

Note: Technical amendments are indicated in rule text by SMALL CAPS. Substantive changes to the original proposed rule are highlighted.

Title 33
ENVIROMENTAL QUALITY
PART III. Air

Chapter 6. Regulations on Control of Emissions Through the Use of Emission Reduction Credits
Banking

§601. Background and Purpose

A. ~~Background~~

1. ~~—*Federal Register*, Vol. 51, Number 233, Thursday, December 4, 1986, contained EPA's Emissions Trading Policy Statement; General Principles for Creation, Banking and Use of Emission Reduction Credits. This Policy Statement replaced the original bubble policy (44 FR 71779, December 11, 1979) and describes emissions trading and sets out general principles EPA will use to evaluate emissions trades under the Clean Air Act and applicable federal regulations. Emissions trading includes bubbles, netting, and offsets as well as banking (storage) of emission reduction credits (ERC) for future use. These alternatives do not alter overall air quality requirements; they give states and industry more flexibility to meet those requirements. EPA endorses emissions trading and encourages its sound use by states and industry to help meet the goals of the Clean Air Act more quickly and inexpensively. This regulation does not alter new source review requirements nor exempt owners or operators of stationary sources from compliance with applicable preconstruction permit regulations in accord with 40 CFR 51.18, 51.24, 51.307, 52.21, 52.24, 52.27, and 52.28. Interested parties should, however, be aware that bubble trades are not subject to preconstruction review or regulations where these trades do not involve construction, reconstruction, or modification of source within the meaning of those terms in the regulations listed above.~~

2. ~~—*Federal Register*, Vol. 58, Number 34, Tuesday, February 23, 1993, sets forth proposed Economic Incentive Program (EIP) Rules. Pursuant to sections 182(g)(3), 182(g)(5), 187(d)(3), and 187(g) of the 1990 Clean Air Act Amendments (CAAA), the use of EIPs is mandated for ozone nonattainment areas classified as severe or extreme. It is optional in ozone nonattainment areas classified as marginal, moderate, or serious. EIPs, or ERCs also serve to demonstrate that the state can meet certain emission reduction milestones required in the 15 percent VOC Reduction Reasonable Further Progress (RFP) Plan for Ozone Nonattainment Areas.~~

~~3. — An Emission Reductions Credits Program has been identified as a contingency measure for Louisiana's 15 percent VOC Reduction RFP Plan. As such, sources are prohibited from withdrawing any ERCs below the amount claimed by the LDEQ in its 3 percent contingency measure.~~

~~B. — Purpose~~

~~A. 1. This rule Chapter establishes the means of enabling stationary sources to identify and preserve or acquire emission reductions for New Source Review (NSR) offsets as well as for use in netting purposes. The pollutants to which this rule applies are nitrogen oxides (NO_x) and volatile organic compounds (VOC). Interpollutant trading, for example, using a NO_x credit to offset a VOC emission, is not allowed.~~

~~2. — Act 570 of the 1993 Regular Legislative Session mandates the enactment of rules, by September 1, 1994, that provide for a vehicle scrappage program within the serious nonattainment area in exchange for emission reduction credits, banking, and trading criteria established by rule.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:874 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§603. Applicability

~~A. Major stationary sources are subject to the provisions of this Chapter for the purpose of utilizing emission reductions as offsets in accordance with LAC 33:III.504 and 510. Minor stationary sources located in ozone nonattainment areas or Calcasieu Parish may submit ERC applications for purposes of banking. The following sSources in EPA designated ozone nonattainment areas must participate in the emissions banking program in order to utilize emission reductions for netting or as offsets.: sources located in EPA designated ozone nonattainment areas, and sources located in EPA designated ozone attainment areas potentially subject to offset requirements under LAC 33:III.Chapter 5. Other sSources located in EPA-designated ozone attainment areas may not participate in the emissions banking program. If a source in an attainment area participates in the emissions banking program, the source must submit the annual submission required by LAC 33:III.613.D. The following sources Any stationary point source at an affected facility in ozone nonattainment parishes are is eligible to participate in the emissions banking program: any stationary point source, any area source, and any registered mobile source. The following sources in ozone attainment parishes are eligible to participate in the emissions banking program: any stationary point source and any area source. The rule shall apply to the following pollutants: NO_x and VOC.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:874 (August 1994), amended LR 24:2239 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:

§605. Definitions

A. The terms used in this Chapter are defined in LAC 33:III.111 ~~of these regulations except as defined within the separate subchapters or~~ with the exception of those terms specifically defined as follows:

Actual Emissions—the actual rate of emissions of an air ~~contaminant~~ pollutant from a source operation, equipment, or control apparatus. Actual emissions shall be calculated using the actual operating hours, production rates, and types of materials used, processed, stored, or combusted during the ~~selected time~~ baseline period. ~~In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal major stationary source operation. A different time period shall be allowed upon a determination by the department that it is more representative of normal major stationary source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.~~ Acceptable methods for estimating the actual emissions may include, but are not limited to, any one or a combination of the following:

- a. emission factors based on EPA's Compilation of Air Pollutant Emission Factors (AP-42) or other emission factors approved by the department, if better source specific data **is are** not available;
- b. fuel usage records, production records, purchase records, material balances, engineering calculations (approved by the department), source tests (~~only if suitable emission factors are not available~~), waste disposal records, **and** emission reports ~~previously submitted to the department~~ such as emission inventory reports, SARA Title III, or MACT compliance certifications, **and other methods specifically approved by the administrative authority** **department**.

Adjusted Total Point Source Emissions Inventory—~~the aggregate emissions inventory from each of the modeled parishes, which includes 1997 actual emissions from point sources; allowable emissions from proposed power generating plants; banked ERC and pending ERC applications where the emission reduction occurred between January 1, 1990, and December 31, 1997; and adjustments for growth.~~

~~*Air Contaminant*—any substance, other than water or distillates of air, present in the atmosphere as solid particles, liquid particles, vapors, or gases.~~

~~*Allowable Emissions/Potential to Emit*—the emissions rate of a stationary **point** source calculated using the rate at which an air contaminant may be emitted into the outdoor atmosphere. This rate shall be based on the maximum rated capacity of the source equipment and 8760 hours per year of operation, (unless the equipment source is subject to **federally** enforceable limits which that restrict the operating rate, hours of operations, or both). ~~In such cases this rate is based on and~~ the most stringent of the following:~~

