

3745-111-02 ERC banking program 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) Purpose and general clause.

- (1) The purpose of this chapter is to establish a voluntary statewide ERC banking program for the purpose of enabling the acquisition of offsets that shall be implemented in accordance with this chapter.
- (2) Nothing in this chapter shall be construed to be a mandatory requirement except when a person, as specified in paragraph (B)(2) of this rule, chooses to voluntarily participate in the ERC banking program. At such time, the requirements of this chapter shall apply.
- (3) Nothing in this chapter shall be construed to restrict the director's authority to attain and maintain the national ambient air quality standards of the Ohio state implementation plan requirements.
- (4) Nothing in this chapter shall be construed to restrict the use of offsets consistent with Chapter 3745-31 of the Administrative Code; Section 173 of the Clean Air Act; 40 CFR Part 51; 40 CFR Part 51, Appendix S; or 40 CFR Part 52.

(B) Applicability.

- (1) The use of ERCs under this chapter applies to volatile organic compounds and oxides of nitrogen as ozone precursors, sulfur dioxide, carbon monoxide, PM10, PM 2.5 and lead. At the director's discretion, the use of ERCs may also apply to any other pollutant, or precursor thereof, for which a national ambient air quality standard has been set.
- (2) Voluntary participants in this program may include one of the following:
 - (a) Any major stationary source or major modification that is to be constructed in an area designated in 40 CFR 81.336 as nonattainment for an air pollutant for which the major stationary source or major modification is major.
 - (b) Any person who voluntarily chooses to participate in the ERC banking program.

For any ERC generating source that voluntarily participates in the ERC banking program located outside the state of Ohio, this chapter and paragraph (A) of rule 3745-31-27 of the Administrative Code shall be applicable.

(C) General requirements.

- (1) The generation, transfer and use of ERCs shall be consistent with the Ohio state implementation plan, the Clean Air Act, rules promulgated under the Clean Air Act, this chapter, and Chapter 3745-31 of the Administrative Code.
- (2) The use of verified ERCs in a nonattainment area shall result in emission reductions consistent with the requirements for reasonable further progress for the nonattainment area and any attainment demonstration specified in the Ohio state implementation plan.
- (3) Emission reductions made to correct violations or inaccurate reporting of any applicable emission standard of limitation or emission reduction resulting from a source, process, or process equipment in violation shall not be eligible to generate ERCs to be used or transferred under this chapter. Emission reductions in excess of what is required to correct a violation may be eligible to generate ERCs if they meet the requirements contained in this chapter and Chapter 3745-31 of the Administrative Code.
- (4) No ERCs may be allowed for replacing one volatile organic compound with another of lesser reactivity, except where allowed under paragraph (H) of rule 3745-31-24 of the Administrative Code.
- (5) Nothing in this chapter shall be construed to obviate the need to obtain a permit-to-install or PTIO under Chapter 3745-31 of the Administrative Code, or a Title V permit under Chapter 3745-77 of the Administrative Code. The use of verified ERCs which would be inconsistent with the requirements contained in Chapter 3745-31 of the Administrative Code is prohibited.

(D) ERC discounting.

The director may reduce the amount of ERCs under the following conditions:

- (1) Discounting for attaining or maintaining the national ambient air quality standards or Ohio state implementation plan.

The director may reduce the quantity of available ERCs in order to attain or maintain the national ambient air quality standards of the Ohio state implementation plan requirements, provided that the director will exercise such authority through the Ohio state implementation plan process prior to removing ERCs from the bank established under this chapter.

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