

RULE 214 EMISSION REDUCTION CREDIT (ERC) BANKING
(Adopted 9/7/93; Revised 5/21/96; 9/14/99; 10/10/2006; 5/12/2015)

A. Rule Purpose and Applicability

A.1 Purpose

A.1.a To ensure that all emission reductions are transferred through the District's Emission Reduction Credit (ERC) Bank. All transfers of Actual Emission Reduction Credits to other sources for use as Offsets that meet the requirements of the District's Rule 207, New and Modified Stationary Source Review (NSR) Rule shall be processed in accordance with this Rule.

A.1.b To provide an administrative mechanism for the District to store ERC's:

A.1.b.1 For later use as Offsets where allowed by District, state and federal rules and regulations.

A.1.b.2 For Transfer to other Sources as Offsets where allowed by District, state and federal rules and regulations; and

A.1.c To define eligibility standards, quantitative procedures, and administrative practices to ensure that ERC's are Real, Permanent, Quantifiable, Enforceable, and Surplus.

A.2 Applicability

This regulation shall apply to all transactions involving ERC's for the storage, Transfer or use within the District.

B. Definitions

Terms applicable to this Rule are defined in Rule 207, Section B, Definitions.

C. Eligibility of Emission Reductions

C.1 Emission reductions shall be recognized as ERC's only after an ERC Certificate has been issued.

C.2 The emission reductions occurring prior to September 7, 1993 may be recognized as an ERC if:

- C.2.a Reductions are Real, Surplus, Permanent, Quantifiable, and Enforceable;
- C.2.b Emission reductions occurring on or after January 1, 1988 and prior to September 7, 1993 which have been recognized by the District pursuant to a Banking Rule or pursuant to a formal internal tracking mechanism provided:
 - C.2.b.1 the District determines that such emission reductions comply with the definition of an Actual Emission Reduction (AER).
 - C.2.b.2 the reductions have not been used for an approval of an Authority to Construct or used as Offsets.
- C.2.c Emission reductions occurring prior to January 1, 1988 which have been recognized by the District pursuant to a Banking Rule or pursuant to a formal internal tracking mechanism provided:
 - C.2.c.1 the District determines that such emission reductions comply with the definition of an AER.
 - C.2.c.2 the reductions have not been used for an approval of an Authority to Construct or used as Offsets.
 - C.2.c.3 the reductions are included or have been added to the applicable emissions inventory or will be accounted for in subsequent revisions to the most current air quality management plan.
- C.2.d Except for reductions listed below under no circumstances shall any emission reductions occurring before September 7, 1993, other than described in section C.2.b and C.2.c be eligible for ERC's. The restrictions shall not apply to the following reductions:
 - C.2.d.1 ERC's issued which have been reevaluated in accordance with this Rule prior to their use.
 - C.2.d.2 reductions for which the District accepted a banking application prior to December 9, 1994 in accordance with the provisions of this Rule.
 - C.2.d.3 Reductions authorized by the District for use as Offsets or as mitigation for new or modified Emission Units prior to December 9, 1994.

- C.3 Emission reductions occurring after September 7, 1993 may be recognized as an ERC if:
- C.3.a Reductions are Real, Surplus, Permanent, Quantifiable, and Enforceable:
 - C.3.b The AER's are calculated in accordance with the District's Rule 207. Adjustments to emission reductions for the Community Bank shall be made at the time the reductions are quantified pursuant to District Rule 207.
 - C.3.c An Application for an ERC has been filed no more than 180 days or less than 30 days prior to the date the emission reduction is to occur.
 - C.3.d The emission reduction is created from a non-permitted Source the District shall require the non-permitted Source to give up its non-permitted status and obtain an Enforceable permit complete with all operational and emission limitations. For the purpose of submittal of this regulation to the United States Environmental Protection Agency (US EPA) for inclusion in the California State Implementation Plan (SIP) this subsection shall not be part of the SIP.
 - C.3.e Emission reductions of Toxic Air Contaminants (TAC) which qualify as criteria pollutant emission reductions shall be eligible for deposit into the Bank. The use of these ERC's or any other credit ERC's shall be allowed to Offset only increases in like emissions, and not the increases in TAC's.
- C.4 Shutdowns
- C.4.a Emission reductions resulting from the voluntary Shutdown or permanent curtailment of Sources shall not be more than a) the quantity of emissions that would have been emitted had the Source operated with Reasonably Available Control Technology (RACT) and in compliance with existing rules and regulations, or b) AER's, whichever is less.
 - C.4.b If the emission reduction is due to the Shutdown of a permitted unit, the ERC Certificate applicant must demonstrate to the satisfaction of the District that emissions from such unit or units meet all applicable requirements of this Rule. Such unit or units will no longer be operated within the District unless and until a new Authority to Construct/Permit to Operate (ATC/PTO) is obtained after undergoing the permit process as required by the District's