- ~~a. — applicable national standards of performance for new stationary sources (NSPS) as set forth in 40 CFR Part 60;~~
- ~~b. — applicable national emission standards for hazardous air pollutants (NESHAP) as set forth in 40 CFR Part 61;~~
- ~~c. — applicable emission, equipment, and operating standards as set forth in this Chapter, including those with a future compliance date;~~
- ~~d. — applicable emission limitations specified in a federally enforceable permit, including limitations (best available control technology [BACT] and lowest achievable emission rate [LAER] requirements) with a future compliance date;~~
- ~~e. — any emission limitation in an applicable state implementation plan (SIP); and~~
 - ~~a. an applicable standard set forth in 40 CFR part 60, 61, or 63;~~
 - ~~b. any applicable state implementation plan (SIP) emissions limitation, including those with a future compliance date;~~
 - ~~c. applicable emission limitations specified as an **federally** enforceable permit condition, including best available control technology (BACT) and lowest achievable emission rate (LAER) requirements, including those with a future compliance date; or~~
 - ~~fd. applicable acid rain SO₂ and NO_x control requirements as defined under Title IV of the 1990 Clean Air Act Amendments and subsequent regulations.~~

~~*Alter*—to effect an alteration of equipment or control apparatus.~~

~~*Alternative Fuel*—with respect to any source operation, any fuel whose use is not authorized by any permit or, for a source operation without a permit, any fuel not used in the source operation since December 31, 1976.~~

~~*Area Source*—any small residential, governmental, institutional, commercial, or industrial fuel combustion operation; on-site solid waste disposal facilities; aircraft vessels, or other transportation facilities, or other miscellaneous sources identified through inventory techniques similar to those described in the Aerometric Emissions Reporting System (AEROS) Manual (see 40 CFR 51.100).~~

Bank—the repository for ERCs ~~and includes, including~~ the ERC banking register/database.

Bank Balance Sheet—the form that is completed and submitted along with supporting information to the department to request recognition and certification of potentially bankable emission reductions. A banking application is submitted by the owner(s) of the source creating bankable emission reductions or the owner's designated representative.

Bankable Emission Reductions—~~emission~~ reductions of ~~pollutants and their precursors for which ambient air quality standards exist NO_x or VOC and which that~~ meet the provisions of ~~this rule these regulations~~ Chapter at the time of review and approval. ~~Such reductions may be deposited in the ERC bank. Once banked and certified, the emission reductions become ERCs.~~

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[See Prior Text]

Banking Register/Database—the ~~department document~~ database that records all ERC deposits, withdrawals, transfers, and transactions.

Base Case Inventory—~~the aggregate point-source emissions inventory FOR EITHER NO_x OR VOC from the nine modeled parishes, as modeled for the 2005 Attainment Plan and Transport Demonstration SIP dated December 2001, which includes 1997 actual emissions from point sources, banked ERC and pending ERC applications where the emission reduction occurred between January 1, 1990 and December 31, 1997, and adjustments for growth. SEPARATE INVENTORIES HAVE BEEN ESTABLISHED FOR NO_x AND VOC.~~

BASE LINE INVENTORY—~~THE AGGREGATE POINT-SOURCE EMISSIONS INVENTORY FOR EITHER NO_x OR VOC FROM THE NINE MODELED PARISHES ASSOCIATED WITH THE 2005 ATTAINMENT PLAN AND TRANSPORT DEMONSTRATION SIP DATED DECEMBER 2001, WHICH ACCOUNTS FOR EMISSION REDUCTIONS MODELED TO DEMONSTRATE ATTAINMENT OF THE 1-HOUR NATIONAL AMBIENT AIR QUALITY STANDARD (NAAQS) FOR OZONE. SEPARATE INVENTORIES HAVE BEEN ESTABLISHED FOR NO_x AND VOC.~~

Baseline Emissions—~~that the level of emissions during the baseline period,~~ as calculated in accordance with LAC 33:III.607.C.4.D.2, that occur prior to an emission reduction, considering all limitations required by applicable ~~federally enforceable federal and state~~ regulations, below which any additional reductions may be counted (credited) for use in trades ~~for use as offsets.~~

Baseline Emission Level—the quantity of emissions during the defined baseline period that is used in calculating ERCs.

Baseline Period—the period of time over which the historical emissions of a source are averaged. In general, ~~this period shall be a time period of at least two consecutive years within the five years~~

immediately preceding the date the emission reduction occurred that is determined by the department to be representative of normal source operation. The baseline period may be determined on either a calendar year or consecutive 12-month or consecutive 365-day basis two-year period that precedes the date of the emission change and that is representative of normal major stationary source operation. A different time period shall be allowed upon a determination by the department that it is more representative of normal major stationary source operation. ~~two consecutive calendar year period within the five years immediately preceding the date the emission reduction occurred. A different time period within the stated time frame of not less than one calendar year may be allowed if the department determines it is more representative of normal stationary source operation. The calendar year(s) selected must follow or include the emissions inventory reporting year used in the most recent SIP attainment demonstration model.~~

Bubble—an alternative emission control plan where two or more existing emission points are regarded as being placed under a hypothetical dome, which is then regarded as a single emission point. Stationary sources under a bubble may reallocate emission decreases and increases, so long as the net effect results in the same or better ambient air quality and the same or less air emissions. Bubbles need not be confined to a single stationary source. Bubbles must meet all the requirements contained in the Federal Emissions Trading Policy Statement (51 FR 43814, December 4, 1986) or other applicable regulations.

CURRENT TOTAL POINT-SOURCE EMISSIONS INVENTORY—THE AGGREGATE POINT-SOURCE EMISSIONS INVENTORY FOR EITHER NO_x OR VOC FROM THE NINE MODELED PARISHES COMPILED FROM EMISSION INVENTORY SYSTEM (EIS) RECORDS AND UPDATED ANNUALLY IN ACCORDANCE WITH LAC 33:III.919 PLUS ANY BANKED ERC AND PENDING ERC APPLICATIONS ORIGINALLY INCLUDED IN THE BASE CASE INVENTORY THAT HAVE NOT EXPIRED.

Criteria Pollutant—ozone (O₃), PM-10, sulfur oxides measured as sulfur dioxide (SO₂), nitrogen oxides (NO_x), volatile organic compounds (VOC) measured as nonmethane hydrocarbons, carbon monoxide (CO), or lead (Pb), or any other air contaminant for which national ambient air quality standards have been adopted.

Emission Offset—a legally enforceable reduction, approved by the department, in the rate of actual emissions from an existing facility, which reduction is used to offset the increase in allowable emissions of air contaminants pollutants from a new or altered modified facility in accordance with the requirements of LAC 33:III.504.

Emission Reductions—the decreases in emissions associated with a physical change or change in the method of operation at a facility.

