

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RULE 2-9 – PERMITS–INTERCHANGEABLE EMISSION REDUCTION CREDITS
(Amended June 15, 2005)

REGULATION 2
PERMITS
RULE 9
INTERCHANGEABLE EMISSION REDUCTION CREDITS

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REGULATION 2
PERMITS
RULE 9
INTERCHANGEABLE EMISSION REDUCTION CREDITS

Adopted April 7, 1999

2-9-100 GENERAL

2-9-101 Purpose: The purpose of this regulation is to provide a methodology to calculate and track the generation, use and trading of Interchangeable Emission Reduction Credits (IERC's) from stationary sources of nitrogen oxides (NOx) within the District in order to provide a voluntary, cost-effective, alternate means of compliance with certain District NOx rules and regulations.

2-9-200 DEFINITIONS

2-9-201 Bankable Pollutants: Interchangeable emission reduction credits (IERC's) of the following pollutants may be deposited in the IERC Bank: nitrogen oxides.

2-9-202 Banking Certificate: A document issued by the APCO which indicates the amount of pollutant-specific IERC's which are available for use, trade, purchase, sale or other means of commercial transaction during the credit use life, as established by the effective and expiration dates on the banking certificate. A banking certificate does not constitute a property right. A banking certificate is not intended to recognize any pre-existing right to emit air contaminants, but to provide a mechanism for the APCO to recognize the existence of reductions of air contaminants that can be used or traded in accordance with the provisions of this rule.

2-9-203 Best Available Retrofit Control Technology (BARCT): An emission limitation, defined in Health & Safety Code Section 40406, that is based on the maximum degree of reduction achievable, taking into account environmental, energy, and economic impacts by each class or category of source.

2-9-204 Credit Generation Period: A time period of twelve consecutive months or less during which emissions are permanently and enforceably reduced relative to a baseline period. The initial credit generation period is determined by the first IERC banking application for a particular emission reduction activity. The initial credit generation period shall not be more than 30 months prior to the submittal of the first complete IERC banking application for a particular emission reduction activity.

2-9-205 Credit Use Life: The time period during which an IERC may be used, traded, purchased, sold or made part of a commercial transaction.

2-9-206 Curtailment: An emission reduction from a permitted stationary source that results from a reduction in operation, such as reduced hours of operation, throughput, material usage or fuel usage.

2-9-207 Effective Date: The first day on which an IERC may be used. An effective date may be the date of issuance of the IERC Certificate, or it may be a future date, typically in one-year increments from the date of issuance of the IERC Certificate.

2-9-208 Emission Reduction Credit (ERC): An emission reduction which was generated and banked in accordance with Regulation 2, Rule 4.

2-9-209 Enforceable: The District determination that credible and relevant evidence exists throughout the duration of the credit generation period in order to enforce compliance with the terms of this rule.

2-9-210 Expiration Date: The date after which an IERC can no longer be used.

2-9-211 Facility: For the purposes of this rule only, a facility is any property, building, structure or installation (or any aggregation of facilities) located on one or more contiguous or adjacent properties and under common ownership or control of the same person that emits or may emit any air pollutant and is considered a single major industrial grouping (identified by the first two-digits of the applicable code in *The Standard Industrial Classification Manual*).

- 211.1 Related sources on a single property or contiguous properties, even though under different ownership and/or operatorship, shall be considered one facility. Related sources are those sources where the operation of one is dependent upon or affects the operation of other sources.
- 211.2 Facilities under the same ownership or entitlement to use that are located within a distance of three (3) miles, property line to property line, shall be considered one facility if the facilities have the same first two digits in their Standard Industrial Classification codes, as determined from *The Standard Industrial Classification Manual*.

2-9-212 Interchangeable Emission Reduction Credit (IERC): A real, permanent, quantifiable, enforceable and surplus emission reduction expressed in the unit of pounds of a specific pollutant in the year generated, and has a specified expiration date. IERC's are subject to the prevailing "environmental benefit surcharge" at the time of credit usage.

2-9-213 Permanent: An emission reduction which exists for the duration of the credit generation period.

2-9-214 Real: An emission reduction that constitutes an actual decrease in air emissions.

