

RULE 210.3 Emission Reductions Banking - Adopted 4/25/83, Amended 6/1/87, 5/2/96

I. General

A. The purpose of this Rule is to:

1. Facilitate use of emission reductions by industry as tradeoffs or offsets for new or modified stationary sources of air contaminants, including transfer of ownership of such credits, and
2. Provide the District with a means by which it can verify that such emissions reductions are surplus, permanent, quantifiable and enforceable.

B. Should the Air Pollution Control Board (APCB) determine that Reasonable Further Progress (RFP) towards attainment of National Ambient Air Quality Standards as required by the Clean Air Act is not occurring, it may, after public hearing, establish a moratorium on Banking System deposits and/or withdrawals. It shall be the policy of the APCB to terminate any moratorium at such time as the APCB adopts those Rules and Regulations necessary to show RFP.

C. An owner or operator of a stationary source shall not be required to obtain a Banking Certificate for emission reductions used by that owner or operator in accordance with Rule 210.1.

II. Definitions

A. Source Operation means the last operation preceding the emission of an air contaminant, which operation:

1. Results in separation of the air contaminant from process materials or in conversion of process materials into air contaminants, as in the case of combustion of fuels, and
2. Is not an air pollution abatement operation.

B. Stationary Source includes any structure, building, facility, equipment, installation or operation (or aggregation thereof or aggregation of installations) owned, operated, or under control of the same person (or persons under common control), and located within the District on:

1. One or more contiguous or adjacent properties; or
2. One or more properties wholly within either the Western Kern County Oil Fields or the Central Kern County Oil Fields as defined in Rule 210.1, and used for the production of oil.

Items of air contaminant emitting equipment shall be considered aggregated into the same stationary source, and items of non-air contaminant emitting equipment shall be considered associated with air contaminant emitting equipment only if:

1. They have the same two digit Standard Industrial Classification Code; or
2. They are part of a common production process. (Common production process includes industrial processes, manufacturing processes, and any connected processes involving a common raw material.)

Emissions from all such aggregated items of air contaminant emitting equipment and all such associated items of non-air contaminant emitting equipment of a stationary source shall be considered emissions of the same stationary source.

- C. Baseline Emissions are the emissions from which all Emission Reduction Credits are calculated and are the emissions level of a source operation with control equipment in operation as established by Rule 210.1, Section IV. and representative of normal operation while in compliance with District Rules and Regulations.
- D. Emission Reduction means the difference between a source operation's baseline emissions and emissions that source emits after a voluntary reduction. Such source shall have been operated under Permit to Operate or shall have submitted an application for or have acquired a Permit to Operate from the District at the time of the reduction.
- E. Emission Reduction Credit (ERC) means emission reduction recognized by the District as available for use as tradeoffs or offsets for new or modified stationary sources pursuant to requirements of Rule 210.1.
- F. ERC Validation means the procedure as defined by the Control Officer for verifying, prior to determining an emission reduction qualifies as an ERC, that an emission reduction is surplus, permanent, quantifiable, and enforceable by the District. Such procedure may include, but is not limited to, "before" and "after" source testing, issuance of Permits to Operate previously exempt source operations and identification and modification of existing Permits to Operate requiring revision.
- G. Milestone means a date before which an emission reduction does not qualify for an ERC.
- H. Banking Certificate means the document issued by the Control Officer which officially recognizes an ERC. This document conveys no right to emit air contaminants, but can be used in accordance with these Rules and Regulations as tradeoffs or offsets for new or modified stationary source emissions. A Banking Certificate may include revised existing Permits to Operate as riders if ERC Validation so requires.
- I. Banking Certificate Registry means an official public record maintained by the District including a record of all certificate applications received, all certificates issued and denied, all transfers of certificate ownership, etc.
- J. Banking means the process of obtaining and using Banking Certificates, including deposit, full or partial withdrawal, and transfer of ownership of ERC's. Banking does not include:

1. Use of certificates to establish compliance with Regulation IV emission limits, except Rules 411.1, 424 and 425, unless the Regulations include a Rule specifically allowing such, or
2. Use of certificates to satisfy NSPS, BACT or LAER requirements.