Emission Reduction Credit (ERC)—an emission reduction certified approved by the administrative authority department in accordance with the requirements of the current regulations this Chapter that is

represents a voluntary decrease, or a decrease in excess of that required by an applicable regulation, order, etc., in the quantity of a pollutant discharged from a source. To be valid, emission reduction credits must be surplus, enforceable, permanent, and quantifiable.

Emission Reduction Credit Certificate (ERC Certificate)—a document certifying title indicating ownership to possession of a defined quantity and type of ERCs and issued by the department to the owner(s) identified on the certificate.

Emissions Averaging—defined in section 112(d) of the 1990 CAAA; involves the reduction of hazardous air pollutants within a facility by at least as much as would otherwise occur if the source were controlled point by point.

Enforceable—as applied to emission reductions, means of making emission limits enforceable include source-specific SIP revisions, limitations contained in permits issued in accordance with LAC 33:III.Chapter 5, and EPA-issued or department-issued ADMINISTRATIVE ORDERS OR enforcement instruments such as COMPLIANCE orders or settlement agreements. each transaction that revises any emission limit must be approved by the state and be federally enforceable. Means of making emission limits federally enforceable include SIP revisions, EPA approved generic emissions trading regulations, and permits issued by states under EPA approved SIP regulations, as well as permits issued by EPA or by states under delegation. ERCs due to trading activities should be incorporated in an enforceable compliance instrument which requires recordkeeping based on the averaging period of the emission limit, so that compliance may easily be determined for any single averaging period.

Equipment—any device capable of causing the emission of an air contaminant into the open air and any stack, chimney, conduit, flue, duct, vent or similar device connected or attached to or serving the equipment.

Facility—the combination of all structures, buildings, equipment, and other operations located on one or more contiguous or adjacent properties owned or operated by the same person

Federally Enforceable—as applied to emission reductions, all limitations and conditions which that are enforceable by the U.S. EPA administrator or the department, including the following:

- a. requirements contained in 40 CFR parts 60, and 61, and 63 (New Source Performance Standards, and National Emission Standards for Hazardous Air Pollutants, and National Emission Standards for Hazardous Air Pollutants for Source Categories);
- b. requirements within any applicable SIP;
- c. any requirements contained in permits issued pursuant to in accordance with 40 CFR 52.21 (Prevention of Significant Deterioration) or comparable state regulation (LAC 33:III.509);

d. ~~any requirements contained in permits issued pursuant to in accordance with 40 CFR 52.24 (Nonattainment New Source Review) or comparable state regulation (LAC 33:III.504);~~

e. ~~requirements contained in operating permits issued pursuant to in accordance with Louisiana permitting programs approved by EPA as meeting the requirements of Title V of the 1990 Clean Air Act Amendments; and~~

f. ~~requirements contained in a Louisiana regulation, a Louisiana operating permit, or a Louisiana issued enforcement instrument which that is submitted to EPA and approved as a source-specific SIP revision.~~ ERCs must be federally enforceable before they are allowed as banked emissions credits.

Fugitive Emissions—any emissions of an air contaminant into the open air which do not pass through any stack or chimney.

Hazardous Air Pollutant Offset—the use of an ERC, which is equal or greater in quantity, and which is considered to be more hazardous, to compensate for emission increases of a hazardous air pollutant from a source to avoid being considered a modification according to the requirements of section 112(g) of the 1990 CAAA.

Minimum Offset Ratio—the minimum acceptable ratio of emission offsets from an existing facility to increases in allowable emissions from a new or altered facility.

Mobile Emission Reduction Credits (MERCs)—real, quantified emission reductions generated by a mobile source, approved by the department.

~~MODELED EMISSIONS~~—FOR A GIVEN POINT SOURCE, THE EMISSIONS REPORTED IN THE EMISSIONS INVENTORY USED IN THE MOST RECENT SIP ATTAINMENT DEMONSTRATION ~~MODEL~~ BASE CASE INVENTORY.

Modeled Parishes—the parishes of in which emissions were modeled as part of the most recent SIP attainment demonstration. These parishes include Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Charles, St. James, St. Helena, St. John the Baptist, West Baton Rouge, and West Feliciana.

~~NETTING~~—USE OF AN ERC EMISSION REDUCTION CREATED AT AN EXISTING FACILITY STATIONARY SOURCE TO COMPENSATE FOR EMISSION INCREASES ASSOCIATED WITH A PROPOSED MODIFICATION AT THE SAME FACILITY STATIONARY SOURCE AND TO, THUS, AVOID THE REQUIREMENTS OF NEW SOURCE REVIEW. ERCs EMISSION REDUCTIONS USED FOR NETTING ARE ALWAYS INTERNAL TO THE SOURCE SEEKING CREDIT.

Nonpermitted Emissions—those emissions of an air pollutant into open air from nonpermitted emission sources that are not required to have air pollution permits. Nonpermitted emissions may include emissions from mobile sources, exempt equipment, and "grandfathered" sources that were never required to be permitted under the state's new source review rule.

~~*Offset*—use of an ERC obtained from an existing source or emissions unit to compensate for the increase in emissions from a new or modified source or emissions unit in a nonattainment area in order to ensure that reasonable further progress is maintained. ERCs used for offsetting may be either internal or external to the source seeking credit but must meet the requirements specified in Section 182 of the 1990 Clean Air Act Amendments.~~

Offset—a legally enforceable reduction, approved by the department, in the rate of actual emissions from an existing stationary point source, which is used to compensate for a significant net increase in emissions of NO_x or VOC from a new or modified stationary source in accordance with the requirements of LAC 33:III.504 or 510. To be valid, an offset must meet the definition of ERC.

Permanent—as applied to emission reductions, the method of achieving the reduced level of emissions is fixed or ongoing. For example, installation of permanent control equipment or elimination of emission units. a reduction shall be guaranteed through an enforceable permit limitation confirming the amount and duration of the decrease or other enforceable mechanism including, but not limited to, permanently dismantling the emissions unit or surrendering the permit. The department may consider an emission reduction whose quantity varies with time to be permanent by converting it to an annual equivalent emission reduction. Only permanent reductions in emissions can qualify for credit.

Quantifiable—in reference to emission reductions, the amount, rate, and characteristics of the emission reduction can be estimated through a reliable method. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, process parameters, production inputs, modeling, or other reasonable measurement practices. The same method of calculating emissions should generally be used to quantify emission levels both before and after the reduction.

