

(13) Emission Reduction Credits.

(a) Applicability.

This section provides for the creation, banking, transfer, and use of nitrogen oxides and VOC Emission Reduction Credits in Federally designated ozone non-attainment areas in Georgia and any areas designated by the Director as contributing to the ambient air level of ozone in Federally designated ozone non-attainment areas in Georgia. The following sources are eligible to create and bank nitrogen oxides and VOC Emission Reduction Credits:

1. Any stationary source located within the counties of Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale and which has the potential to emit nitrogen oxides or VOC in amounts greater than 25 tons-per-year.
2. Any stationary source located within the counties of Barrow, Bartow, Carroll, Hall, Newton, Spalding, and Walton and which has the potential to emit nitrogen oxides or VOCs in amounts greater than 100 tons-per-year.
3. Electrical Generating Units located at any stationary source within the counties of Banks, Butts, Chattooga, Clarke, Dawson, Floyd, Gordon, Haralson, Heard, Jackson, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Oconee, Pickens, Pike, Polk, Putnam, Troup, and Upson and which has the potential to emit nitrogen oxides in amounts greater than 100 tons-per-year.

(b) Eligibility of Emission Reductions.

1. In order to be approved by the Division as an Emission Reduction Credit, a reduction in emissions must be real, permanent, quantifiable, enforceable, and surplus and shall have occurred after December 31, 1996.
2. To be eligible for consideration as Emission Reduction Credits, emission reductions may be created by any of the following methods:
 - (i) Installation of control equipment;
 - (ii) A change in process inputs, formulations, products or product mix, or raw materials;
 - (iii) A reduction in actual emission rate;
 - (iv) A reduction in operating hours;
 - (v) Production curtailment;
 - (vi) Shutdown of emitting sources or facilities; or
 - (vii) Any other enforceable method as determined by the Division.

(c) Quantification of Emission Reduction Credits.

1. For purposes of calculating the amount of emission reduction that can be quantified as an Emission Reduction Credit, the following procedures must be followed:

(i) The source must calculate its average actual annual emissions prior to the emission reduction. Actual emissions prior to the reduction shall be calculated in tons per year. In calculating average actual annual emissions prior to the emission reduction, the source shall use data from the 24-month period immediately preceding the reduction in emissions. The Division may allow the use of a different time period upon determination that such period is more representative of normal source operation.

(ii) The Emission Reduction Credit generated by the emission reduction shall be calculated by subtracting the allowable annual emissions rate following the reduction from the average actual annual emissions prior to the reduction.

(d) Discounting and Revocation of Emission Reduction Credits.

1. Except as provided below, the Director shall not discount or otherwise reduce the value of Emission Reduction Credits banked under this section.

(i) [reserved]

(ii) Discounting Based on Time Banked.

Emission Reduction Credits banked under this section will not expire at any time. However, Emission Reduction Credits will be discounted at a rate of 10 percent of the original Emission Reduction Credit value per year beginning on the 11th anniversary of the date on which the reduction in emissions initially occurred, up to a maximum total discount of 50 percent of the original Emission Reduction Credit value on the 15th anniversary of the date on which the reduction in emissions initially occurred. Annual discounting under this subsection (ii) shall not occur if the affected Emission Reduction Credits have already been discounted by 50% or more under the following subsection (iii) due to the promulgation of more stringent regulations affecting the source category that created the Emission Reduction Credits.

(iii) Discounting for More Stringent Regulations.

If any State or Federal statute, rule, or regulation decreases an allowable emission rate or otherwise requires a reduction in nitrogen oxides or VOC from a particular source category or categories, any banked nitrogen oxides or VOC Emission Reduction Credits created by that source category or categories shall be reduced to reflect the new more stringent allowable emission limit or required reduction.

(iv) Discounting or Revocation for Cause.

The Director may revoke, suspend, or reduce the value of Emission Reduction Credits for cause, including evidence of noncompliance with permit conditions imposed to make the emission reductions permanent and enforceable; failure to achieve in practice the emission reductions on which the Emission Reduction Credits are based; or misrepresentations made in the Emission Reduction Credit application or any other applications on which the

Emission Reduction Credits are based, supporting data entered therein or attached thereto, or any subsequent submittal or supporting data.

