owners of ERCs, such persons may receive one ERC certificate for the entirety or separate ERC certificates reflecting each proportional share. The District's bank shall reflect the consolidation or separation of the ERCs.
- 7.9 Title to an ERC certificate shall be deemed registered at the time the required information concerning the ERC is entered into the banking register. Title will be vested in the applicant's name

or his/her designee and shall inure to the benefit of his or her heirs. In the case of ERCs granted for open burning of biomass, title will be vested with the landowner or landowner's designee.

7.10 All dealings with ERCs and all liens, restrictions, encumbrances, and changes subsequent to the first registration shall be deemed to be subject to the terms of this regulation, and to such amendments and alterations as may hereafter be made.

7.11 The APCO may reissue lost or destroyed ERC certificates after the registered owner certifies in writing that the original has been lost or destroyed.

8 Adjustments To Emission Reduction Credits:

8.1 Except as provided in 8.2 below, the District shall take five percent (5%) of the emissions reductions before the ERCs are granted and apply the emissions toward attainment of the air quality standards or place the emissions into a community bank controlled by the District for use by essential public services, such as sewage treatment, schools, hospitals, fire fighting, police, jail, water delivery, and mandated cleanup operations.

8.2 An applicant may restrict use of the ERCs only for applicants own future use, at the same parcel or site, in which case the District will not adjust the ERCs. The applicant may have the restriction removed by the District upon payment of costs incurred by the District to re-issue an unrestricted ERC certificate.

8.3 Deposits are permanent until used by the depositor or any party to whom the ERC certificate has been transferred. After issuance of the certificate, subsequent changes in regulations to require the type of emission reduction which has been banked shall not reduce or eliminate the ERC.

8.4 Owners of ERC certificates may donate their ERCs to the District for purposes of assisting the District towards attainment of the air quality standards.

9 Transfer And Use Of Emission Reduction Credits:

9.1 The ERCs may be used at the time of, or anytime after deposit into the District's banking system by the registered owner, or owner's designee of the ERC certificate to provide offsets for increase in emissions from new or modified sources subject to the NSR Rule.

9.2 Transfer in whole or in part of an ERC certificate shall be done by the registered owner in accordance with applicable procedures of this rule. Upon payment of a transfer fee a new ERC certificate, certifying the title or interest in the ERC, shall be issued and the original certificate shall be canceled. Such cancellation shall be recorded in the banking register.

9.3 Nothing in this rule prevents the lease or temporary transfer, in whole or in part, of ERCs represented by certificates to be used as offsets. However, no transfers shall be made until application is made to the District and approval given by the APCO.

9.4 Except as provided below, all emissions reductions to be used as offsets under the new source review rule must first be processed through this rule and receive an ERC certificate in accordance with the requirements of this rule. Onsite reductions in emissions which are contemporaneous with onsite increases in emissions from other emission units and meet the requirements of the NSR Rule are not required to go through this ERC/Banking Rule.

9.5 ERCs which result from stationary source shutdowns and curtailments shall not be used as offsets for a new or modified stationary source where permitted emissions would exceed emissions

thresholds established for the District in the Federal Clean Air Act for major source modifications, unless the applicant can establish the following:

9.5.1 The proposed new source or modification is a replacement, and the shutdown or curtailment occurred after August 7, 1977; or

9.5.2 An application for credit was filed with the District within 180 days of the date last emission; and

9.5.2.1 The crediting of shutdown emissions complies with the most recent emission trading policy or regulations of the US Environmental Protection Agency; and

9.5.2.2 The District has met statutory planning mandates and air quality improvement milestones.

9.6 On transfer of ownership of ERCs to a stationary source for use as offsets the registered owner shall provide information to the District on costs, if any, in dollars per ton, of emission offsets purchased for, or acquired by, the new or modified source.

10 Stationary Source ERC Calculations:

10.1 Calculations of emission reductions shall be determined by the methods described in the District's NSR Rule.

11 Open Biomass Burning ERC Calculations: The MOP contains emission factors (EF), Fuel Loading factors (FL), default historical burn fractions (HBF), and default quarterly burn fractions (QBF). Default HBFs and QBFs shall be used to calculate the ERCs. An alternative use of parcel specific HBFs and QBFs may be used after a methodology is developed and receives written ARB concurrence. The alternative method is to address specific geographic areas with specific air quality problems. The following information will be used in the calculation of ERCs, however, when using default HBF and QBF factors, Sections 11.3 and 11.4 below do not apply:

11.1 Basic information: The applicant shall provide data on the crop type, exact location of the parcel including assessor's parcel number and other information regarding parcel location required in the MOP, acreage burned (AB), and date(s) of open biomass burning within the baseline period. The applicant shall use county burn permit/authorization records or other verifiable records to validate the information as specified in the MOP. The type of biomass residue and the acreage burned (AB) will be used in the ERC calculation.

11.2 Acreage Burned: The applicant for emission reductions from open biomass burning shall provide the acreage burned for each parcel(s) of land for which ERCs are applied. Acreage must have been burned for at least one of the five (5) baseline years of 1988 through 1992. The applicant shall use county burn permit/ authorization records or other verifiable records to determine the acreage.