~~*Reasonable Further Progress*—annual incremental reductions in emissions of a given air pollutant (including substantial reductions in the early years following approval or promulgation of a SIP and regular reductions thereafter) that are sufficient in the judgment of the U.S. EPA to provide for attainment of the applicable ambient air quality standard within a specified nonattainment area by the attainment date prescribed in the SIP for such area.~~

~~*Registered Mobile Source*—any vehicle registered and insured by the owner (without change of ownership) at an address within the nonattainment area continuously for at least 12 months prior to the date the vehicle is purchased.~~

~~*Scrapping*—the process by which a motor vehicle is permanently removed from service.~~

Shutdown—the permanent cessation or permanent curtailment of operations or emissions. The date of the emission reduction created by the shutdown is the date of the last actual emissions from the source.

~~*Shutdown Credits*—credits resulting from the shutdown of a source.~~

~~Stack or Chimney~~—a flue, pipe, tube, conduit, channel or opening designed and constructed for the purpose of emitting air contaminants into the outdoor air.

~~Stationary Point Source~~—any building, structure, facility, or installation that emits or may emit any air pollutant subject to regulation under the Clean Air Act. For purposes of this Chapter, stationary point sources shall include fugitive emissions.

~~Surplus Emission Reductions~~—emission reductions that are voluntarily created for an emissions unit and have not been required by any local, state, or federally enforceable law, or regulation, order, or requirement and are in excess of reductions used to demonstrate attainment of federal and state national ambient air quality standards at the time a permit APPLICATION IS ISSUED that relies upon the reductions as offsets IS DEEMED ADMINISTRATIVELY COMPLETE.

~~Transfer~~—the conveyance of an ERC from one entity to another. All "banking" transactions shall be recorded in the ERC banking register/database and shown as debits and credits for the appropriate entity(ies).

~~Unpermitted Sources~~—those sources which emit air pollutants into the ambient air and which are not required to have air permits. Unpermitted sources may include, but are not limited to, mobile sources, area sources, and small sources not required to obtain air permits.

~~Vehicle Scrappage Program~~—a program in which old vehicles are scrapped in exchange for MERCs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:874 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 26:2448 (November 2000), LR 28:

§607. Determination of Creditable Stationary Point Source Emission REDUCTIONS

A. Pollutants

1. Reductions in the following types of air emissions are eligible for banking pursuant to in accordance with this rule these regulations:

a. volatile organic compounds (VOCs); and

b. nitrogen oxides (NO_x);

2. To the extent possible, The applicant may choose to shall speciate the pollutants VOC according to individual compounds upon application when applying to bank the VOC ERCs.

B. Eligible Sources. Sources that may create and bank emission reductions include, but are not limited to, the following permitted and unpermitted source types, regardless of the size of the source or the level of emissions:

1. ~~stationary sources, including point sources, fugitive emission sources, and off-shore sources;~~
2. ~~mobile sources, including on-road and off-road sources and marine vessels; and~~
3. ~~area and indirect sources, including nonpoint sources and agricultural sources.~~

CBA. Acceptable Methods of Creation. Methods of reducing emissions to receive credit under ~~this rule~~ ~~these regulations~~ ~~this Chapter~~ include, but are not limited to, the following:

1. enforceable installation of add-on control equipment ~~(an actual emission reduction resulting from the installation of a level of control greater than that which is required by regulation, permit, or SIP provision if the applicant accepts a permit provision specifying a lower level of emissions);~~
2. enforceable change in process(es);
3. enforceable change in process inputs, formulations, products or product mix, or raw materials (an actual emission reduction resulting from more effective operation and maintenance of abatement and process equipment if the applicant accepts a permit provision specifying a lower level of emission);
4. enforceable ~~reduction in actual emission rate(s);~~
54. enforceable ~~permanent~~ shutdown of ~~emitting emission~~ units or ~~facilities stationary sources~~ (an actual emission reduction resulting from a permanent shutdown of equipment after January 1, 1990, and which causes a loss of capability to produce emissions that were reported in the 1990 or later emissions inventory);
65. enforceable production curtailment(s); ~~and~~
76. enforceable reductions in operating hours; ~~and~~
8. ~~other~~ enforceable ~~methods that might be applicable to eligible source types;~~ and
9. ~~enforceable reduction in emissions from area and mobile source types.~~

~~D. Timing of the Emission Reduction. In order to be eligible for banking, emission reductions must occur after December 31, 1989. Creditable emission reductions made prior to December 31, 1989, are not eligible for banking and can only be used for netting.~~

~~E. Geographic Areas. Emissions are banked by geographic areas, usually individual parishes. Separate accounts shall be maintained (either by parish or by EPA designated geographic area) for ozone nonattainment areas and ozone attainment areas. Each area, shall maintain separate accounts for NO_x and for VOCs.~~

FCB. Criteria for ERC Approval;

1. Emission reductions shall be recognized as ERCs only after the approval of the department has been obtained. The department shall ~~certify~~ approve emission reductions as ERCs that are determined to be surplus, permanent, quantifiable, and enforceable, as defined in LAC 33:III.605.:

- a. ~~surplus;~~
- b. ~~permanent;~~
- c. ~~quantifiable; and~~
- d. ~~enforceable.~~

~~2. Removal of Emission Reduction Credits either for use by a facility or to meet the 15 percent VOC RFP Plan (Section 182(b)(1)(A) of the CAAA) will be done in accordance with LAC 33:III.621.~~

2. Emission reductions may be creditable for use as offsets for up to 10 years from the date of the actual emission reduction to the atmosphere. An ERC is considered to be used FOR THIS PURPOSE upon issuance of a permit that relies upon the ERC as offsets.

~~GDC.~~ Procedures for Calculating the Surplus Emission Reduction. The following procedures shall be used in calculating the quantity of surplus creditable air emission reductions: WHEN CONSIDERING NO_x REDUCTIONS, ONLY THE NO_x INVENTORY AND ERC AND PENDING ERC APPLICATIONS FOR NO_x WILL BE CONSIDERED. CONVERSELY, WHEN CONSIDERING VOC REDUCTIONS, ONLY THE VOC INVENTORY AND ERC AND PENDING ERC APPLICATIONS FOR VOC WILL BE CONSIDERED.