2. The owner of a Certificate of Emissions Reduction Credit may submit an application to re-evaluate a Certificate of Emission Reduction Credit to determine whether the amount of credits specified in the Certificate of Emission Reduction Credit has been discounted or revoked in accordance with subparagraph 1., above. Such application shall be submitted on forms and contain information specified by the Division.

(e) Creation and Banking of Emission Reduction Credits.

1. Sources seeking to create and bank Emission Reduction Credits must submit an application on forms supplied by the Division and signed by the applicant. The application shall include, at a minimum, the following information:

(i) The company name, contact person and phone number, and street address of the source seeking the Emission Reduction Credit;

(ii) A description of the type of source, including SIC code, where the proposed emission reduction shall occur;

(iii) A detailed description of the method or methods to be employed by the source to create the emission reduction;

(iv) The date the emission reduction occurred or is to occur;

(v) Quantification of the Emission Reduction Credit, as required under subsection (c);

(vi) The proposed method for ensuring the reductions are permanent and enforceable, including any necessary application to amend the source's operating permit or, in the case of a shutdown of process equipment or an entire source, request for permit revocation;

(vii) Whether any portion of the reduction in emissions to be used to create the Emission Reduction Credit has previously been used to avoid New Source Review through a "netting demonstration;" and

(viii) Any other information that may be required to demonstrate that the reduction in emissions is real, permanent, quantifiable, enforceable, and surplus, as defined in subsection (b).

2. The Division will determine whether the application is complete and will notify the source seeking the Emission Reduction Credit of its determination. A Certificate of Emission Reduction Credit will be issued to the source upon a determination by the Director that the emission reduction meets the requirements of this section. Upon issuance of the Certificate, the Division will simultaneously take any action required to ensure the reduction is permanent and enforceable, including issuance of a revised permit or revocation of a permit.

3. Certificates of Emission Reduction Credit shall be issued by the Director and shall contain the following information:

(i) The amount of the credit, in tons per year;

- (ii) The pollutant reduced (nitrogen oxides or VOC);
- (iii) The date the reduction occurred;
- (iv) The street address and county of the source where the reduction occurred; and
- (v) The date of issuance of the Certificate.

4. The Division shall maintain an Emission Reduction Credit registry that constitutes the official record of all Certificates of Emission Reduction Credit issued and all withdrawals made. The registry shall be available for public review. For each certificate issued, the registry will indicate the amount of the Emission Reduction Credit, the pollutant reduced, the location of the facility generating the Emission Reduction Credit, and the facility contact person.

(f) Use of Emission Reduction Credits.

1. Emission Reduction Credits may be used in any manner authorized under this subsection (f).
2. Persons holding Emission Reduction Credits may withdraw the Emission Reduction Credits and may dispose of them in any manner not inconsistent with this Section.
3. An Emission Reduction Credit may be withdrawn only by the owner of record or by the Director and may be withdrawn in whole or in part. In the case of a partial withdrawal, the Division shall issue a revised certificate of Emission Reduction Credit to the owner of record reflecting the new amount of the credit and shall revoke the original Certificate.
4. Emission Reduction Credits may be used for the following purposes:
 - (i) As offsets required by Section 391-3-1-.03(8) for a major new source of nitrogen oxides or VOC in a federally designated ozone non-attainment area, or an area designated by the Director as an area contributing to the ambient concentration of ozone in a federally designated ozone non-attainment area;
 - (ii) As offsets required by Section 391-3-1-.03(8) for a major modification to an existing major source of nitrogen oxides or VOC in a federally designated ozone non-attainment area, or an area designated by the Director as an area contributing to the ambient concentration of ozone in a federally designated ozone non-attainment area;
 - (iii) As part of a netting demonstration under the following conditions:
 - (I) The source using the Emission Reduction Credits is the same source that created and banked the Emission Reduction Credits, and;
 - (II) The emission reduction represented by the Emission Reduction Credits occurred within the five-year period before construction commences on the modification; or
 - (iv) As internal offsets under Section 391-3-1-02(8)(c)(13)(iii) and (iv) of these Rules provided that the source using the Emission Reduction Credits is the same source that created and banked the Emission Reduction Credits.

5. Emission Reduction Credits can only be used to offset emissions of the same pollutant that was reduced by the source that created and banked the Emission Reduction Credit.

