

(Adopted September 10, 1982)(Amended December 3, 1982)(Amended July 12, 1985)
(Amended June 28, 1990)(Amended May 3, 1991)(Amended August 13, 1993)
(Amended December 7, 1995)(Amended December 6, 2002)(Amended February 5, 2010)
(Amended July 5, 2013)

v090222

**PROPOSED AMENDED RULE 1309. EMISSION REDUCTION CREDITS
AND SHORT TERM CREDITS**

This rule addresses the application, eligibility, registration, use, and transfer of Emission Reduction Credits (ERCs) and Short Term Credits (STCs). These credits shall be used as offsets for emission increases at new or modified facilities that are subject to Rule 1303(b)(2).

(a) Validation of Existing, Qualifying Net Emission Decreases

(1) Existing NSR Balances

Facilities which according to South Coast AQMD District records have a net emission decrease since October 8, 1976, shall receive ERCs after the net emission decrease has been discounted by 80 percent and verified by the Executive Officer or designee. Upon validation, an ERC shall be registered in the Register of Titles as a current ERC.

(2) Existing ERCs

Any ERC based on an application which was deemed complete prior to September 28, 1990, resulting from the additional control of air contaminants through process changes or the installation of air pollution control equipment, unless included as an AQMP measure at the time, shall not be discounted. All other ERCs shall be discounted by 80 percent and reissued.

(b) Application for an ERC for a New Emission Reduction

In order to obtain an ERC, an application made in the form and along with supporting data and documents required by the Executive Officer or designee shall be submitted for each existing source that is to be modified or permanently taken out of service. The application shall be submitted no more than 180 days after the emission reduction occurs.

(1) The Executive Officer or designee shall not deem an ERC application complete nor process such application unless and until the ERC applicant

supplies supporting data and documents to the South Coast AQMD District, including but not limited to:

- (A) the amount and type of emissions;
 - (B) the date on which the emission reduction took place or is planned to take place;
 - (C) the Regulation XIII zone from which the ERC is to originate;
 - (D) the reason for the emission reduction, such as a process change, addition of control equipment, or equipment or facility shutdown; and
 - (E) surrender of applicable South Coast AQMD District operating permits whenever emission reductions are the result of either equipment or facility shutdown.
- (2) The Executive Officer or designee shall notify the ERC applicant in writing within 30 calendar days of the receipt of the ERC application whether the application contains sufficient information to be deemed complete. Upon receipt of any additional information, a new 30-day period will begin, during which time the Executive Officer or designee shall determine and notify the applicant whether the application is complete. An application which continues to be deemed incomplete 180 days after the date of the first submittal shall be cancelled by the Executive Officer or designee. A determination of incompleteness may be appealed to the South Coast AQMD District Hearing Board.
- (3) Preliminary Decision
No later than 180 days after the application for an ERC is deemed complete, a preliminary written decision shall be given that all, part, or none of the emission reductions can be registered as an ERC.
- (4) Emission Reduction Eligibility Requirements
All Emission Reduction Credits shall be calculated pursuant to Rule 1306 and be subject to the approval of the Executive Officer or designee. The Executive Officer or designee shall consider reductions of air contaminants resulting from removal of equipment from service, and the additional control of mobile and stationary sources. The applicant must demonstrate to the Executive Officer or designee that all stationary and mobile source reductions are:
- (A) real;

- (B) quantifiable;
- (C) permanent;
- (D) federally enforceable, and
- (E) not greater than the equipment would have achieved if operating with current Best Available Control Technology (BACT).

Reductions in emissions due to changes in the hours of operation shall not qualify for an ERC.

The BACT adjustment shall not apply to facilities located in the Riverside County portion of the Salton Sea Air Basin (SSAB) and the non-Palo Verde, Riverside County portion of the Mojave Desert Air Basin (MDAB).

No ERCs shall be issued for sources permitted with Short-Term Credits for Stationary Sources.

(5) Evaluation

In evaluating the applications for ERC submitted pursuant to this regulation, the Executive Officer or designee shall consider emission reductions only if before a complete application is submitted, the same emission reductions from the same equipment type as those proposed by the applicant are not:

- (A) required by a Control Measure in the AQMP which has been assigned a target implementation date; or
- (B) required by a proposed ~~District-South Coast AQMD~~ rule for which the first public workshop to consider such a rule has been conducted. This exclusion shall remain in effect for 12 months from the date of such workshop, or until the Executive Officer or designee determines that the proposed rule is abandoned or the provisions of subparagraph (5)(C) become effective; or
- (C) required by an adopted federal, State, or ~~District-South Coast AQMD~~ rule, regulation, or statute; or
- (D) from a category or class of equipment included in a demonstration program required by a ~~District-South Coast AQMD~~ rule or regulation.

(c) Registration of ERCs or STCs

Upon the Executive Officer's or designee's final determination to grant an ERC or STC, the title to the ERC or STC shall be registered in the Register of Title. All information concerning the title, interests, pertinent dates and other matters shall be registered, until the Certificate of Title is canceled or nullified by operation of law.

(d) Use of ERCs or STCs

ERCs or STCs may be used by the owner to offset emission increases due to new or modified sources of air pollution and to the extent allowed by federal law. An ERC or STC shall qualify as an offset upon surrender of the Certificate to the South Coast AQMD District. Such ERC or STC shall be used in a manner consistent with the Certificate record and in accordance with all other requirements of this regulation at the time of use, including the applicable offset ratio, determined pursuant to Rule 1303.