~~1. define the baseline period. The applicant shall first determine the two-year baseline period, as defined in LAC 33:III.605, over which the emission reductions are to be calculated;~~

1. IF THE DESIGN VALUE FOR THE NONATTAINMENT AREA IS ABOVE THE 1-HOUR NATIONAL AMBIENT AIR QUALITY STANDARD (NAAQS) FOR OZONE, the department shall compare the current total point-source emissions inventory FROM EIS for the modeled parishes to the base case inventory EXCEPT THAT BEGINNING WITH THE 2005 EMISSIONS INVENTORY, THIS COMPARISON SHALL BE MADE TO THE BASE LINE INVENTORY;

2. Calculate actual emissions during the baseline period;

3. Calculate adjusted allowable emissions DURING THE BASELINE PERIOD. Allowable emissions shall be adjusted to account for all new or revised federal or state regulations adopted that will require, or would have required, all or a portion of the emission reductions that comprise the ERC application or ERC (in the case of a partial use of a previously approved ERC) AT THE TIME A PERMIT APPLICATION THAT RELIES UPON THE REDUCTIONS AS OFFSETS IS DEEMED ADMINISTRATIVELY COMPLETE;

4. Quantify baseline emissions as follows:

a. for stationary sources located in ozone nonattainment areas:

i. if THE DESIGN VALUE FOR THE NONATTAINMENT AREA IS ABOVE THE 1-HOUR NAAQS FOR OZONE AND the current total point-source inventory for the modeled parishes exceeds the base case inventory OR BASE LINE INVENTORY, AS APPROPRIATE PER SUBSECTION C.1 OF THIS SECTION, baseline emissions MAY NOT EXCEED THE QUANTITY OF EMISSIONS ATTRIBUTED TO THE STATIONARY POINT SOURCE(S) IN QUESTION IN THAT MODEL. IN THIS CASE, BASELINE EMISSIONS shall be the lower of actual emissions, adjusted allowable emissions DETERMINED in accordance with Subsection C.3 of this Section, or MODELED emissions ATTRIBUTED TO THE STATIONARY POINT SOURCE(S) IN QUESTION IN THE BASE CASE OR BASE LINE INVENTORY, AS APPROPRIATE; or

ii. if THE DESIGN VALUE FOR THE NONATTAINMENT AREA IS NOT ABOVE THE 1-HOUR NAAQS FOR OZONE OR the current total point-source inventory for the modeled parishes does not exceed the base case inventory OR BASE LINE INVENTORY, AS APPROPRIATE PER SUBSECTION C.1 OF THIS SECTION, baseline emissions shall be the lower of actual emissions or adjusted allowable emissions DETERMINED in accordance with Subsection C.3 of this Section; and

b. for stationary sources located in Calcasieu Parish or any parish redesignated as ozone nonattainment by the EPA after December 20, 2001, baseline emissions shall be the lower of actual emissions or adjusted allowable emissions DETERMINED in accordance with Subsection C.3 of this Section.

2. quantify baseline emissions. The baseline emissions shall be determined by first calculating calculated by determining the actual emissions during each year of the baseline period. Unless the department determines the baseline period to be one calendar year, the actual emissions for each year of the baseline period shall be averaged as follows: to determine the average baseline emission level;

a. if the source is located in a nonattainment area, the department must compare the current total point source emissions inventory for the modeled parishes to the adjusted total point source emissions inventory, as defined in LAC 33:III.605, used in the most recent SIP attainment demonstration model.

i. If the current total point source inventory for the modeled parishes exceeds that used in the most recent SIP attainment demonstration model, baseline emissions may not exceed the quantity of emissions attributed to the point source(s) in question in that model. In this case, baseline emissions shall be the lower of actual, allowable, or modeled emissions, as defined in LAC 33:III.605.

ii. If the current total point source inventory for the modeled parishes does not exceed that used in the most recent SIP attainment demonstration model, baseline emissions shall be the lower of actual or allowable emissions as defined in LAC 33:III.605.

~~b. — for sources located in attainment areas identified in LAC 33:III.603, baseline emissions shall be the lower of actual or allowable emissions as defined in LAC 33:III.605;~~

~~35. Calculate allowable future (potential) emissions after the reductions occurred; AND. The applicant shall calculate the allowable future emissions for the source. The allowable emissions shall be based on the maximum emissions capacity of the source except that physical and operational limitations, including air pollution control equipment, restrictions on hours of operation or the type of material combusted, stored, or processed, or other emission restrictions that will be included in a federally enforceable air permit or applicable rules and regulations may shall be considered in calculating the allowable future emissions; and~~

~~46. calculate the emission reduction credit. The ERC shall be calculated calculate the difference in baseline emissions and future allowable emissions by subtracting the allowable future emissions from the baseline emission level; and Calculate the surplus emission reduction by subtracting the allowable emissions after the reduction occurred from the baseline emissions.~~

~~5. — adjust for new emission reduction requirements and netting in accordance with LAC 33:III.621.B.~~

~~D. Adjustments for Netting. Emission reductions used in a netting analysis (i.e., to determine the net emissions increase as defined in LAC 33:III.504 or 509, as appropriate) that prevented the increase from being considered "significant" are not eligible for use as offsets. The quantity of emission reductions utilized to "net out" shall not be considered creditable.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:

§611. Mobile Sources Emission Reductions—Reserved

Repealed.

~~A. — Pollutants. Reductions in the following types of air emissions are eligible for banking pursuant to this rule:~~

- ~~1. — volatile organic compounds (VOCs); and~~
- ~~2. — nitrogen oxides (NO_x).~~

~~B. — Eligible Sources. To qualify as emission reduction credits, mobile source emission reductions must meet the same criteria as stationary source emission reductions. The emission reductions from mobile sources must be real, quantifiable, enforceable, surplus, and permanent. Eligible credit-generating vehicles~~

~~must have been registered and insured by the owner (without change of ownership) at an address within the nonattainment area continuously for at least the previous 12 months prior to the date the vehicle is purchased by the program to be eligible for credit. Eligible vehicles are required to be operable (capable of being used or operated) and driven to the designated intake site by the owner or his/her legal representative (or in the case of corporate-owned vehicles, a certified agent), on a day pre-arranged by the department. In addition, eligible vehicles must undergo a physical inspection, in accordance with Subsection D of this Section, designed to ensure that major body components have not been removed and that the vehicle could be readily used for normal transportation purposes. The site may be owned or leased by a certified automobile crusher who is licensed and certified by the Used Motor Vehicle and Parts Commission. Vehicle model years 1981 and pre-1982, light-duty gas vehicles (LDGVs), and light-duty gas trucks (LDGTs) up to 10,000 pounds gross vehicle weight rating (GVWR) will be considered for mobile emission reduction credits (MERCs).~~

~~C.—— Calculating Credits~~

~~1.—— Mobile emission reduction credits (MERCs) for VOCs and NO_x shall be issued each year according to the following:~~

