

RULE 806. EMISSION REDUCTION CREDITS.
(Adopted 4/17/1997, [revised 8/25/2016](#))

A. Applicability

This ~~R~~rule shall apply to any person seeking to register emission reductions of affected pollutants as Emission Reduction Credits for use as offsets pursuant to Rule 804. [Offsets](#).

B. Exemptions

None.

C. Definitions

See Rules 102. [Definitions](#), and [Rule 801. New Source Review – Definitions and General Requirements](#), for definitions ~~applicable to this Rule~~.

D. Requirements – Eligibility of Emission Reductions.

1. Emission Reduction Credits shall be allowed for actual emission reductions which have been demonstrated to the satisfaction of the Control Officer to be [real](#), surplus, permanent, quantifiable, and enforceable and which meet the requirements of these Rules and Regulations.
2. Emission reductions shall meet all requirements specified in Rule 804.D for sources which provide emission offsets and all requirements of this ~~R~~rule to be eligible for registration as offsets. Emission Reduction Credits shall not be allowed for emission reductions occurring in another district or for Outer Continental Shelf Sources for which the District is not the corresponding onshore area.
3. Emission reductions which occur prior to the Control Officer's determination that the application for the Emission Reduction Credit is complete shall not be eligible as Emission Reduction Credits.
4. Emission reductions for Toxic Air Contaminants shall be eligible for Emission Reduction Credits only as the appropriate criteria pollutant.
5. Emission Reduction Credits shall be subject to all requirements of the Environmental Protection Agency prior to use.
6. Withdrawal of an application by an applicant shall result in [the](#) cancellation of the application. Any resubmittal shall be evaluated using a baseline calculated as of the date of application completeness.
7. **Department of Defense Credits:** Emission reduction credits recognized through a memorandum of agreement between the Board and the Department of Defense shall be registered pursuant to this ~~R~~rule in order to be used as Emission Reduction Credits.
 - a. The applicant shall be subject to and comply with the requirements of Section F (Application Procedures), G (Source Register), H. ~~(1)~~ (Certificates), J (Use), K (Moratoriums) and L (Fees) of this ~~R~~rule. The applicant shall file an application to register such Emission Reduction Credits pursuant to Section F.1 within 90 days after the date of adoption of this ~~R~~rule.

- b. Notwithstanding any other provisions of these Rules, Emission Reduction Credits held by the Department of Defense that were created pursuant to a memorandum of agreement between the Board and the Department of Defense shall:

[Added text that clarified the original intent that these credits may be used for NASA activities operated under the VAFB stationary source. This does not apply to Commercial Space operations – these fall under a separate SIC].

- 1)- ~~b~~Be used solely for a single stationary source whose activities have a standard industrial classification code for national defense or space research and technology;
- 2)- ~~n~~Not be transferable;
- 3) ~~N~~Not be subject to Reasonably Available Control Technology discounting upon use; and
- 4) After use, may be re-registered for the full original value, as Emission Reduction Credits pursuant to Section G and be used in accordance with this Rule.

E. Requirements – Emission Reduction Discounts

Emission reductions that result from a shutdown or a reduction in throughput shall be discounted by the greater of the following:

1. ~~T~~The amount of the emissions ~~r~~reductions that could be controlled by the application of the best available control technology applicable on the date the application to register emission reduction credits is deemed complete if:
 - a. ~~T~~The actual emission reductions are greater than 25 ~~lbs/day~~pounds per day, and
 - b. ~~T~~There is no reasonably available control technology for the emission unit.
2. ~~T~~Twenty (20) percent.

F. Requirements – Emission Reduction Credit Application Procedures

1. **Application Form and Completeness:** The Application Form and Completeness procedures of Rule 208, Action on Applications – Time Limits, shall apply to the submission of applications for Emission Reduction Credits. An application for an Emission Reduction Credit shall include an application for an Authority to Construct or to cancel or revise the Permit to Operate for the source providing the emission reduction. For purposes of processing, the application for the Emission Reduction Credit and the application for the modification to the Authority to Construct or cancellation or revision of the Permit to Operate shall be considered one application.
2. **Source Tests:** The Control Officer may require source test results, continuous emission monitoring, production records, fuel use records and any other information necessary to evaluate an application. All source testing shall be conducted in accordance with District-~~a~~pproved protocols.
3. **Preliminary Decision:** After an application has been deemed complete, the Control Officer shall analyze the application based on applicable federal, state, and local control strategies and the requirements of these Rules and Regulations. Such analysis shall be completed within 120 days after a determination that the application is complete.

4. **Publication and Public Comment:** Within 10 days of any preliminary decision pursuant to F.3, above, which proposes to allow the registration of emissions which exceed the emission reduction ~~thresholds~~levels specified in Table 1, below, the Control Officer shall publish in at least one newspaper of general circulation throughout the District a public notice stating the preliminary decision of the Control Officer, noting how pertinent information can be obtained, and inviting written public comment for a 30-day period following the date of publication. The notice shall identify the applicant and the quantity of emission reductions requested as Emission Reduction Credits.