2-9-215 Reasonably Available Control Technology (RACT): For sources which are to continue operating, RACT is the lowest emission limit that can be achieved by the specific source by the application of control technology taking into account technological feasibility and cost-effectiveness, and the specific design features or extent of necessary modifications to the source. For sources which are or will be shut-down, RACT is the lowest emission limit that can be achieved by the application of control technology to similar, but not necessarily identical categories of sources, taking into account technological feasibility and cost-effectiveness of the application of the control technology to the category of sources only and not to the shut-down source.

2-9-216 State Implementation Plan (SIP): A plan, approved under Section 110 or 172 of the Clean Air Act, which provides for the implementation, maintenance and enforcement of a primary or secondary air quality standard.

2-9-217 Stationary Source: Any article, machine, equipment, operation, contrivance or related grouping of such which may produce and/or emit air pollutants, and which is or was located at a facility during the credit generation period.

2-9-218 Surplus:, An emission reduction calculated in accordance with this regulation that is not required or assumed during the credit generation period, and which exceeds the emission reductions required or assumed during the credit generation period by a stationary source using Reasonably Available Control Technology (RACT), Best Available Retrofit Control Technology (BARCT) or by any District, California or federal permit, rule, regulation, law, ordinance or the most recent District approved Clean Air Plan or Air Quality Management Plan. If the control measure or emission standard in the most recently District approved rule or air quality plan is less stringent than the control efficiency or emission standard in the California State Implementation Plan (SIP) for a specific source category, then the federally approved SIP will be used for purposes of determining surplus reductions.

2-9-300 STANDARDS

2-9-301 Bankable Interchangeable Emission Reduction Credits – General Provisions:

301.1 An emission reduction of a bankable pollutant may be banked as an Interchangeable Emission Reduction Credit, if it meets the following criteria:

- 1.1 The emission reduction is generated by a stationary source that the District includes in its Emission Inventory. A source is included in the Emission Inventory if it has a District Permit to Operate (if one is required) or is a member of a source category included in the Emission Inventory (if no permit is required).
- 1.2 The emission reduction is real, permanent, quantifiable, enforceable and surplus.
- 1.3 The emission reduction did not result from the shutdown or curtailment of a source.

- 1.4 Any secondary emissions resulting from the emission reduction comply with Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants.
- 301.2 An emission reduction from a permitted or exempt stationary source that was banked in accordance with the procedures described in Regulation 2-4, can be converted to an IERC, in accordance with Section 2-9-305, provided the emission reduction did not result from the shutdown or curtailment of a source.
- 301.3 An IERC retains its full value during its credit use life.
- 301.4 An IERC is subject to the environmental benefit surcharge at the time of its usage, as set forth in Section 2-9-306.
- 301.5 Individual banking certificates for IERC's resulting from multi-year credit generation periods shall be issued for each year of credit generation.
- 301.6 An IERC may be combined with one or more additional IERC's and used at the same time (i.e., stacked) provided the credit use life of each IERC has commenced and has not yet expired at the time of the stacked IERC use.
- 301.7 Emission reductions where the demand for the services or product would merely shift to other sources in the District, with little or no decrease in emissions basin-wide, cannot be banked.
 - 7.1 The APCO may require submittal of data to document that reductions will not result in such a shift, and could therefore be banked.
 - 7.2 Only the net reduction (if any) shall be banked for operations where the operation is being transferred elsewhere within the same stationary source or to a different stationary source owned by the applicant within the District.

(Amended June 15, 2005)

2-9-302 Use of IERC's: Except as limited by Section 2-9-304, an IERC may only be used at the same facility in which the IERC is generated, as part of an Alternative Compliance Plan to comply with a NOx emission standard of a rule in Regulation 9, or permit condition that is based on such a rule. IERC's must be in the facility operator's possession prior to generating emissions in excess of the regulatory standards.