~~a.—— the formula below includes emission factors estimated by the department, using the latest version of EPA's mobile source emissions model (MOBILE):~~

$$MERC = \frac{[(SCRAP - REPLACE) \times MILESC \times 0.000001102]}{DF}$$

~~where:~~

~~MERC = mobile emission reduction credit (pounds per year of pollutant);~~

~~SCRAP = emission rate of scrapped vehicle in grams per mile, based on the model year of the scrapped vehicle;~~

~~REPLACE = average in-use vehicle emission rate in grams per mile for year in which vehicle is scrapped;~~

~~MILESC = annual mileage corresponding to model year of scrapped vehicle;~~

~~0.000001102 = conversion factor (grams to tons);~~

~~DF = discount factor, equal to 1.2; or~~

~~b.—— mobile emission test results certificate or other state certified/EPA approved program.~~

~~2.——MERC calculations for all model years will be provided, annually, by the department for the method described in Subsection C.1 of this Section. MERCs shall be valid for a period of three years and shall not be traded.~~

~~D.——Vehicle Visual Inspection. In order to be eligible for MERCs, each vehicle to be scrapped shall be subjected to a visual inspection prior to scrapping. Inspections shall be conducted by a licensed automobile crusher and information recorded on a form designed by and submitted to the Office of Environmental Services, Permits Division. The physical presence of the following elements shall be included in the inspection and shall be required for approval:~~

- ~~1.——exhaust system;~~
- ~~2.——bumpers;~~
- ~~3.——doors;~~
- ~~4.——fenders;~~
- ~~5.——side and quarter panels;~~
- ~~6.——hood and trunk lid;~~
- ~~7.——windshields and windows;~~
- ~~8.——seats;~~
- ~~9.——instrumentation and gauges; and~~
- ~~10.——date of safety inspection sticker.~~

~~E.——Automobile Scrappage. All retired vehicles must be scrapped by a certified automobile crusher who is licensed and certified by the Used Motor Vehicle and Parts Commission. Recycling of vehicle parts must be done by a recycler/dismantler who is licensed by the Used Motor Vehicle and Parts Commission. Solid, liquid, and gaseous waste generated by vehicle scrappage must be disposed of or recycled in accordance with applicable federal, state, and local laws. At a minimum, scrapping shall entail the permanent destruction or recycling of the following vehicle components:~~

- ~~1.——fuel metering system:

 - ~~a.——carburetor and internal parts (or fuel injection system);~~
 - ~~b.——air/fuel ratio feedback and control system; and~~
 - ~~c.——cold start enrichment system;~~~~
- ~~2.——air induction system:

 - ~~a.——controlled hot air intake system;~~
 - ~~b.——intake manifold;~~
 - ~~c.——heat riser valve and assembly; and~~
 - ~~d.——turbocharger systems;~~~~

3. ~~ignition system:~~
 - a. ~~distributor and internal parts;~~
 - b. ~~spark advance/retard system;~~
 - c. ~~spark plugs;~~
 - d. ~~ignition coil and/or control module; and~~
 - e. ~~ignition wires;~~
4. ~~evaporative control systems:~~
 - a. ~~vapor storage canister;~~
 - b. ~~vapor liquid separator; and~~
 - c. ~~fuel tank and filler cap;~~
5. ~~positive crankcase ventilation (PCV) system:~~
 - a. ~~PCV; and~~
 - b. ~~oil filler cap;~~
6. ~~exhaust gas recirculation (EGR) system:~~
 - a. ~~EGR valve body, and carburetor spacer if applicable; and~~
 - b. ~~EGR rate feedback and control system;~~
7. ~~air injection system:~~
 - a. ~~air pump;~~
 - b. ~~valves affecting distribution of flow; and~~
 - c. ~~distribution manifold;~~
8. ~~catalyst or thermal reactor system:~~
 - a. ~~catalytic converter and constricted fuel filler neck;~~
 - b. ~~thermal reactor;~~
 - c. ~~exhaust manifold; and~~
 - d. ~~exhaust portliner and/or double walled exhaust pipe;~~
9. ~~engine:~~
 - a. ~~cylinder block;~~
 - b. ~~pistons;~~
 - c. ~~connecting rods;~~
 - d. ~~crankshaft;~~
 - e. ~~valve train; and~~
 - f. ~~cylinder head;~~
10. ~~transmission:~~

- a. ~~all components housed within the transaxle;~~
 - b. ~~torque converter;~~
 - c. ~~clutch related components, including flywheel, pressure plate, friction disc, and throw-out bearing; and~~
 - d. ~~all components housed within the transmission case;~~
11. ~~miscellaneous items used in systems and components listed in Subsection E.1-10 of this Section:~~
- a. ~~hoses, clamps, fittings, tubing, sealing gaskets or devices, and mounting hardware;~~
 - b. ~~pulleys, belts, and idlers;~~
 - c. ~~vacuum, temperature, and time sensitive valves and switches; and~~
 - d. ~~electronic controls; and~~
12. ~~vehicle frame.~~

F. ~~Recordkeeping Requirements. The following information shall be recorded on a form prepared by the participating automobile crusher and submitted to the Office of Environmental Services, Permits Division in duplicate:~~

- 1. ~~name, address, license number, and telephone number of the automobile crusher, and name of person(s) conducting vehicle visual inspection;~~
- 2. ~~vehicle make, vehicle model, vehicle model year, vehicle license plate number, vehicle identification number, vehicle mileage, checklist of vehicle components scrapped, and date of scrapping;~~
- 3. ~~scrapped vehicle owner's name, address, and telephone number, and vehicle owner's insurance company and policy number;~~
- 4. ~~copy of Louisiana certificate of title for each scrapped vehicle;~~
- 5. ~~copy of proof of insurance for each scrapped vehicle; and~~
- 6. ~~a duplicate copy of the permit to dismantle vehicle and the notice of acquisition.~~

G. ~~Compliance Auditing and Enforcement. The department may audit any files and/or records created to comply with recordkeeping requirements. The department shall reserve the right to inspect facilities, including automobile crushers, for compliance with the requirements specified in this rule during regular business hours, Monday through Friday. Department inspectors shall be afforded immediate access to scrapping/dismantling facilities on request. LDEQ will notify the Louisiana Used Motor Vehicle and Parts Commission of any inspections of automobile crushers. Violation of any provisions of this rule, including~~

~~falsification of information in reports, shall be grounds for the department to disallow or void any MERCs resulting from or associated with the violation and shall be subject to the penalties specified in R.S. 30:2025.~~

~~H.—— Geographic Areas. Each bank is limited to a designated ozone nonattainment area, and separate accounts shall be maintained for NO_x and VOCs. Ozone nonattainment areas designated as marginal and above may participate.~~