Rule 207, the District's standard for an ATC/PTO, and other applicable District, state, and federal rules and regulations.

C.4.c Emission reductions resulting from Shutdowns or permanent curtailment of Sources permitted to emit greater than 5 tons or more per day or greater than 250 tons per year of any Nonattainment Pollutant or its Precursor shall not be more than the quantity of emissions that would have been emitted had the Source operated with Best Available Retrofit Control Technology (BARCT) and in compliance with existing rules and regulations.

D. ERC Certificate Application Procedures

D.1 Any entity which owns or operates an Emissions Unit at which an eligible emission reduction is proposed to be banked, shall apply for an ERC Certificate in accordance with the requirements of this Rule.

D.1.a For purposes of this Rule, an ERC Certificate is a document identifying the quantity and type of ERC's issued by the District to the individual(s) or Sources identified on the Certificate.

D.2 ERC Certificate applications shall be submitted on forms supplied by the District. No emission reduction shall be recognized as an ERC unless the application for an ERC Certificate is received not more than one hundred eighty (180) days or less than thirty (30) days prior to the date the emission reduction is to occur, unless otherwise provided in this Rule.

D.3 An application must be made for each Emissions Unit applying for an ERC. The application shall contain sufficient information to allow for adequate evaluation of each emission decrease, and contain information necessary for the Banking Register specified in Section E.11 of this Rule.

D.4 In accordance with the provisions of District Rule 102, Public Records, and Section 114(c) of the federal Clean Air Act, applicants may claim confidentiality of information contained in the application.

D.5 The District may only grant an ERC Certificate after the emission reductions have actually occurred pursuant to the conditions specified in this Rule, and upon satisfaction of the following applicable provisions(s):

D.5.a If the emission reductions were created as a result of greater operating efficiencies or from the application of more efficient control technology, and a revised ATC/PTO has been obtained. The revised permit must include specific Quantifiable emission limits reflecting the reduced emissions.

- D.5.b If the emission reductions were created as a result of the Shutdown of a permitted Source, the relevant ATC/PTO(s) has been surrendered and voided; or
- D.5.c If the emission reductions from a permitted Source were created by means of reducing production or production rates, the relevant ATC/PTO(s) has been modified to reflect the emission reductions; or
- D.5.d If the emission reductions were created as a result of the application of greater operating efficiencies or from the application of a more efficient control technology to a then non-permitted Emissions Unit an ATC/PTO has been obtained. The referenced permit shall include specific Quantifiable emission limits reflecting reduced emissions.
- D.6 Where appropriate, to confirm emission reductions claimed in conjunction with an application for an ERC Certificate, the District may require source tests, continuous monitoring, production records, fuel use records, or any other appropriate means of measurement.
- D.7 ERC applicants consisting of two or more owners applying for ERC's derived from a single reduction at a single emitting unit may apply for and receive single or multiple ERC Certificates. Multiple ERC Certificates shall be issued for each owner's proportional scale.
- D.8 An appropriate entity of the federal government may apply to the District for ERC's that result from emission reductions from a military base within 180 days of the reduction in emissions. ERC's from military base closures shall also be regulated by Health and Safety Code Section 40709.7, which is incorporated by reference.