2-9-303 Alternative Compliance Plan using IERC's: An alternative compliance plan (ACP) which satisfies all the following requirements may be used to comply with any rule identified in Section 2-9-302:

- 303.1 Only IERC's that have been generated, approved, and banked in accordance with this rule may be used in an ACP.
- 303.2 NOx emissions from each source or group of sources (if grouping is allowed under the applicable emission standard) in the ACP, less IERC's applied, shall not exceed that amount or level of NOx emissions which would result if the affected source or sources complied with the applicable BARCT requirements of Regulation 9 on a daily basis.
- 303.3 The ACP must be reviewed and approved by the APCO on an annual basis.
- 303.4 The ACP must include methods for demonstrating compliance on a daily basis, by listing:
 - 4.1 All sources covered by the ACP;
 - 4.2 Maximum firing rate (higher heating value) of each source;
 - 4.3 Type(s) of fuel and heat content (higher heating value) of each fuel combusted in each source;
 - 4.4 NOx emission rate for each type of fuel combusted in each source;
 - 4.5 A comparison of the actual nitrogen oxide emission rate and the nitrogen oxide emission rate that would be allowed under the applicable BARCT provision(s) of Regulation 9, in the absence of this rule, for each source, or group of sources (if grouping is allowed under the applicable emission standard),
 - 4.6 Detailed calculation of the amount of IERC's required for BARCT compliance, in accordance with the procedure in Section 2-9-605;
- 303.5 The plan shall contain credit only for IERC's that have been evaluated and approved in accordance with this rule.
- 303.6 Failure to comply with any emission calculation, emission testing, monitoring, record keeping or reporting provision of an approved plan, or failure to surrender

sufficient IERC banking certificates within 30 days following the end of the ACP period, shall constitute a violation of the applicable Regulation 9 BARCT Rule(s).

2-9-304 Restrictions on the Use of IERC's: An IERC may not be used to fully or partially comply with:

- 304.1 Any emission standard at any facility other than the facility at which the IERC is generated.
- 304.2 Best Available Control Technology requirements in Regulation 2-2-301.
- 304.3 New Source Performance Standards in Regulation 10.
- 304.4 National Emission Standards for Hazardous Air Pollutants (NESHAP).
- 304.5 Federal Maximum Achievable Control Technology (MACT) standards.
- 304.6 Emission limitations or control requirements on toxic emissions imposed by Regulation 2, Rule 5.
- 304.7 Any requirement in Regulation 9 with an implementation date before April 7, 1999.
- 304.8 Any requirement in Regulation 9 that has been approved by EPA for inclusion in the California SIP, unless this Regulation has been approved by EPA for inclusion in the SIP.

(Amended June 15, 2005)

2-9-305 Conversion of an ERC to an IERC: An existing stationary source emission reduction credit (ERC) that was not the result of a shutdown or a curtailment and that was banked in accordance with the procedures in Regulation 2, Rule 4, may be converted to an Interchangeable Emission Reduction Credit for the same pollutant, in accordance with the procedure in Section 2-9-604. Once an ERC has been converted to an IERC, the IERC may not be converted back to an ERC.

2-9-306 Environmental Benefit Surcharge: The user of IERC's shall provide 10 percent more IERC's than are required to comply with the BARCT rule for which the IERC's are being used.

2-9-400 ADMINISTRATIVE REQUIREMENTS

2-9-401 IERC Application: In order to conduct any of the transactions listed below, a person shall submit an application on a form specified by the APCO. Fees for such applications are provided in Regulation 3.

- 401.1 Deposit IERC's in the bank;
- 401.2 Transfer ownership of IERC's to another party;
- 401.3 Convert emission reduction credits (ERC's) that were banked under Regulation 2, Rule 4 into IERC's;
- 401.4 Use IERC's in lieu of compliance with the BARCT rule(s) specified in Section 2-9-302.

2-9-402 Complete IERC Banking Application: The APCO shall determine whether a banking application is complete not later than 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. If the APCO determines that the application is not complete, the applicant shall be notified in writing of the decision, specifying the information that is required. The applicant shall have 90 days to submit the requested information. Upon receipt of all requested information, no new 30-day period to determine completeness shall be initiated. If no data is submitted or the application is still incomplete, the APCO may cancel the banking application with written notification to the applicant. Upon a determination that the application is complete, the APCO shall notify the applicant in writing. Thereafter, only information to clarify, correct, or otherwise supplement the information submitted in the application, may be requested. Withdrawal of a banking application by an applicant shall result in cancellation of the application; any re-submittal may be evaluated using a new baseline or credit generation period. An applicant may submit a banking application in advance of the credit generation period for the purpose of establishing the baseline and calculation procedures. Such an application will also be subject to the review, processing and approval procedures in this section.