~~I.—— Participation in Mobile Source Emission Reductions Program~~

~~1.—— Point source Facilities Obtaining MERCs. Any stationary point source facility in ozone nonattainment areas designated marginal and above may request the purchase of MERCs. The department will develop and maintain a directory of automobile year models/types available and the owners wishing to scrap their vehicles. The facility wishing to purchase MERCs will contact the department and indicate the amount of VOC and/or NO_x emission reduction credits they are seeking. The department will release to that facility the names and telephone numbers of owners sufficient to meet all or part of the desired number of emission reduction credits. It will be the responsibility of the facility to negotiate a fair market value, a minimum of \$450, with the owner of the vehicle. A written statement of that negotiation shall be provided to the Office of Environmental Services, Permits Division signed by both the facility agent and the owner(s) of the vehicle(s) to be scrapped. A check from the facility to the vehicle owner will be submitted with the written statement of negotiation to the department. Upon receipt of the written statement of negotiation and the facility's check to the vehicle owner, the department will arrange for a licensed and certified automobile crusher to accept the designated vehicles for destruction. A department representative will witness the destruction of the vehicle(s) and will release the facility's check to the vehicle owner. The purchased MERCs will be transferred to the facility's ERC bank balance. In the event that vehicle scrappage does not take place after the written statement of negotiation and the check are forwarded to the department, the department will return to the facility the facility's check upon demand.~~

~~2.—— Private Entities. (Any private entity wishing to participate in the mobile source emission reduction program without benefit of a list of owners wishing to scrap their vehicles.) It will be the responsibility of the private entity to negotiate a fair market value, a minimum of \$450, with the owner of the vehicle. A written statement of that negotiation shall be provided to the department signed by both the private entity agent and the owner(s) of the vehicle(s) to be scrapped. A check from the private entity to the vehicle owner will be submitted with the written statement of negotiation to the Office of Environmental Services, Permits Division. Upon receipt of the written statement of negotiation and the private entity's check to the vehicle owner, the department will arrange for a licensed and certified automobile crusher to accept the designated vehicles for destruction. A department representative will witness the destruction of the vehicle(s) and will release the private entity's check to the vehicle owner. In the event that vehicle~~

~~scrappage does not take place after the written statement of negotiation and the check are forwarded to the department, the department will return to the private entity the private entity's check upon demand.~~

~~J.—— Uses of MERCs. Credit for the emission reductions are applicable for only three years. MERCs can be used as an alternative method of compliance with VOC and NO_x regulations.~~

~~K.—— Application and Processing Fees. All fees shall be assessed in accordance with the provisions of LAC 33:III.Chapter 2.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:881 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2448 (November 2000), repealed LR 28:

§613. ERC Bank Balance Sheet Recordkeeping and Reporting Requirements

~~A.—— ERC Bank Balance Sheet. For each applicable pollutant (VOC and NO_x), each owner or operator shall maintain an ERC Bank Balance Sheet which shall include the minimum information of company name, physical location, pollutant, date of latest transaction, permit numbers affected, date of ERC transaction, date of emissions increase/decrease, ERCs deposited (TPY), ERCs relied upon for netting (TPY) ERCs used for offsets (TPY), ERCs available for netting (TPY) and ERCs available for offsets (TPY).~~

A. Recordkeeping Requirements. All records shall be maintained for the life of the ERC and shall be available, upon request, for inspection by the department. Amounts should be specified in tons per year.

1. For each applicable pollutant (VOC and NO_x) approved ERC certificate or pending ERC application, each ERC owner or operator shall maintain ERC records of the following:

- a. a complete description of all projects that generated or required use of ERCs;
- b. ERC deposits applied for, but not yet approved (i.e., applications);
- c. approved ERC deposits;
- d. ERCs used as offsets;
- e. ERCs that have expired or were sold to another source;
- f. ERCs transferred to another party;
- f. the date of each transaction;
- g. the current ERC balance; and

hg. adjustments to the ERC balance to account for new emission reduction requirements and netting in accordance with LAC 33.III.621.B 607; Amounts should be specified in tons per year.

h. the date of each transaction (for applications, the date on which the application was submitted; for deposits, the date the ERC Certificate was issued; for ERC used as offsets, the date on which the permit was issued that relied upon the ERC as offsets; for transfers, the date of sale; for adjustments, the date on which a regulation was promulgated that required, or would have required, all or a portion of the emission reductions that comprise the ERC or ERC application, or the date on which the permit was issued that relied upon a reduction (that was either banked as ERC or part of an ERC application) to “net out”); and

i. the current ERC balance.

2. For each emission reduction that will be part of an ERC bank application or permit application for construction or modification that requires offsets, the ERC owner or operator shall maintain records of the following:

a. the year(s) determined to be the baseline period;

b. actual emissions (TPY) before the start-up of the project as evaluated over the baseline period;

c. allowable emissions for the affected sources;

ed. the date of the actual emissions decrease;

de. allowable emissions or proposed allowable emissions, as appropriate, after the project (TPY);

ef. the emission change, emissions (TPY) attributed to the affected emissions unit(s) in the most recent SIP attainment demonstration model; and

fg. the creditability of the project. Creditability of projects shall be determined by reviewing all applicable federally enforceable regulations promulgated before and after the emissions reduction; any emission reductions that are required or would have been required by all applicable federal and state regulations promulgated before and after the emission reduction.

3. For each emission increase that will require use of ERCs, the owner or operator shall maintain records of the following:

a. the year(s) determined to be the baseline period;

b. actual emissions (TPY) before the start-up of the project as evaluated over the baseline period;

e. the date of the actual emissions increase;

d. allowable emissions after the project (TPY);

e. the emission change; and

f. the net contemporaneous increase or decrease in emissions at the facility.

B. Netting and Offsets. In order to keep track of all transactions and the ERC balances and to prevent an ERC from being used for both netting and offsets, the following procedures shall be followed:

1. each ERC that is created is assigned an item number;

2. each transaction is shown on a separate line under the appropriate item number;

3. ERCs that are relied upon for netting are deducted from the balance available for offsets but not from the balance available for netting (since all emission increases and decreases are included in the contemporaneous period); and

4. ERCs that are used for internal or external offsets are deducted from both balances.

C. Recordkeeping Requirements. Each owner or operator shall maintain records on all ERCs deposited in the ERC banking database. This information shall be available, upon request, for inspection by the administrative authority. The records shall be maintained for the life of the ERC and shall include the minimum information: permit number, date permit issued, date of start-up of the increase/decrease, emissions (actual) before the start-up (TPY), emissions (allowable) after the project (TPY), emission change for the project, creditable increases/decreases (TPY), brief description of project, and creditability of project. Creditability of projects shall be defined by all applicable regulations (RACT, NSPS, etc.), emissions before the project (baseline period, hours/year average, percentage of capacity, fuel usage), and emissions after the project (lower of potential or allowable emissions).