III. Establishing Emission Reduction Credits (ERC's)

A. Emission Reduction Milestone

Banking Certificates cannot be issued for emission reductions represented by Authorities to Construct originally issued before September 12, 1979 for heavy oil production operations and cannot be issued for emission reductions represented by Authorities to Construct or Permits to Operate originally issued before December 28, 1976 and achieved before this date for all other industries. A certificate can be utilized between these two groups provided the issuance date does not predate a milestone.

In accordance with EPA's ERC policy of April 7, 1982, emission reductions resulting from shutdowns prior to August 7, 1977 are not eligible for an external or off-site ERC unless it can be demonstrated the reduction has not already been included in the District's Non-attainment Area Plans and Updates to the plans.

B. Emission Reductions Not Eligible for ERC's

The following emission reductions cannot be validated as ERC's, and therefore, are not eligible for receipt of Banking Certificates:

1. Emission reduction occurring from reduction of emissions to achieve compliance with to-be-implemented control strategies adopted as part of the Air Quality Maintenance Plan/Non-attainment Area Plan.
2. Emission reduction occurring from shutdown or curtailment of a stationary source which provides a service or a product which will be replaced by other stationary sources upon shutdown or curtailment, e.g., a motor gasoline retail outlet.
3. Emission reduction occurring at a cotton gin for which the provisions of Rule 210.1, Section III.G. have been implemented.
4. Emission reduction occurring from operation of a cogeneration facility due to reduced electrical load demand at a fossil fuel fired power plant.
5. Emission reduction occurring from shutdown or curtailment of a stationary source for which the District originally provided the required tradeoff or offset, e.g., a cogeneration project.
6. Emission reduction occurring from shutdown or curtailment of a stationary source for which the tradeoff or offset originally provided is not enforceable by the District, e.g., reductions in open burning of agricultural waste used to offset emissions from a resource recovery project.

7. Emission reduction occurring at a stationary source different from that for which the application of ERC has been submitted, e.g., reductions from combustion sources provided with "low-polluting" fuel produced at a refinery for which the application for ERC is submitted. This does not preclude submission of separate applications by the owners of affected stationary sources.
8. Any other emission reduction the Control Officer reasonably determines cannot be validated.
9. Emission reductions occurring from shutdown or curtailment of a stationary source are not eligible as an external or off-site ERC unless and until Federal Regulations so allow.

C. Calculation of Emission Reductions

Emission reductions shall be calculated in a manner not inconsistent with Rule 210.1. An ERC for a source operation shutdown shall be granted only in an amount equal to emissions which would have occurred from the specific source if Reasonably Available Control Technology (RACT) for that source category had been applied.

D. Eligibility of Emission Reductions for ERC

Eligibility of emission reductions for ERC shall be determined by the Control Officer using the following criteria:

1. Only emission reductions achieved in accordance with provisions of the District's Rules and Regulations and which fulfill ERC validation by the Control Officer are eligible for issuance of a Banking Certificate.
2. To obtain an ERC, a stationary source owner/operator shall file an application as prescribed by the Control Officer no more than ninety (90) days after date such reduction occurs commencing with date of adoption of this Rule. Applications for qualifying emission reductions occurring before date of adoption of this Rule shall be filed within one year of adoption. To obtain an ERC for actual emissions reductions provided to obtain approval of an Authority to Construct, an application must be filed at least 90 days prior to expiration of that permit. Should a deposit moratorium be implemented pursuant to Section I. of this Rule, applications shall be received for a period of ninety (90) days after the moratorium is lifted for emission reductions occurring during the moratorium.
3. Existing source operations exempt from permit requirements by Rule 202 and proposed for shutdown or modification for purposes of achieving an emission reduction, shall first acquire or apply for Permits to Operate pursuant to Rule 202 and then surrender such Permits before an ERC can be granted. Source operations already under Permit to operate shall likewise surrender such Permits. Stationary sources to be modified or curtailed shall receive new Permits to Operate including conditions deemed necessary to insure ERC validation.

