

3745-111-03 ERC generation for the purpose of enabling the acquisition of offsets.

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see paragraph (K) of rule 3745-111-01 of the Administrative Code.]

(A) Acceptable emission reduction techniques.

When voluntarily participating in the ERC banking program, ERCs shall be generated by the following emission reduction techniques:

- (1) Permanent shutdown of one or more existing air contaminant sources or a facility.
- (2) Permanent curtailment in production or operating hours at an existing air contaminant source or facility operating in accordance with applicable laws, provided the curtailment results in an actual emissions reduction and is not otherwise required to comply with the Clean Air Act.
- (3) The installation and operation of pollution control equipment that reduces emissions below the level required from an existing air contaminant source or facility to less than that required by applicable laws.
- (4) Technologies, materials or processes or process equipment modifications which are not otherwise required by the Clean Air Act.
- (5) The incidental emissions reduction of air pollutants contained in paragraph (B)(1) of rule 3745-111-02 of the Administrative Code resulting from reductions of a collateral pollutant required under the Clean Air Act shall be permitted, provided the emission reduction meets the requirements of this chapter.
- (6) Acceptable mobile source ERC generation that reduces actual emissions shall be approved by the director on a case-by-case basis.
- (7) Any such other emission reduction technique, that reduces actual emissions, approved by the director on a case-by-case basis.

(B) ERC baseline determination.

The emission baseline from which ERCs may be generated shall be established to determine the amount of actual emissions from an air contaminant source, process, or process equipment for the purpose of generating ERCs that result in actual emission reductions. The emission baseline shall be expressed in tons of pollutant emitted per year.

- (1) In establishing the baseline used to calculate ERCs, the Ohio EPA shall consider emission characteristics and operating conditions which include, at

a minimum, the emission rate, capacity utilization, hours of operations and seasonal emission rate variations, in accordance with the following:

- (a) The definition of actual emissions contained in rule 3745-31-01 of the Administrative Code.
 - (b) The baseline emissions rate may not be inconsistent with the emissions reported in the most recently filed or amended version of all relevant emission statements for the baseline period filed pursuant to Chapter 3745-78 of the Administrative Code for which fees have been paid, when applicable.
 - (c) The baseline emissions rate shall not exceed the allowable emissions rate taking into consideration the definition under paragraph (G) of rule 3745-111-01 of the Administrative Code.
- (2) The baseline determination requirements under rule 3745-31-24 of the Administrative Code shall apply.
- (C) ERC initial quantification.
- (1) When participating in the ERC banking program, emission monitoring and quantification protocols to quantify emissions, emission reductions, and the generation of ERCs shall be reliable, enforceable, and replicable and may include the following:
 - (a) Continuous emission monitoring, stack testing, sampling of fuels and materials, or other direct measurements.
 - (b) Calculations using equations that are a function of process and control equipment.
 - (c) Mass-balance calculations.
 - (d) Emission factors, emission calculation methods, or emission quantification protocols approved for use at the time of emission reduction generation by the Ohio EPA.
 - (e) For facilities in which emission rates vary over time, an Ohio EPA approved alternative method for quantifying the reduction and ensuring the continued emissions reduction, if the method is approved by the director.
 - (f) Measurement methods, procedures, and calculations shall be approved by the director.
- (D) ERC generation notification.
- (1) When participating in the ERC banking program, an ERC generation notification shall be submitted in a form and manner prescribed by the

director and shall include the following information, at a minimum:

(a) Verified ERC generation.

(i) The name of the owner and operator of the air contaminant source or facility.

(ii) The initial intended use of the ERCs.

[Comment: identifying an intended use does not obligate the generator to that identified use and does not prohibit the generator from requesting a change to the identified use while the ERCs are in the bank. The intended use information will provide information to the public regarding which ERCs are available for transfer.]

(iii) The intended or actual date of initiation of emission reductions.

(iv) Identification of the type of pollutant and quantity of ERCs being generated.

(v) A description of the emission reduction techniques used to generate the ERCs.

(vi) Full characterization of the emission reductions in accordance with this chapter.

(b) Un-verified ERC generation.

(i) Information consistent with paragraph (D)(1)(a)(i) to (D)(1)(a)(v) of this rule.

(ii) An estimation of the emission reductions and the basis of the estimation.

(c) Except for paragraph (E)(2) of this rule, un-verified ERCs may be submitted via an ERC generation notification for participation in the ERC banking program only by the facility that actually generated the emission reductions, the current owner or operator, or a successor owner or operator.

(E) Shutdown notification and potential forfeiture of ERCs.

(1) Regardless of any owner or operator choosing to participate in the voluntary banking program, for each air contaminant source or facility permanent shutdown that may result in ERCs, the director may provide a notification through certified mail that requests the owner or operator of the facility to inform Ohio EPA if the owner or operator will participate in the ERC banking program. The owner or operator may submit a response, through certified mail, electronic mail or fax, with one of the following:

(a) The owner or operator may inform Ohio EPA that they request to retain

possession of the ERCs and intend to do one of the following:

- (i) Participate in the banking program which shall include submittal of information required under paragraph (D)(1)(a) of this rule for approval of verified ERCs.
 - (ii) Participate in the ERC banking program which shall include submittal of information required under paragraph (D)(1)(b) of this rule for approval of un-verified ERCs.
 - (iii) Participate in the ERC banking program at a future date or not participate in the ERC banking program.
- (b) The owner or operator may inform Ohio EPA that they request the director to obtain possession of the ERCs to use at the director's discretion.
- (2) Any owner or operator who does not respond to the above shutdown notification shall subject the ERCs to paragraph (E)(2)(d) of this rule provided the conditions of paragraphs (E)(2)(a) to (E)(2)(c) of this rule are met.
- (a) The facility has permanently shutdown and either of the following:
 - (i) The owner or operator of the facility is undergoing court-supervised liquidation, has had its articles of incorporation or its license to conduct business in Ohio revoked.
 - (ii) The owner or operator of the facility has otherwise taken formal steps to discontinue conducting business in Ohio.
 - (b) The owner, operator or legal representative responsible for the assets of the facility was provided the notification pursuant to paragraph (E)(1) of this rule but did not provide a response.
 - (c) The director made every effort to contact the owner, operator or legal representative, including public notice in a prominent newspaper in the area of the permanently shutdown air contaminant source or facility.
 - (d) The facility shall forfeit possession of the ERCs to Ohio EPA, upon the date the permanent shutdown is certified with, or verified by Ohio EPA for use at the director's discretion. Forfeited ERCs shall be made available free of charge by Ohio EPA to a stationary source, at the director's discretion, for use as emission offsets provided the use of ERCs meet the requirements of Chapter 3745-31 of the Administrative Code and this chapter. In the event the new or modified stationary source is not installed, the ERCs shall be forfeited back to Ohio EPA.
- (F) Any mobile source or stationary source generating an ERC may be verified by Ohio EPA through compliance monitoring and reporting programs.

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