Table 1: Public Notice Thresholds for ~~ERC~~Emission Reduction Credit Approvals

Pollutant	Proposed ERC <u>Emission Reduction Credit</u> (Tons per Year)
PM ₁₀	15
<u>Carbon Monoxide</u>	<u>25</u>
All other n <u>Nonattainment</u> pollutants <u>(except CO and PM₁₀)</u>	10
Carbon Monoxide	25
All other a <u>Attainment</u> pollutants <u>(except CO and PM₁₀)</u>	20

5. **Decision**

Within 180 days after the applicant submits a complete application pursuant to F.-1, above, and after considering all comments received pursuant to F.-4, above, the Control Officer ~~wi~~shall reach a decision and notify the applicant. If the Control Officer approves the application for Emission Reduction Credits, the Control Officer shall:

- a. ~~a~~Approve a Decision of Issuance that approves the emission reduction credits subject to appropriate conditions;
- b. ~~i~~Issue an Authority to Construct permit or, for sources which are providing emission reductions due to being shutdown, the Control Officer shall cancel the Permit to Operate; and
- c. ~~P~~ublish a notice of that decision in accord with the provisions of F.4, above, if the amount of the approved Emission Reduction Credit exceeds any threshold set forth in Table 1.

6. **Appeals**

- a. The applicant may appeal the Control Officer's decision to the Hearing Board within 30 days after receipt of the Control Officer's decision.
- b. Within 30 days of any decision to issue an Emission Reduction Credit, any aggrieved person who, in person or through a representative, appeared, submitted written testimony, or otherwise participated in the action before the District, may request the Hearing Board to hold a public hearing to determine whether the Emission Reduction Credit application was properly issued.
- c. Any appeal shall follow the procedures for filing petitions set forth in Regulation V, Hearing Board, and pay fees set forth in Schedule F.12 of Rule 210, Fees, that ~~apply is~~applicable to appeals of permit decisions.

7. **Modification/Cancellation of Permit to Operate**

Prior to the issuance of any Certificate or entry in the Source Register of any Emission Reduction Credit, the applicant shall modify the Permit to Operate or, for emission reduction due to shutdowns, the Permit to Operate shall be cancelled or revised, for the source providing the emission reduction.

G. Requirements – Source Register

Upon the Control Officer's determination to approve an Emission Reduction Credit and the issuance or cancellation of the Permit to Operate for the source providing the emission reduction, the Control Officer shall register such Emission Reduction Credit in the Source Register. The Source Register shall provide the name of the owner(s), amount and type of pollutant qualified as Emission Reduction Credits, the date of registration, the ~~zone within the District where the~~ location of the source supplying the emission reduction ~~is located~~, and any other information deemed necessary by the Control Officer. The Emission Reduction Credits shall be registered until cancelled or nullified by operation of law.

H. Requirements – Emission Reduction Certificates

1. Upon registration in the Source Register, the Control Officer shall issue a Certificate evidencing all approved reductions of emissions of pollutants to the owner or owners of the emissions source. Certificates evidencing ownership of approved reductions shall not constitute instruments, securities or any other form of property.
2. Emission Reduction Credits shall be valid for a period of 5 years from the date of registration. Such credits may be renewed if all requirements of these Rules and Regulations are met and an application for renewal is submitted to the District prior to expiration. The application shall be on a form approved by the Control Officer and shall be accompanied by a filing fee pursuant to item 1 of Schedule F of Rule 210, Fees. Failure to timely file an application for renewal ~~shall may~~ result in ~~automatic-the~~ termination of the Emission Reduction Credit.

I. Requirements – Transfers

1. Transfer of all or any portion of an Emission Reduction Credit shall be in writing and signed by the transferor in a form authorized by law. Involuntary transfers shall conform to the requirements of Health and Safety Code section 40711. The instrument shall be filed with the District within 30 days of signing and shall specify or be accompanied by the following:
 - a. ~~T~~he amount and type of Emission Reduction Credits transferred;
 - b. ~~A~~ copy of the current Emission Reduction Credit Certificate which is to be cancelled or modified and reissued by the District;
 - c. ~~A~~n application on a form prescribed by the Control Officer requesting the issuance of a new Emission Reduction Credit Certificate; and
 - d. ~~€~~The cost, in dollars per ton of each pollutant, paid for the purchase of the Emission Reduction Credit.
2. A filing fee as specified in item 1 of Schedule F of Rule 210, Fees, shall accompany any application for transfer an Emission Reduction Credit.

3. No transfer shall be effective until the required written notice, fee for transfer, and any other delinquent fees due to the District are paid.
4. Upon filing a copy of the instrument of transfer, application and fee for transfer, and all delinquent fees with the District, the transfer shall be complete and the title so transferred shall vest in the transferee. A new Certificate shall be issued to the transferee and the last previous original Certificate shall be cancelled or modified as necessary. The new Certificate and cancelled or modified Certificate shall be recorded in the Source Register.

J. Requirements – Use of Emission Reduction Credits

An Emission Reduction Credit may be used by the owner to provide offsets required by these Rules and Regulations to the extent allowed by state and federal law. An Emission Reduction Credit shall qualify as an offset upon surrender of the Certificate to the District subject to the requirements of these Rules and Regulations. Such Emission Reduction Credit shall be used in a manner consistent with the Certificate and in accordance with all other requirements of these Rules and Regulations at the time of use, including [the](#) applicable offset ratio.

K. Requirements – Moratorium on Registered Emission Reduction Credits

If the Control Officer determines that additional mandatory emission reductions will be necessary to attain an ambient air quality standard, the Control Officer may declare a full or partial moratorium on the use of emission reduction credits, after opportunity for public comment which complies with the notice requirements of Section F.4. Such a moratorium shall be lifted after the Control Officer determines that the District's air quality attainment plan demonstrates attainment of such standards.

L. Requirements – Fees

Processing of applications for Emission Reduction Credits shall be subject to the Cost Reimbursement provisions of Rule 210, [Fees](#).