IV. Banking Emission Reductions Credits (ERC's)

A. Application for Validation of an ERC

Application for an ERC shall be submitted and validation of an ERC by the Control Officer shall be conducted in the following manner:

1. A stationary source owner/operator wanting to obtain an ERC shall submit a filing fee and an application as prescribed by the Control Officer, including all information and data deemed necessary for validation.
2. The Control Officer, utilizing material submitted by the applicant and any other pertinent data available, shall conduct a concise written validation of the proposed ERC including the determination the emission reduction:
 - a. Has, in fact, actually occurred,
 - b. Is surplus, i.e., has not previously been required by law or utilized as a tradeoff or offset,
 - c. Will be permanent,
 - d. Can be quantified, and
 - e. Can be enforced.
3. Applications shall be processed and reviewed within time limits set forth in Chapter 4.5, Division 1, Title 7 of the California State Government Code.

B. Issuance or Denial of Banking Certificates

After completing the validation procedure required by Subsection IV.A.2., the Control Officer shall either issue or deny a Banking Certificate.

1. Payment of the issuance fee prescribed by Regulation III, Schedule 9 shall be made by the applicant for issuance of the Banking Certificate upon completion of a thirty-day public comment period noticed in a least one newspaper of general circulation. The Control Officer's validation analysis shall be made available for public inspection during this period and all public comments shall be given due consideration in the final decision to issue a Banking Certificate. Banking Certificate shall be issued within thirty (30) days after payment of issuance fee.
2. An applicant shall be informed, in writing, of an ERC denial. The Control Officer's notification of denial shall include the reasons therefore, and shall provide for a period of thirty (30) days during which the applicant may appeal the denial before the Kern County Air Pollution Control District Hearing Board.

C. Banking Certificates and Registry

Upon payment of the required issuance fee, the Control Officer shall issue and enter in the Banking Certificate Register a Banking Certificate including as a minimum:

1. Applicant's name,

2. Issuance and expiration dates,
3. Quantity of ERC,
4. Location of ERC, and
5. Other items necessary to insure ERC validation.
 - a. A duplicate copy of all Banking Certificates issued, including corresponding ERC validation, shall be entered in the Banking Certificate Registry available for public inspection.
 - b. Each certificate shall be issued to represent no more than one specific criteria pollutant and for particulates it shall specify type of particulates (e.g., combustion, cement, agricultural, etc.).
 - c. Upon application and payment of a filing fee, the Control Officer shall reissue a Banking Certificate under new ownership provided he can verify the original ERC validation remains intact.

D. Banking Certificate Longevity

1. Once granted by the Control Officer, Banking Certificates shall be valid for a period of two years. Upon payment of the renewal fee, a Banking Certificate may be reviewed for successive two-year periods provided the ERC remains intact.
2. Upon written request to the Control Officer, a Banking Certificate still owned by the original applicant may be canceled. After cancellation, the ERC may still be used in accordance with Rule 210.1.

E. Banking Certificate Fees

Banking Certificate fees shall be assessed and administered in accordance with Rule 301.1.

V. **Use of Banking Certificates**

A. Tradeoffs and Offsets

An ERC represented by a valid KCAPCD Banking Certificate may be used by the owner to tradeoff or offset new or modified stationary source emissions as required and allowed by Rule 210.1.

B. Partial Use of an ERC

Partial use of an ERC entitles the Banking Certificate owner to receive, after payment of the issuance fee, a new Banking Certificate representing the remainder of the ERC.

C. Transfer of Ownership

After payment of the transfer fee, ownership of a Banking Certificate may be transferred. Until provisions are incorporated in this Rule, leasing of Banking Certificates shall not be allowed.

1. Tradeoffs and offsets are limited to actual historical emissions, as established in Section IV., Rule 210.1, in the event a Banking Certificate transfer of ownership has taken place.
2. Banking Certificates issued for fugitive particulate emissions may not change ownership.

D. Hazardous Air Contaminants

Emission reduction of a hazardous air contaminant are eligible as an ERC and shall be recorded on the Banking Certificate as a criteria pollutant and can only be used to offset non-hazardous air contaminants.