(e) Transfer of ERCs or STCs by Registered Owner

Transfer of the whole or any portion of an interest in a registered ERC or STC is allowed, provided it is in writing, accompanied by the sale price of such ERCs or STCs, in dollars per pound, signed by the transferor, and acknowledged in any form authorized by law. Upon filing such instrument with the South Coast AQMD District, the transfer shall be complete and the title so transferred shall vest in the transferee. A new Certificate, certifying the title to the estate or interest in the ERC or STC, shall be issued and the last previous original Certificate shall be cancelled. Such cancellation shall be recorded in the Register.

(f) Short-Term Credits for Stationary Source Offsets (STC)

STC include Short Term ERCs (STERCs), Mobile Source ERCs (MSERCs) and Area Source ERCs (ASERCs) generated from SIP approved rules and authorized to be used for Regulation XIII offsets, pursuant to Rule 1303(b)(2)(B). The Executive Officer shall condition any Permit to Construct or Permit to Operate based on STCs to cease or limit operation consistent with the term and quantity of credits provided.

~~(1) — STERCs~~

- ~~(A) — ERCs issued from stationary sources may be used as STERCs,~~
- ~~(B) — Operator may request the Executive Officer to re-issue ERCs issued prior to rule adoption, in yearly increments through calendar year 2010 and a permanent credit thereafter,~~
- ~~(C) — Executive Officer shall issue ERCs after rule adoption in yearly increments for the first 7 years and a permanent credit thereafter,~~
- ~~(D) — STERCs can only be used as offsets during the specific calendar year for which the STERC is issued.~~

(21) ASERCs and MSERCs

- (A) Pursuant to Rule 504, no variance or series of variances, including emergency granting of a variance, from a permit condition implementing a Regulation XIII offset requirement shall be granted if such permit condition is based upon the use of ASERCs and MSERCs.
- (B) ASERCs and MSERCs may only be used for emission offsets during the specific calendar year in which they are generated.

(23) Public Notice

Prior to issuance or granting the use of STCs, the operator of a facility requesting the generation or use of any STCs shall:

- (A) Publish a notice, prepared by the Executive Officer, containing source information and the South Coast AQMD's District's analysis on air quality, in a newspaper of general circulation in each of the four counties in the AQMD, and
- (B) Mail a copy of the notice required in subparagraph (f)(23)(A) to the Administrator of U.S. EPA Region IX and the Executive Officer of the California Air Resources Board, and
- (C) Respond to all public comments received within 30 days of the notice publication. Copies of all comments and responses shall be provided to the Executive Officer. The Executive Officer will consider all comments and responses prior to final approval of the allocations or STCs, and
- (D) Provide proof of publication of the notice to the Executive Officer.

(g) Re-issuance of ERCs or STCs Used as Offsets

Except for those offsets issued pursuant to Rules 1309.1, or provided by the South Coast AQMD District pursuant to an exemption under Rule 1304, a user of ERCs or STCs as offsets for a stationary source may have ERCs or STCs re-issued provided:

- (1) A request is made and an application(s) for ERCs or STCs re-issuance is submitted and approved in writing by the Executive Officer;
- (2) The offset source has not started construction and either:
 - (A) The request for re-issuance of ERCs is made within two (2) years of the date on which the original Permit to Construct for the project using the ERCs was issued; or

- (B) The request for re-issuance of ERCs was made no later than six (6) months from the date the Permit to Construct expired (or was surrendered) within two (2) years prior to July 5, 2013; and
- (3) The source requests cancellation of, or surrenders its Permit to Construct prior to construction and the application(s) for ERCs or STCs re-issuance is submitted no later than six months from the date the Permit to Construct expired (or was surrendered) or within thirty (30) days of July 5, 2013.

The ERCs or STCs shall be issued without further discount except that MSERCs and ASERCs shall be subject to the verification specified in the applicable rules for trading such credits.

(h) Interpollutant Offsets

The Executive Officer or designee may approve interpollutant offsets, excluding ozone precursors, on a case-by-case basis, provided that the trade results in an equivalent or greater offset of the new, modified, or relocated source's nonattainment pollutants; and that the applicant demonstrates, to the satisfaction of the Executive Officer or designee, that the emissions from the new or modified source will not cause or significantly contribute to the violation of an ambient air quality standard as specified in Table A-2.

Interpollutant trades between PM₁₀ and PM₁₀ precursors may be allowed. PM₁₀ emissions shall not be allowed to offset NO_x or ROG emissions in ozone nonattainment areas. All interpollutant trading shall be subject to EPA's review and approval.

(i) Inter-Basin And Inter-District Offsets

- (1) Offsets between different stationary sources located in different air control districts shall be allowed so long as the air districts are in the same air basin.
- (2) Offsets between different stationary sources located in different air basins shall be allowed only when:
 - (A) The stationary source to which the emission reductions are credited is located in an upwind district that is classified as being in a worse nonattainment status than the downwind district pursuant to Chapter 10 of the Health and Safety Code commencing with Section 40910; and

- (B) The stationary source at which there are emission increases to be offset is located in a downwind district that is overwhelmingly impacted by emissions transported from the upwind district, as determined by the state board pursuant to Health and Safety Code Section 39610.
- (3) Any offset transaction credited pursuant to paragraphs (h)(1) and (h)(2) above shall be approved by resolution adopted by the Governing Board of the upwind district and the Governing Board of the downwind district. The adopting resolution shall consider the impact of the offset on air quality, public health, and the regional economy.