

## SECTION .2300 – BANKING EMISSION REDUCTION CREDITS

### 15A NCAC 02D .2301 PURPOSE

This Section provides for the creation, banking, transfer, and use of emission reduction credits for:

- (1) nitrogen oxides (NO<sub>x</sub>),
- (2) volatile organic compounds (VOC),
- (3) sulfur dioxide (SO<sub>2</sub>),
- (4) fine particulate (PM<sub>2.5</sub>), and
- (5) ammonia (NH<sub>3</sub>)

for offsets under 15A NCAC 02D .0531, Sources in Nonattainment Area.

*History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12);  
Eff. December 1, 2005.

## **15A NCAC 02D .2302 DEFINITIONS**

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

- (1) "Air permit" means a construction and operation permit issued under 15A NCAC 02Q .0300, Construction and Operation Permits, or .0500, Title V Procedures.
- (2) "Banking" means a system for recording emission reduction credits so that they may be used or transferred in the future.
- (3) "Enforceable" means enforceable by the Division. Methods for ensuring that emission reduction credits are enforceable include conditions in air permits issued.
- (4) "Federally designated ozone nonattainment area in North Carolina" means an area designated as nonattainment for ozone and described in 40 CFR 81.334.
- (5) "Federally designated fine particulate (PM<sub>2.5</sub>) nonattainment area in North Carolina" means an area designated as nonattainment for fine particulate (PM<sub>2.5</sub>) and described in 40 CFR 81.334.
- (6) "Netting Demonstration" means the act of calculating a "net emissions increase" under the preconstruction review requirements of Title I, Part D of the Federal Clean Air Act and the regulations promulgated there under in 15A NCAC 02D .0530, Prevention of Significant Deterioration, or .0531, Sources in Nonattainment Area.
- (7) "Permanent means assured for the life of the corresponding emission reduction credit through an enforceable mechanism such as a permit condition or revocation.
- (8) "Quantifiable" means that the amount, rate, and characteristics of the emission reduction credit can be estimated through a reliable, reproducible method.
- (9) "Real" means a reduction in actual emissions emitted into the air.
- (10) "Surplus" means not required by any local, State, or federal law, rule, order, or requirement and in excess of reductions used by the Division in issuing any air permit, in excess of any conditions in an air permit to avoid an otherwise applicable requirement, or to demonstrate attainment of ambient air quality standards in 15A NCAC 02D .0400 or reasonable further progress towards achieving attainment of 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. The following are not considered surplus:
  - (a) emission reductions that have previously been used to avoid 15A NCAC 02D .0530 or .0531 (new source review) through a netting demonstration;
  - (b) Emission reductions in hazardous air pollutants listed pursuant to Section 112(b) of the federal Clean Air Act to the extent needed to comply with 15A NCAC 02D .1109, .1111, or .1112; however, emission reductions in hazardous air pollutants that are also volatile organic compounds beyond that necessary to comply with 15A NCAC 02D .1109, .1111, or .1112 are surplus; or
  - (c) emission reductions used to offset excess emissions from another source as part of an alternative mix of controls ("bubble") demonstration under 15A NCAC 02D .0501.

*History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12);  
Eff. December 1, 2005.

**15A NCAC 02D .2303 APPLICABILITY AND ELIGIBILITY**

(a) Applicability. Any facility that has the potential to emit nitrogen oxides, volatile organic compounds, sulfur dioxide, ammonia, or fine particulate (PM2.5) in amounts greater than 25 tons per year and that is in a federally designated ozone or fine particulate (PM2.5) nonattainment area in North Carolina is eligible to create and bank nitrogen oxides, volatile organic compounds, sulfur dioxide, ammonia, or fine particulate (PM2.5) emission reduction credits.

(b) Eligibility of emission reductions.

- (1) To be approved by the Director as an emission reduction credit, a reduction in emissions shall be real, permanent, quantifiable, enforceable, and surplus and shall have occurred:
  - (A) for ozone after December 31, 2002 for the Charlotte-Gastonia-Rock Hill, NC-SC nonattainment area, the Raleigh-Durham-Chapel Hill nonattainment area, the Rocky Mount nonattainment area, and the Haywood and Swain Counties (Great Smoky Mountains National Park) nonattainment area, and after December 31, 2000 for all other nonattainment areas.
  - (B) for fine particulate (PM2.5) after December 31, 2002 for the Greensboro-Winston-Salem-High Point, NC and Hickory-Morganton-Lenoir, NC nonattainment areas.
- (2) To be eligible for consideration as emission reduction credits, emission reductions may be created by any of the following methods:
  - (A) installation of control equipment beyond what is necessary to comply with existing rules;
  - (B) a change in process inputs, formulations, products or product mix, fuels, or raw materials;
  - (C) a reduction in actual emission rate;
  - (D) a reduction in operating hours;
  - (E) production curtailment or reduction in throughput;
  - (F) shutdown of emitting sources or facilities; or
  - (G) any other enforceable method that the Director finds resulting in real, permanent, quantifiable, enforceable, and surplus reduction of emissions.