11.3 Historical burn fraction (HBF): The applicant shall provide available data on historical biomass burn percentage for the parcel(s) during the five (5) baseline years of 1988 through 1992. The historical burn fraction (0-1) is an adjustment to the amount of ERC available. The applicant may use county burn permit authorization records or other verifiable records to determine the amounts of prior burning. For rice straw burning an historical burn fraction of one (1) will be used for the parcel(s).

11.4 Quarterly burn fraction (QBF): The applicant shall provide available data on quarterly biomass burning for the parcel(s) during the five (5) baseline years of 1988 through 1992. The applicant may use county burn permit authorization records or other verifiable records to determine the date(s) of burning. The quarters are defined as Jan-Mar, Apr-Jun, Jul-Sep, and Oct-Dec.

- 11.5 The biomass Fuel Loading (FL) and emission factors (EF): Set forth in the MOP shall be used for the crops indicated. Alternatively, the applicant may propose and the District shall select the appropriate biomass Fuel Loading and emission factors to be used in the calculations from the Annual Agricultural Burning Plan for the Sacramento Valley Air Basin or other best available data.
- 11.6 Discount acreage (DA): The applicant may reduce the total acreage covered by the ERC certificate to allow for continued burning of a portion of the total acreage of the parcel(s). This reduction in the total acreage covered will be reflected in the emission credits applicable to the parcel(s). The portion of the parcel(s) that is covered by the discount acreage (i.e. the acreage eligible for a burn permit) must be clearly identified. This portion will not be allowed to change without prior District notification and approval.
- 11.7 The District will determine a quarterly ERC value for each pollutant based on the following calculation:

$$\text{ERCs} = (\text{AB}-\text{DA}) * \text{HBF} * \text{FL} * \text{EF} * \text{QBF}$$
- 11.8 Stationary sources which have applied for an Authority to Construct or equivalent authority prior to the date of adoption of this Rule, and which thereafter apply for an ERC(s), may utilize the calculation factors contained in the MOP on the date of first adoption of this Rule.

12 District Enforcement Considerations:

- 12.1 Revision or cancellation of ERC certificates: At the request of the registered owner to allow burning of a parcel(s) for which ERCs have been granted may be handled as follows, with prior written approval from the APCO.
 - 12.1.1 The registered owner may request that the District reduce the quantities of the emissions covered by the ERC certificate by the amount of emissions associated with the reduced acreage requested. After the District revises the ERC certificate that portion of the parcel may be burned in accordance with current agricultural burning regulations. The portion of the parcel that is covered by the discount acreage (i.e. the acreage eligible for a burn permit) must be clearly identified. This portion will not be allowed to change without prior District notification and approval.
 - 12.1.2 The registered owner may surrender the ERC certificate to the District for cancellation and burn the parcel(s) pursuant to current agricultural burning regulations.
- 12.2 District enforcement considerations related to ERCs are the following:
 - 12.2.1 To meet the requirement of enforceability, a contract, permit conditions, no burn list, and/or other means shall be utilized.
 - 12.2.1.1 The primary means of enforcing open biomass burning ERCs will be by placing the parcels on a no burn list. No burn permit will be issued for a parcel(s) if an ERC is currently in effect for that parcel unless the registered owner applies for cancellation, modification or substitution of the ERC under Section 12.1 of this Rule.
 - 12.2.1.2 To further ensure the enforceability of ERCs and offsets from open biomass burning, an owner of a parcel with ERCs who is preparing to sell that property shall either:

12.2.1.2.1 Place a restriction on the parcel title, prior to sale, foregoing all open biomass burning on that parcel, or

12.2.1.2.2 Submit an application for transfer of ownership of the ERCs to the new landowner, within 14 days after the transfer of title to the parcel, consistent with the transfer procedures of this Rule. The ERCs shall automatically terminate 15 days after transfer of the land to a new owner unless the registered owner has complied with either of the two options in this Section 12.2.1.2.

12.2.1.3 At the time of application, the applicant for ERCs for reduced open biomass burning must provide information to the District on the disposition of the biomass.

12.2.1.4 Emission reduction credits used to offset project emissions in another district shall be implemented through an inter-district agreement to ensure their enforceability and permanence.

12.2.2 Facilities that claim open burning emission reduction offsets pursuant to Health & Safety Code Sections 41605.5 and 42314.5 must keep a daily log of biomass received by type, origin, quantity, and date. Such facilities will also be required to prepare and submit to the District a quarterly report on their emissions and corresponding biomass off-sets. The District will further require an annual status report on biomass contracts for next year prior to re-issuance of the annual Permit to Operate.

12.3 To further ensure enforceability of this Rule refer to the Manual of Procedures which contains ERC and offset tracking, open biomass burn permitting, and other procedures related to the implementation of the Rule.

13 Fees: Fees shall be required for application, analysis, transfer and replacement of an ERC certificate, as specified in District Rule 2:11B Emission Reduction Credit Banking Fee.

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