2-9-403 Preliminary Decision, Minor Deposits: Within 60 days following the acceptance of an IERC application as complete, which is not subject to the publication, public comment

and inspection requirements of Section 2-9-405, or, with the consent of the applicant, such longer period as may be agreed upon, the APCO shall make a preliminary decision and notify the applicant in writing as to whether the APCO intends to approve, conditionally approve, or deny the application.

2-9-404 Preliminary Decision, Applications Subject to Publication, Public Comment and Inspection: Within 90 days following the acceptance of an IERC application as complete, which is subject to the publication, public comment and inspection requirements of Section 2-9-405, or, with the consent of the applicant, such longer period as may be agreed upon, the APCO shall make a preliminary decision and notify the applicant in writing as to whether the APCO intends to approve, conditionally approve, or deny the application.

2-9-405 Publication, Public Comment and Inspection: Before approving the banking of an IERC in excess of 40 tons of any pollutant or before approving the initial Alternative Compliance Plan (ACP) for a source or group of sources, the APCO shall cause to be published in at least one newspaper of general circulation within the District, and be sent to any individual submitting a written request to the APCO for notification, a notice stating the preliminary decision of the APCO to approve the banking of IERC's or to approve the ACP, and inviting written public comment for a 30-day period following the date of publication. The APCO shall make available for public inspection at District headquarters the information submitted by the applicant, the APCO's analysis, and the preliminary decision to grant or deny the application, including the reason therefore and any proposed conditions. Such information shall also be transmitted to adjacent air pollution control districts, the California Air Resources Board, and the U.S. EPA.

2-9-406 Final Approval of Banking Certificate or ACP: The APCO shall issue an IERC banking certificate or ACP within 30 days of the issuance of the preliminary decision for an approved application not subject to Section 2-9-405, or within 30 days of the close of the public comment period if the application is approved. The IERC banking certificate shall identify the owner of the certificate, the quantity of the emission reduction credits of each pollutant for deposit in the emissions bank in the units of "pounds" in the year generated, the effective date and expiration date of the credits, the location of the facility at which the reduction was created, any conditions on use of the emission reduction credits, and any other data deemed appropriate by the APCO.

2-9-407 Appeal to the Hearing Board, Banking: Any person dissatisfied with the APCO's approval or disapproval of an application for banking IERC's may appeal that decision within 10 calendar days to the District Hearing Board, in accordance with the provisions of Regulation 2-1-410.

2-9-408 Banking Register: The APCO shall establish and maintain a banking register, which shall consist of a public record of all deposits, deposit applications, withdrawals, and transfers of IERC's.

2-9-409 Transfer and Withdrawal Procedures for Deposits: The following procedures shall apply to withdrawal (use) or transfer of banked IERC's:

409.1 **Transfer for Later Use:** If the banked IERC's are transferred to a new owner for later use, the owner of record shall submit the old Certificate signed by the owner of record and by the new owner. The APCO shall retain the old Certificate, issue a new Certificate in the name of the new owner for the amount transferred, and issue a new Certificate to the existing owner for any portion not transferred.

409.2 **Transfer for Immediate Use:** If the banked IERC's are transferred to a new owner for immediate use, the owner of record shall submit the old Certificate signed by the owner of record and by the new owner. The APCO shall retain the old Certificate, and issue a new Certificate to the existing owner for any portion not transferred. A new Certificate will be issued to the new owner only if the amount transferred exceeds the amount to be used.

409.3 **Withdrawal for Full or Partial Use:** The owner of record shown in the APCO's banking register shall surrender the IERC Banking Certificate in order to withdraw the banked IERC's. If all of the banked IERC's are used, the APCO shall retain the Certificate. If only a portion of the banked IERC's is used, the APCO shall retain the old Certificate and issue a new Certificate identifying the remaining portion of the IERC's.

2-9-410 IERC Liability: For any transfer of IERC's, the generator of the IERC's shall be subject to enforceable permit conditions in the appropriate permits to operate to ensure that the IERC's are permanent and to hold the generator responsible for compliance with those conditions. The user and generator of any transferred IERC's shall be jointly and severably liable for any failure of the IERC generator to comply with appropriate District requirements that allow for the use of the IERC's.