6. Emission reduction credits used as offsets as required by Section 391-3-1-.03(8) within a federally designated ozone non-attainment area shall have been created within that federally designated ozone non-attainment area. Emission reduction credits created within any area designated by the Director as contributing to the ambient air level of ozone in a federally designated ozone non-attainment area may not be used as offsets as required by Section 391-3-1-.03(8) in that federally designated non-attainment area.

(g) Transfer of Certificates of Emission Reduction Credit.

1. If the owner of a Certificate of Emission Reduction Credit transfers the Certificate to a new owner, the Division shall issue a Certificate of Emission Reduction Credit to the new owner and shall revoke the certificate held by the current owner of record.

2. If the owner of a Certificate of Emission Reduction Credit transfers part of the Emission Reduction Credits represented by the Certificate to a new owner, the Division shall issue a Certificate of Emission Reduction Credit to the new owner reflecting the transferred amount and shall issue a Certificate of Emission Reduction Credit to the current owner of record reflecting the amount of Emission Reduction Credit remaining after the transfer. The original Certificate of Emission Reduction credit shall be revoked.

(h) Administrative Fees.

1. Any Source or person seeking to create, certify, bank, use, transfer, or re-evaluate Emission Reduction Credits shall pay fees to the Division in accordance with the following schedule:

(i) \$6000 per application to create, certify and bank emission credits in accordance with subparagraph (e) of this paragraph.

(ii) \$3500 per application to use a banked emission credit in accordance with subparagraph (f)4. of this paragraph. If the Certificate of Emission Reduction Credit has either been transferred in accordance with subparagraph (g) of this paragraph or re-evaluated in accordance with subparagraph (d)2. of this paragraph, or both, within 12 months prior to submission of an application to use a banked emission credit, the administrative fee to use a banked emission credit shall be reduced by the amount administrative fee(s) paid to the Division for transfer and re-evaluation. The 12-month period shall be based on the date of issuance of the new Certificate of Emission Reduction Credit to the new owner (for a transfer) or the date of written notification of the owner of the results of the re-evaluation by the Division (for a re-evaluation).

(iii) \$3000 per application to transfer a Certificate of Emission Reductions Credit as per subparagraph (g) of this paragraph. If a re-evaluation of the Certificate of Emission Reduction Credit has been completed by the Division in accordance with subparagraph (d)2. of this paragraph within 12 months prior to submission of an application to transfer the Certificate of Emission Reduction Credit, the administrative fee to transfer the Certificate of Emission Reduction Credit shall be reduced by the amount administrative fee paid for re-evaluation. The 12-month period shall be based on the date of written notification of the owner of the results of the re-evaluation by the Division.

(iv) \$2500 per application to re-evaluate an Certificate of Emission Reduction Credit as per subparagraph (d)2. of this paragraph.

2. Payment of administrative fees required by this subsection shall be submitted along with an application to create, certify, bank, use, transfer, or re-evaluate Emission Reduction Credits.

(i) Definitions.

For the purposes of this section, the following definitions shall apply:

1. "Electrical Generating Unit" means a fossil fuel fired stationary boiler, combustion turbine, or combined cycle system that serves a generator that produces electricity for sale.

2. "Enforceable" means enforceable by the Division. Methods for ensuring that Emission Reduction Credits are enforceable shall include, but not be limited to, conditions in air quality construction or operating permits issued by the Division.

3. "Netting Demonstration" means the act of calculating a "net emissions increase" under the preconstruction review requirements of Title I, Part D of the Federal Act and the regulations promulgated thereunder.

4. "Permanent" means assured for the life of the corresponding Emission Reduction Credit through an enforceable mechanism such as a permit condition or revocation.

5. "Quantifiable" means that the amount, rate and characteristics of the Emission Reduction Credit can be estimated through a reliable method and are approved by the Division.

6. "Real" means a reduction in actual emissions emitted into the air.

7. "Surplus" means not required by any local, state, or federal law, regulation, order, or requirement and in excess of reductions used by the Division in issuing any other permit or to demonstrate attainment of federal ambient air quality standards or reasonable further progress towards achieving attainment of federal ambient air quality standards. For the purpose of determining the amount of surplus emission reductions, any seasonal emission limitation or standard shall be assumed to apply throughout the year. Emission reductions which have previously been used to avoid New Source Review through a netting demonstration are not considered surplus.