If the federal government has agreed in writing to allow a base reuse authority to apply for and receive the ERC's, or if the time period for the federal government to apply for ERC's pursuant to subsection D.8 has expired and the federal government has not applied for the ERC's, or if the base reuse authority has, pursuant to other legal means, obtained the authority to acquire the ERC's, the base reuse authority may apply to bank any emission reductions related to the termination or reduction of operations at the military base under its jurisdiction. The District shall evaluate any such application to bank consistent with this Rule. After registration and certification of the emission reductions, the base reuse authority shall be deemed the owner of the ERC for purposes of issuance of a certificate. Upon receipt of the certificate, the base reuse authority may use, sell, or otherwise dispose of the ERC's as determined by the base reuse authority, provided that the credits may only be used for base

reuse within the jurisdiction of the District.

- D.9 The District shall determine whether an ERC Banking Certificate application is complete no 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 District.
- D.10 If the District 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 90 days to submit the requested information. Upon receipt of all requested information, the District shall have 30 days to determine completeness. If no data is submitted or the application is still incomplete, the District may cancel the ERC Banking Certificate application with written notification to the applicant. Upon determination that the application is complete, the District shall notify the applicant in writing. Thereafter, only supplemental information submitted in the application may be requested.
- D.11 Withdrawal of a Banking application by an applicant shall result in cancellation of the application; any re-submittal shall be evaluated using a new emission calculation as on the date of re-submittal's.
- D.12 Upon acceptance of a Complete Application, the District shall have 60 days to perform an initial assessment of the application. Upon completion of this initial assessment, the District shall provide notice of acceptance to the US EPA, the California Air Resources Board, to any relevant Federal Land Manager if an emissions trade occurs within 100 km of, or might otherwise reasonably have any impact on, a Prevention of Significant Deterioration (PSD) Class I area, and shall notice in a newspaper of local circulation within the District. The notice shall specify the applicant and the quantity of emission reductions requested and a statement of the initial assessment. Publication of the notice shall commence a 30 day public comment period during which the District shall accept written comments on the merits of the ERC Certificate application. Upon conclusion of this 30 day period, the District shall have 30 days to render a decision as to whether the District approves, conditionally approves, or denies the application. This decision shall be promptly supplied in writing to the applicant and published in a newspaper of local circulation.
- D.13 The applicant or any other party may appeal the District's decision following provisions specified in the District's appeals Rule.

E. Registration of ERC Certificates

- E.1 When all the requirements of this Rule have been satisfied and the emission reduction has actually occurred, the District shall issue the ERC

Certificate. Upon the District's determination to grant an ERC Certificate, title to such ERC shall be registered in the Banking Register and made available for public inspection.

- E.2 All information concerning titles, interest, and other matters such as liens, encumbrances, and changes of record shall be identified in the District's ERC Banking Register, as well as pertinent date(s) concerning such information, until such time as the ERC Certificate is used, canceled, or nullified by operation of law.
- E.3 Each ERC Certificate shall be numbered consecutively, bear the date of issuance, be signed by the District official charged with the responsibility of keeping the ERC Bank, and bear the seal of the District. One copy of the ERC Certificate shall be retained by the District and the original shall be delivered to the owner or party acting for the owner. The record of issued ERC Certificates shall be retained by the District. Delivery by the District of an ERC Certificate to an owner shall be accomplished in Person or by registered mail. The Person accepting the ERC Certificate must sign a receipt and provide such proof of identity as the District shall require.
- E.4 At the option of joint owners of ERC's, such Persons may receive one ERC Certificate for the entirety or separate ERC Certificates reflecting each proportional share, provided that such ERC's are derived from a single reduction at a single emitting unit. The District's ERC Bank shall reflect the consolidation or separation of the ERC's and the previous Certificate(s) shall be canceled upon the issuance of the new Certificate(s).
- E.5 After receiving written notice from a Source that it has released its right of control of Valid existing unbanked emission reductions created by that Source or after the 90 day application period has elapsed, the District may establish ERC Certificates representing such unbanked emission reductions in the District's Community Bank. These ERC's may be designated as unallocated ERC's for the purposes of accounting and designation in Banking and related reports. Distribution and use of the ERC's represented by the unallocated ERC Certificate(s) shall be consistent with this Rule.
- E.6 Except as set forth in this Rule, an ERC shall not be limited as to minimum quantity or maximum lifetime. However, its use shall be consistent with all applicable District, state, and federal rules.
- E.7 Title to an ERC shall be deemed registered at the time the particulars concerning the ERC are entered into the Register. All other interest in an ERC shall be deemed registered when the particulars concerning such