2-9-411 Annual Report to California Air Resources Board: The APCO shall provide an annual report to the California Air Resources Board on all IERC banking transactions which have occurred during the preceding year. A copy of this report shall also be sent to the Environmental Protection Agency, Region IX. This report shall include the following:

411.1 The quantity of IERC's generated and used, by pollutant;

411.2 The extent to which IERC's were used to comply with Best Available Retrofit Control Technology, by rule and source category;

411.3 A discussion of the impact that use of IERC's had on annual pollutant-specific emissions, relative to the District's emission inventory and Clean Air Plan.

411.4 A demonstration that the use of IERC's, in the aggregate, results in no greater annual pollutant-specific emissions than would have occurred in the absence of this rule.

411.5 On a triennial basis, the District's report shall provide an evaluation of the IERC rule as an alternative means of compliance with applicable District rules.

2-9-500 MONITORING AND RECORDS

2-9-501 Monitoring and Record Keeping: The APCO shall impose monitoring, record keeping, and/or permit condition requirements necessary to determine, verify and enforce compliance with the provisions of this rule.

2-9-502 Alternative Compliance Plan Record Keeping and Reporting:

502.1 The information required in subsection 2-9-303.4 shall be available for inspection by the APCO on each production day.

502.2 The person submitting the ACP shall retain records for five years from the date the record was made, and shall submit such information as required by the APCO to determine compliance with the ACP.

502.3 The ACP shall include quarterly reports submitted to the APCO, within 30 days following the end of each calendar quarter, or other 3-month interval established in the plan. Each quarterly report shall include:

3.1 A summary of the amount of IERC's used during the preceding quarter;

3.2 A running total of all IERC's used during the current ACP period;

3.3 A projection of the amount of IERC's that will be needed for the entire ACP period, based on the IERC use rates calculated in Sections 502.3.1 and 502.3.2; and

3.4 Certification that the facility possesses IERC's equal to the amount projected in Section 502.3.3 or a description of how the facility will adjust its operation so that the amount of IERC's needed does not exceed the amount of IERC's possessed by the facility.

502.4 Within 30 days following the end of the ACP period, the facility shall submit an annual reconciliation report summarizing the amount of IERC's used during the preceding 12-month ACP period, and shall surrender the banking certificates for all IERC's used during that ACP period plus the applicable environmental benefit surcharge.

2-9-600 MANUAL OF PROCEDURES

2-9-601 Emission Reduction Calculations - General Requirements: The emission reductions which are used to generate IERC's shall meet all of the following requirements, as well as the applicable requirements in sections 2-9-602 through 2-9-605.

601.1 The applicant must demonstrate that the reduction is real, permanent, quantifiable, enforceable and surplus.

- 601.2 IERC's shall be registered in one-year increments in the units of pounds of each specific bankable pollutant.
- 601.3 Each IERC banking certificate shall include the effective date and expiration date of the credits.
- 601.4 The effective date for the first one-year increment shall be the last day of the initial credit generation period. The effective date of each successive one-year increment shall be the day following the last day of the previous increment.
- 601.5 IERC's shall expire five years after their effective date.

2-9-602 Emission Reduction Calculations – Baseline Throughput and Emission Rate: The following methodology shall be used to calculate baseline emissions.

- 602.1 The baseline period consists of the 5 year period immediately preceding the initial IERC credit generation period. The applicant must have sufficient records of the source's operation to substantiate the emission rate and throughput during the baseline period.
- 602.2 Baseline throughput is the lesser of:
 - 2.1 actual average throughput during the baseline period; or
 - 2.2 average permitted throughput during the baseline period, if limited by permit condition.
- 602.3 Baseline emission rate, expressed in the units of mass of emissions per unit of throughput, is the average actual emission rate during the baseline period. Periods where the actual emission rate exceeded regulatory limits shall be excluded from the average.
- 602.4 Baseline Throughput and Emission Rate - Fully Offset Source: For a source which has, contained in a permit condition, an emission cap or emission rate which has been fully offset by the facility in accordance with the provisions of Regulation 2, Rule 2 (without using emission reductions from the Small Facility Banking Account), the baseline throughput and baseline emission rate shall be based on the levels allowed by the permit condition.

