

3745-111-04 ERC transfer and use for the purpose of enabling the acquisition of offsets.

- (A) Conditions for approval of the use of ERCs for enabling the acquisition of emission offsets.

The use of ERCs from an existing air contaminant source or facility for the purpose of offsetting emissions of a proposed major stationary source or major modification (whether or not under the same ownership) shall meet the requirements contained in rule 3745-31-22 of the Administrative Code, including that there will be reasonable progress, as determined by the director, toward attainment of the applicable national ambient air quality standard.

- (1) The owner or operator of the proposed air contaminant source or facility shall secure approval from the director to use the ERCs for the purpose of offsetting emissions prior to the time of use.
- (2) ERCs may not be used in an area with a higher nonattainment classification than the one in which they were generated.
- (3) ERCs that are used shall be surplus and quantifiable at the time of use in accordance with paragraphs (E) and (G) of rule 3745-111-01 of the Administrative Code.
- (4) An owner or operator proposing new or increased emissions shall demonstrate that sufficient offsetting ERCs, at the ratio specified in rule 3745-31-26 of the Administrative Code have been acquired from a nonattainment area that meets the requirements of paragraph (B) of this rule.
- (5) A stationary source located in the state of Ohio may use ERCs generated by a source located in a neighboring state only upon the approval of both the director and the appropriate authority within the neighboring state. ERCs generated in another state may not be used at a facility within the state of Ohio unless the facility's generated ERCs are enforceable by the neighboring state and by the Ohio EPA in accordance with this chapter and paragraph (A) of rule 3745-31-27 of the Administrative Code.

- (B) Location of emission offsets.

Location of offsetting emissions shall meet the requirements of rule 3745-31-25 of the Administrative Code, paragraph (B) of rule 3745-31-26 of the Administrative Code, and rule 3745-31-27 of the Administrative Code.

- (C) Administrative procedures.

- (1) Transfer and use of ERCs for the purpose of offsetting emissions shall meet the administrative procedures of rule 3745-31-27 of the Administrative Code.
- (2) Mobile source ERCs.

A mobile source owner or operator may generate ERCs, consistent with paragraph (A)(6) of rule 3745-111-03 of the Administrative Code, for the purpose of offsetting emissions of a proposed major stationary source or major modification wishing to locate in an area that meets the location requirements of paragraph (B) of this rule provided the offset ratio requirements of rule 3745-31-26 of the Administrative Code are met. The emission offsets shall come from existing mobile sources. The use of mobile source ERCs must be submitted as a Ohio state implementation plan revision or must be contained in a federally enforceable permit. The use of mobile source ERCs under this paragraph shall be approved by the director on a case-by-case basis.

(D) ERC transfer and use.

When any owner of ERCs elects to participate in the ERC banking program, the following are applicable:

- (1) Only verified ERCs may be transferred and used through a transfer or use notification in accordance with paragraph (E) of this rule.
- (2) Verified ERCs generated in accordance with paragraph (A)(1) of rule 3745-111-03 of the Administrative Code, resulting from the permanent shutdown of an existing air contaminant source or facility, may not be transferred or used prior to Ohio EPA receiving notification from the responsible official of a Title V facility, as defined in rule 3745-77-01 of the Administrative Code, or from the person with signatory authority under rule 3745-31-02 of the Administrative Code for a facility that is not Title V, certifying the permanence of the shutdown.
- (3) Verified ERCs generated in accordance with paragraphs (A)(2) to (A)(7) of rule 3745-111-03 of the Administrative Code, may not be transferred until the ERCs are permanent and federally enforceable in accordance with paragraph (C)(2) of rule 3745-111-02 of the Administrative Code.

(E) Notification of transfer or use.

When participating in the ERC banking program, an ERC transfer or use notification shall be submitted in a form and manner prescribed by the director and shall include the following information, at a minimum, except paragraph (E)(6) of this rule shall be optional:

- (1) The name of the owner or operator of the air contaminant source or facility generating the ERC or the name of the person transferring the ERC.
- (2) The name of the person, owner or operator of the air contaminant source or facility, receiving or using the ERC.
- (3) The intended use of the ERCs.

[Comment: identifying an intended use does not obligate the person receiving the ERCs to that identified use and does not prohibit the person receiving the ERCs 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.]

- (4) Identification of the type of pollutant and quantity of verified ERCs being transferred or used.
 - (5) Identification of the ERC certificate number associated with the ERCs, and if transfer or use of the ERCs identified in the certificate are in part, the exact ERCs contained in the banking system that are included in the transaction.
 - (6) The cost, in dollars per ton, of ERCs transferred or used shall be optional.
- (F) Public notice.

Consistent with the requirements of Chapter 3745-31 of the Administrative Code, the Ohio EPA shall provide the public with notice of owners or operators proposing to use verified ERCs at the time they are made federally enforceable.

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