(c) Ineligible for emission reduction credit. Emission reductions from the following are not eligible to be banked as emission reduction credits:

- (1) sources covered under a special order or variance until compliance with the emission standards that are the subject of the special order or variance is achieved;
- (2) sources that have operated less than 24 months;
- (3) emission allocations and allowances used in the budget trading program under 15A NCAC 02D .1419 or .2408;
- (4) emission reductions outside North Carolina; or
- (5) mobile sources.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12);  
Eff. December 1, 2005;  
Amended Eff. July 1, 2007.*

**15A NCAC 02D .2304 QUALIFICATION OF EMISSION REDUCTION CREDITS**

For purposes of calculating the amount of emission reduction that can be quantified as an emission reduction credit, the following procedures shall be followed:

- (1) The source's average actual annual emissions before the emission reduction shall be calculated in tons per year. In calculating average actual annual emissions before the emission reduction, data from the 24-month period immediately preceding the reduction in emissions shall be used. The Director may allow the use of a different time period, not to exceed seven years immediately preceding the reduction in emissions if the owner or operator of the source documents that such period is more representative of normal source operation.
- (2) 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.

*History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12);  
Eff. December 1, 2005.

**15A NCAC 02D .2305 CREATING AND BANKING EMISSION REDUCTION CREDITS**

(a) The owner or operator of a source seeking to create and bank emission reduction credits shall submit over the signature of the responsible official for a Title V facility or the official identified in 15A NCAC 02Q .0304(j) for a non-Title V facility the following information, which may be on an application form provided by the Division:

- (1) the company name, contact person and telephone number, and street address of the source seeking the emission reduction credit;
- (2) a description of the type of source where the proposed emission reduction occurred or will occur;
- (3) a detailed description of the method or methods to be employed to create the emission reduction;
- (4) the date that the emission reduction occurred or will occur;
- (5) quantification of the emission reduction credit as described under Rule .2304 of this Section;
- (6) the proposed method for ensuring the reductions are permanent and enforceable, including any necessary application to amend the facility's air permit or, for a shutdown of an entire facility, a request for permit rescission;
- (7) whether any portion of the reduction in emissions to be used to create the emission reduction credit has previously been used to avoid 15A NCAC 02D .0530 (prevention of significant deterioration) or .0531 (nonattainment major new source review) through a netting demonstration;
- (8) any other information necessary to demonstrate that the reduction in emissions is real, permanent, quantifiable, enforceable, and surplus; and
- (9) a complete permit application if the permit needs to be modified to create or enforce the emission reduction credit.

(b) If the Director finds that

- (1) all the information required to be submitted under Paragraph (a) of this Rule has been submitted;
- (2) the source is eligible under Rule .2303 of this Section;
- (3) a complete permit application has been submitted, if necessary, to implement the reduction in emissions; and
- (4) the reduction in emissions is real, permanent, quantifiable, enforceable, and surplus; the Director shall issue the source a certificate of emission reduction credit once the facility's permit is modified, if necessary, to reflect permanently the reduction in emissions. The Director shall register the emission reduction credit for use only after the reduction has occurred.

(c) Processing schedule.

- (1) The Division shall send written acknowledgement of receipt of the request to create and bank emission credits within 10 days of receipt of the request.
- (2) The Division shall review all request to create and bank emission credits within 30 days to determine whether the application is complete or incomplete for processing purposes. If the application is incomplete the Division shall notify the applicant of the deficiency. The applicant shall have 90 days to submit the requested information. If the applicant fails to provide the requested information within 90 days, the Division shall return the application.
- (3) The Director shall either approve or disapprove the request within 90 days after receipt of a complete application requesting the banking of emission reduction credits. Upon approval the Director shall issue a certificate of emission reduction credit.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12); Eff. December 1, 2005.*

**15A NCAC 02D .2306 DURATION OF EMISSION REDUCTION CREDITS**

Banked emission reduction credits are permanent until withdrawn by the owner or until withdrawn by the Director under Rule .2310 of this Section.

*History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12);  
Eff. December 1, 2005.

### **15A NCAC 02D .2307 USE OF EMISSION REDUCTION CREDITS**

(a) Persons holding emission reduction credits may withdraw the emission reduction credits and may use them in any manner consistent with this Section.

(b) An emission reduction credit may be withdrawn only by the owner of record or by the Director under Rule .2310 of this Section and may be withdrawn in whole or in part. In the case of a partial withdrawal, the Director 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.

(c) Emission reduction credits may be used for the following purposes:

- (1) as offsets or netting demonstrations required by 15A NCAC 02D .0531 for a major new source of:
  - (A) nitrogen oxides or volatile organic compounds in a federally designated ozone nonattainment area, or
  - (B) fine particulate (PM2.5) in a federally designated PM2.5 nonattainment area;
- (2) as offsets or netting demonstrations required by 15A NCAC 02D .0531 for a major modification to an existing major source of:
  - (A) nitrogen oxides or volatile organic compounds in a federally designated ozone nonattainment area, or
  - (B) fine particulate (PM2.5) in a federally designated PM2.5 nonattainment area;
- (3) as part of a netting demonstration required by 15A NCAC 02D .0530 when the source using the emission reduction credits is the same source that created and banked the emission reduction credits; or
- (4) to remove a permit condition that created an emission reduction credit.