2-9-603 Methodology for Calculating Interchangeable Emission Reduction Credits from a Stationary Source: The APCO shall determine the emission reduction credits which qualify as IERC's from stationary source as follows:

- 603.1 Calculate the amount of IERC's as follows:
 - 1.1 Determine the baseline adjusted emission rate, by adjusting the baseline emission rate downward, if necessary, to comply with the most stringent of RACT, BARCT, and District rules and regulations in effect during the credit generation period. The baseline adjusted emission rate may be different for successive credit generation periods, if RACT, BARCT or District rules and regulations change from one credit generation period to the next.
 - 1.2 Determine the baseline adjusted emissions (baseline throughput multiplied by the baseline adjusted emission rate = A)
 - 1.3 Determine the credit generation period actual emissions (actual throughput multiplied by actual emission rate = B)
 - 1.4 Determine the credit generation period non-curtailment emissions (baseline throughput multiplied by actual emission rate = C)
 - 1.5 Subtract the greater of B and C from A to obtain the amount of IERC's. $[A - (\text{greater of B or C})] = \text{IERC's}$
 - 1.6 For prospective IERC calculations, the emission rate and throughput during the credit generation period shall be imposed as permit condition limits on the source during the credit generation period
- 603.2 The maximum number of credit generation periods that may be evaluated under a single IERC banking application is three. New sets of three credit generation periods may be re-evaluated under subsequent IERC banking applications. All subsequent IERC applications shall use the same baseline period that was established for the original IERC application for the same emission reduction technique at the same source.
- 603.3 Issue IERC certificates for the number of credit generation periods determined above. The first certificate will have an effective date immediately following the

end of the first credit generation period. Each subsequent certificate will have an effective date one year later than the preceding certificate.

603.4 The expiration date of each certificate will be five years following its effective date.

2-9-604 Procedure to Convert an ERC to an IERC: The following is the method to convert any ERC which was banked in accordance with Regulation 2, Rule 4 into an IERC. An ERC based on a shutdown or curtailment of a source may not be converted to an IERC.

604.1 The applicant shall surrender the ERC Banking Certificate.

604.2 Determine the original ERC baseline throughput and emission rate, from the original ERC banking application, and any necessary supplemental information provided by the applicant.

604.3 The first credit generation period is the 12-month period immediately following the original ERC baseline period.

604.4 Follow the methodology in Section 2-9-603, using the baseline throughput and emission rate and first credit generation period determined above in 604.2 and 604.3.

2-9-605 Calculation Procedure to Determine the Required Amount of IERC's for BARCT Compliance: The following is the method to determine the amount of IERC's required to be surrendered to the District instead of BARCT compliance.

605.1 Actual Daily Emissions (A): Calculate the actual daily emissions from the source(s) based on the actual emission rate and daily throughput for each day during the ACP period.

605.2 Allowable Daily Emissions (B): For each day during the ACP period, multiply the applicable BARCT emission rate by the same actual daily throughput that is used in Section 2-9-605.1 above. This product is the allowable daily emissions under the BARCT rule, in the absence of IERC use.

605.3 Daily-Required IERC's: For each day during the ACP period in which the actual daily emissions (A) exceed the allowable daily emissions (B), subtract the allowable daily emissions that were determined per Section 2-9-605.2 (B) from the actual daily emissions that were determined per Section 2-9-605.1 (A). Apply the environmental benefit surcharge specified in Section 2-9-306. This total is the amount of IERC's that must be supplied for that day. This procedure is represented by the following equations:

If A is greater than B, then IERC's = $(A - B) \times (1.10)$ for that day.

If A is less than or equal to B, then IERC's = ZERO for that day.

605.4 Total IERC's for ACP: Sum all of the daily-required IERC's to determine the total IERC's required for the entire ACP period. Within 30 days following the end of the ACP period, the owner or operator of the facility must surrender the requisite IERC banking certificates to cover the amount of IERC's required for the ACP period. Failure to supply enough IERC's constitutes a violation of the applicable BARCT rule(s).