interest are entered into the Register concerning the Certificate.

- E.8 The registered owner of any interest in an ERC shall hold the same subject only to such liens, charges, and interests as may be noted in the Register, and free from all other interests except liens, claims, or rights arising under the laws of the United States, which the statutes of California cannot require to appear of record upon the Register.
 - E.9 All dealings with ERC's or any interest therein on all liens, encumbrances, and charges upon the same subsequent to the first registration thereof, shall be deemed to be subject to the terms of this regulation, and to such amendments and alterations as may hereafter be made.
 - E.10 The District may reissue lost or destroyed ERC Certificates after the owner vouches that the original has been lost or destroyed.
 - E.11 The District shall maintain a Banking Register, which shall consist of a record of all deposit applications, deposits, withdrawal, and transactions with regard to the ERC Bank. Subject to Subsection D.4 of this Rule, all data in the Banking Register shall be available to the public upon request.
- F. Withdrawal, Transfer, and Use of ERC's
- F.1 Subject to Section E, ERC's may be used at the time of, or anytime after, deposit into the District's ERC Bank by the owner of the ERC Certificate to compensate for emission increases due to the operation of new or modified Sources of air pollution, their ultimate value will be determined based on the program under which they will be used and the attainment/nonattainment status of the area at the time of their use.
 - F.2 An ERC may be used as Offsets in accordance with applicable District, state, and federal rules and regulations.
 - F.3 An ERC Certificate may be Transferred or used in whole or in part and in accordance with the provisions of this Rule. The role of the District in the trading of an ERC Certificate shall be limited to providing information on the documentation and registration of the ERC Certificate Transfer. The ERC Certificate Transfer in whole or in part of a registered ERC Certificate shall be in writing, signed on behalf of the owner by an authorized signatory, and acknowledged by the District. Upon filing such instrument and with the District's acknowledgment, the Transfer shall be deemed complete and the District's records shall so indicate Transfer to the new owner. A new ERC shall be issued and the last previous original(s) shall be canceled. Such cancellation shall be recorded in the Banking Register.
 - F.4 ERC Certificates shall not be used to Offset increases in Toxic Air

Contaminants.

- F.5 The District shall prohibit the Transfer of an ERC Certificate, issued for the Shutdown of a Source which occurred prior to the District receiving an application for that ERC Certificate, to a new or modified Stationary Source which has a Potential to Emit greater than the emission thresholds established for the District in the Federal Clean Air Act for Major Stationary Source modifications.
- F.6 ERC's will be subject to subsequently adopted control measures required for Reasonable Further Progress (RFP).
- F.7 If the District determines that additional mandatory emission reductions will be necessary to achieve Ambient Air Quality Standard(s), the District may declare a freeze on all transactions occurring with the ERC Bank until a determination is made as to whether a moratorium shall be imposed. Prior to imposing any kind of moratorium, the District must provide a public notice that the District has determined that sufficient emission reductions cannot be achieved through the imposition of additional controls on existing permitted or non-permitted emitting Sources. During the notice period the ERC bank shall be frozen preventing any deposits or withdrawals of ERC's. Only after a public hearing resulting in the determination that a moratorium is needed and written notice is given to ERC Certificate owners of the applicable contaminant may any moratorium be imposed. Any such moratorium shall be lifted upon the determination by the District and a public notice that "Reasonable Further Progress" can be demonstrated by the District.