(d) Emission reduction credits generated through reducing emissions of one pollutant shall not be used for trading with or offsetting of another pollutant, for example emission reduction credits for volatile organic compounds in an ozone nonattainment area shall not be used to offset nitrogen oxide emissions.

(e) Limitations on use of emission reduction credits.

- (1) Emission reduction credits shall not be used to exempt a source from:
  - (A) prevention of significant deterioration requirements (15A NCAC 02D .0530) for netting demonstrations unless the emission reduction credits have been banked by the facility at which the new or modified source is located and have been banked during the period specified in 15A NCAC 02D .0530. This Subparagraph does not preclude the use of emission reductions not banked as emission credits to complete netting demonstrations.
  - (B) nonattainment major new source review (15A NCAC 02D .0531) unless the emission reduction credits have been banked by the facility at which the new or modified source is located and have been banked during the period specified in 15A NCAC 02D .0531. This Subparagraph does not preclude the use of emission reductions not banked as emission credits to complete netting demonstrations.
  - (C) new source performance standards (15A NCAC 02D .0524), national emission standards for hazardous air pollutants (15A NCAC 02D .1110), or maximum achievable control technology (15A NCAC 02D .1109, .1111, or .1112); or
  - (D) any other requirement of Subchapter 15A NCAC 02D unless the emission reduction credits have been banked by the facility at which the new or modified source is located.
- (2) Emission reduction credits shall not be used to allow a source to emit above the limit established by a rule in Subchapter 15A NCAC 02D. (If the owner or operator wants to permit a source to emit above the limit established by a rule in Subchapter 15A NCAC 02D, he needs to follow the procedures in 15A NCAC 02D .0501 for an alternative mix of controls ["bubble"].)

*History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12);  
Eff. December 1, 2005.

**15A NCAC 02D .2308 CERTIFICATES AND REGISTRY**

(a) Certificates of emission reduction credit issued by the Director shall contain the following information:

- (1) the pollutant reduced (nitrogen oxides, volatile organic compounds, sulfur dioxide, ammonia, fine particulate);
- (2) the amount of the credit in tons per year;
- (3) the date the reduction occurred;
- (4) company name, the street address and county of the source where the reduction occurred; and
- (5) the date of issuance of the certificate.

(b) 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 shall show the amount of the emission reduction credit, the pollutant reduced, the name and location of the facility generating the emission reduction credit, and the facility contact person. The Division shall maintain records of all deposits, deposit applications, withdrawals, and transactions.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12);  
Eff. December 1, 2005.*



**15A NCAC 02D .2309 TRANSFERRING EMISSION REDUCTION CREDITS**

(a) If the owner of a certificate of emission reduction credit transfers the certificate to a new owner, the Director shall issue a certificate of emission reduction credit to the new owner and shall revoke the certificate held by the current owner of record.

(b) 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 Director 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 Director shall revoke the original certificate of emission reduction credit.

(c) For any transferred emission reduction credits, the creator of the emission reduction credit shall continue to have enforceable conditions in the appropriate permit to assure permanency of the emission reduction and shall be held liable for compliance with those conditions; the user of any transferred emission reduction credits shall not be held liable for any failure of the creator to comply with its permit.

*History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12);  
Eff. December 1, 2005.

**15A NCAC 02D .2310 REVOCATION AND CHANGES OF EMISSION REDUCTION CREDITS**

(a) The Director may withdraw emission reduction credits if the emission reduction credits

- (1) have already been used;
- (2) are incorrectly calculated; or
- (3) achieved are less than those claimed.

(b) If a banked emission reduction credit were calculated using an emission factor and the emission factor changes, the Director shall revise the banked emission reduction credit to reflect the change in the emission factor. If a banked emission reduction credit had been used, then no change shall be made in the use credit.

(c) When a rule is adopted or amended in this Subchapter or Subchapter 15A NCAC 02Q after November 1, 2005, the Director shall adjust the banked emission reduction credits to account for changes in emissions that would be allowed under the new emission limitation with which the source must currently comply if it is still operating. If a source has permanently ceased operations, then the Director shall make no adjustments in its banked emissions reduction credits. If a banked emission reduction credit has been used, no change shall be made in the used credit.

*History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12);  
Eff. December 1, 2005.

**15A NCAC 02D .2311 MONITORING**

The Director shall require the owner or operator of a source whose emissions are being reduced to create an emission reduction credit to verify the reduction in emissions with a source test, continuous emission monitoring, or other methods that measure the actual emissions or may require the use of parametric monitoring to show that the source or its control device is being operated in the manner that it is designed or is permitted.

*History Note:* Authority G.S. 143-215.3(a)(1); 143-215.66; 143-215.107(a)(12);  
Eff. December 1, 2005.