

RULE 214.3 AGRICULTURAL BURNING EMISSION REDUCTION CREDIT (ABERC) BANK (Adopted 5/12/2015)

A. Rule Purpose and Applicability

A.1 Purpose

- A.1.a To ensure that all Agricultural Burning emission reductions are transferred through the District's Agricultural Burning Emission Reduction Credit (ABERC) Bank.
- A.1.b To provide an administrative mechanism for the Air Pollution Control District (District) to store ABERC:
 - A.1.b.1 For later use as Offsets where allowed by District and state rules and regulations.
 - A.1.b.2 For Transfer to other Sources as Offsets where allowed by District and state rules and regulations; and
- A.1.c To define eligibility standards, quantitative procedures, and administrative practices to ensure that ABERC's are Real, Permanent, Quantifiable, Enforceable, and Surplus.

A.2 Applicability

- A.2.a The provisions of this Rule shall apply to the deposit, Transfer, and use of ABERC'S within the District occurring from the reduction of Agricultural Burning.
- A.2.b For the purpose of this Rule, Agricultural Burning may be considered as a source of ERC's. Only Agricultural Burning permitted under Rule 701 will be eligible for consideration as ERC's pursuant to this Rule.

B. Eligibility of Agricultural Burning Emission Reductions

- B.1 Agricultural Burning emission reductions shall be recognized as ABERC's only after an ABERC Certificate has been issued.
- B.2 The Agricultural Burning emission reduction may be recognized as an ABERC if:
 - B.2.a Reductions are Real, Surplus, Permanent, Quantifiable, and Enforceable;

- B.2.b The quantity of emission reductions from the reduction of Agricultural Burning is determined in accordance with the guidelines in the District's Appendix 1 (Manual of Procedures) of this Rule and this Rule.
 - B.2.c An application for ABERC's submitted before May 12, 2015 and for which an ABERC certificate has not been issued shall be processed in accordance with this Rule.
 - B.2.d ABERC's occurring after May 12, 2015 shall be eligible to apply for ABERC's in accordance with this Rule.
 - B.2.e An application for ABERC's based on reductions of Agricultural Burning must be submitted not more than ninety days or less than thirty days prior to the date the emission reduction is to occur.
 - B.2.f The Agricultural Burning emission reduction will be deemed to have occurred when the District has verified the final disposition of the Biomass material.
 - B.2.g An ABERC may be utilized to the full extent of the banked amount for a two year period commencing on the date the ABERC Certificate is issued. Commencing on the second anniversary of the ABERC Certificate date, the banked amount available for use shall be reduced by 1/4 of the banked amount so that by the end of the fifth year the banked amount available for use will be zero.
 - B.2.h Applicants for ABERC's must demonstrate to the satisfaction of the District that the credits will meet all the requirements of this Rule.
- C. The following definitions apply to all terms applicable to this Rule. If a term is not defined in this Rule, then the definitions provided in Rule 101, Definitions, shall apply.
- C.1 **AGRICULTURAL BURNING EMISSION REDUCTION CREDIT (ABERC):** reductions of Actual Emissions from an Agricultural Burn, as defined in Rule 101, that are registered with the District in accordance with this Rule.
 - C.2 **ABERC CERTIFICATE:** a District issued document specifying information regarding an ABERC including but not limited to the legal owner(s), certificate identification number, date of issuance, pollutant(s) reduced, type of pollutant, quantity of actual emission reduction, time period for

which the ABERC is valid and any other records as may be required as a condition of ABERC issuance.

D. ABERC Certificate Application Procedures

- D.1 Any person, entity, landowner, or authorized agent, which owns or operates an Agricultural Source at which an eligible emission reduction is proposed to be banked, shall apply for an ABERC Certificate in accordance with the requirements of this Rule and Appendix 1.
- D.2 ABERC Certificate application shall be submitted on forms supplied by the District. No emission reduction shall be recognized as an ABERC unless the application for an ABERC Certificate is received not more than ninety days or less than thirty 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 one parcel or group of parcels owned or operated by one person or entity applying for an ABERC Certificate. 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.9 of this Rule.
- D.4 In accordance with the provisions of District Rule 102, Section 6254.7 of the California Public Records Act, applicants may claim confidentiality of information contained in the application.
- D.5 The District shall determine whether an ABERC Certificate 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 District.
- D.6 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 ABERC 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.7 Withdrawal of an ABERC Certificate application by an applicant shall result in cancellation of the application.

- D.8 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 California Air Resources Board, and publish notice in a local newspaper of general circulation. 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 ABERC Certificate application. Upon conclusion of the 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 provided in writing to the applicant. The notice requirements shall be waived by the District if the emission reduction credits applied for are less than 500 acres per parcel.
- D.9 The applicant may appeal the District's decision following provisions specified in the District's appeals rule.

E. Registration of ABERC 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 ABERC Certificate. Upon the District's determination to grant an ABERC Certificate, title to such ABERC 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 ABERC Banking Register, as well as pertinent date(s) concerning such information, until such time as the ABERC Certificate is used, canceled, or nullified by operation of law.
- E.3 Each ABERC Certificate shall be numbered consecutively, bear the date of issuance, be signed by the District official charged with the responsibility of keeping the ABERC Bank, and bear the seal of the District. One copy of the ABERC 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 ABERC Certificates shall be retained by the District. Delivery by the District of an ABERC Certificate to an owner shall be accomplished in Person or by registered mail. The Person accepting the ABERC Certificate must sign a receipt therefore and provide such proof of identity as the District shall require.
- E.4 At the option of joint owners of ABERCs, such Persons may receive one ABERC Certificate for the entirety or separate ABERC Certificates reflecting each proportional share. The District ABERC Banking Register

shall reflect the consolidation or separation of the ABERC's and the previous Certificate(s) shall be canceled upon the issuance of the new Certificate(s).

- E.5 Title and all other interest to an ABERC shall be deemed registered at the time the particulars concerning the ABERC are entered into the Banking Register.
 - E.6 The registered owner of any interest in an ABERC shall hold the same subject only to such liens, charges, and interests as may be noted in the Banking 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 Banking Register.
 - E.7 All dealings with ABERC'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.8 The District may reissue lost or destroyed ABERC Certificates after the owner, of said certificate, submits a request in writing that the original has been lost or destroyed.
 - E.9 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 ABERC Banking Register. Subject to Subsection D.4, of this Rule, all data in the Banking Register shall be available to the public upon request. The Banking Register shall also contain information specified in Health and Safety Code Section 40709.5, which is incorporated by reference.
- F. Withdrawal, Transfer, and Use of ABERC's
- F.1 Subject to Section E, ABERC's may be used at the time of, or anytime after, deposit into the District ABERC Banking Register by the owner of the ABERC Certificate to compensate for emission increases due to 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 ABERC may be used as Offsets in accordance with applicable District and state rules and regulations.
 - F.3 An ABERC Certificate may be Transferred or used in whole or in part. The

role of the District in the trading of an ABERC Certificate shall be limited to providing information on the documentation and registration of an ABERC Certificate. An ABERC Certificate Transfer in whole or in part of a registered ABERC 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 the Transfer to the new owner. A new ABERC shall be issued and the last previous original(s) shall be canceled. Such cancellation shall be recorded in the Banking Register.

- F.4 ABERC Certificates shall not be used to Offset increases in Toxic Air Contaminants.