D. Schedule. All applications for banking ERCs in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge where the emission reductions occurred before August 20, 1994, must have been submitted prior to February 20, 1995. First-time applications for banking ERCs for attainment parishes may be submitted at any time. If a parish is redesignated as ozone nonattainment by the EPA, applications for banking ERCs for those parishes must be submitted within six months after the effective date of the EPA designation. All applications for banking ERCs where the emission reductions occurred after the date this banking rule was adopted for an area shall be submitted by March 1 following the year in which the reduction occurred. The balances (i.e., the balance available for netting and the balance available for offsets) from the ERC bank balance sheets of Subsection A of this Section shall be submitted to the department by March 1 of each year together with the certification specified in Subsection E of this Section. All submittals required by this Subsection must be submitted to the Office of Environmental Services, Permits Division. All emission reductions must meet the timing restrictions set forth in LAC 33:III.607.D in order to be eligible for banking as ERCs.

B. Reporting Requirements

1. All emission reduction applications must meet the timing restrictions set forth in LAC 33:III.615.A and B in order to be eligible for banking as ERCs.

2. An annual summary report summarizing of all records required by Subsection A of this Section shall be submitted to the department by March 31 of each year. This submittal shall be certified, as specified in Subsection C of this Section, and submitted mailed or hand-delivered to the Office of Environmental Services, Permits Division, in a format specified by the department. This form is being provided to facilitate the proper submittal of information required by these provisions. The form is available at the department's website. If a reporting facility chooses not to use this form, the facility's submittal must meet the requirements of this Subsection. Creditability of each emission reduction project should be addressed in the cover letter.

3. Sources located in EPA-designated ozone attainment areas subject to LAC 33:III.510 shall submit the summary report required by Subsection B.2 of this Section according to the schedule outlined in LAC 33:III.510.C.1.

EC. Certification. A certifying statement is to be signed by the owner(s) or operator(s) responsible official as defined in LAC 33:III.502 and shall accompany each ERC bank balance annual report that is submitted to attest that the information contained in the balance report is true and accurate to the best knowledge of the certifying official. The certification shall include the full name, title, and signature of the certifying official, and the date of signature, and telephone number of the certifying official.

F. Inclusion of ERC Bank in the Emissions Inventory. The administrative authority shall be responsible for including the banked ERCs in the current emissions inventory so that the credits are considered to be "in the air" for air quality planning purposes. Any failure by the regulatory agency to fulfill this responsibility shall not affect the validity of the ERCs in any manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 26:486 (March 2000), LR 26:2449 (November 2000), LR 28:

§615. Schedule for Submitting Applications

A. All bank balance sheets applications for banking emission reductions where the emission reductions occurred after adoption of the final rule shall be submitted by March 31 following the year in which the reductions occurred. Thereafter, the bank balance and the applicant's certification should be

~~submitted annually on March 1. ERC applications can be submitted in the form of an ERC bank application or as part of a permit application for construction or modification that requires offsets. Failure to apply for ERCs by March 31 will invalidate the emission reductions as offsets.~~

B. ~~All applications for banking ERCs in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge where the emission reductions occurred before August 20, 1994, must have been submitted prior to February 20, 1995. First time applications for banking ERCs for attainment parishes identified in LAC 33:III.603 may be submitted at any time. If a parish is redesignated as ozone nonattainment by the EPA, applications for banking ERCs for those in such parishes must be submitted by March 31 of the year following the~~ within six months after the effective date of the EPA designation. ~~Once a banking application has been filed, the bank balance and the applicant's certification should be submitted annually on March 1.~~

C. ~~Sources subject to LAC 33:III.510 shall submit applications for banking ERCs according to the schedule outlined in LAC 33:III.510.C.1.~~

C. ~~Owner(s) or operator(s) of major sources in nonattainment areas with VOC or NO_x emission reductions not identified through the process described in Subsection B of this Section will be confiscated. A notification of confiscation will be sent by the department at such time that a permit modification or renewal is submitted using "unbanked" VOC or NO_x emission reductions described in Subsection B of this Section as offsets or for netting purposes.~~

ED. ~~Bank balance sheets Applications for banking emission reductions which that are to be made as part of a project which that includes an increase of in emissions and for which the reduction will serve to net out or offset the increase may be submitted as part of the permit application for the proposed increase. Such reductions will be reviewed for applicability as an ERCs concurrently with the review of the permit application.~~

E. ~~The applicant shall speciate VOC according to individual compounds when applying to bank VOC reductions. Speciation of toxic air pollutants regulated in LAC 33:III.Chapter 51 is required.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:878 (August 1994), amended LR 21:681 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1623 (September 1999), LR 26:486 (March 2000), LR 28:

§617. **Procedures for Review and Approval of ERCs Bank Balance Sheets**

~~A.——~~ Determination of a Complete Application. ~~An ERC bank balance sheet shall be deemed complete when the department has determined that sufficient information is available to evaluate the ERC bank balance sheet. The department shall determine whether an ERC application is complete not later than 30 calendar days following receipt of the application, or after a longer time period agreed upon in writing by both the owner(s) or operator(s) and the department. Upon determination that the application is complete, the department shall notify the owner(s) or operator(s) in writing.~~

~~B.——~~ Submittal of Additional Information. ~~If the department determines that the bank balance sheet is not complete, the owner(s) or operator(s) shall be notified in writing of the decision, specifying the additional information that is required. The owner(s) or operator(s) shall have 90 days to submit the requested information. Upon receipt of all requested information, the department shall have 30 days to determine whether the application is complete. If no data is submitted or the application is still incomplete, the department may cancel the ERC bank balance sheet with written notification to the owner(s) or operator(s). Upon determination that the application is complete, the department shall notify the owner(s) or operator(s) in writing.~~

A. The department's review and approval of an application for ERCs generally shall be conducted when a request is submitted to use the reductions as offsets. The review shall be conducted in accordance with LAC 33.III.607.

~~B.~~ Preliminary Decision on the Approval or Disapproval of the Bank Balance Sheet to Approve the ERC. ~~Upon determining that a bank balance sheet is complete, the department shall have 60 days to perform an initial assessment of the bank balance sheet and render a preliminary decision as to whether to approve or to disapprove the ERC. Upon completion of this initial assessment making a preliminary decision to approve any ERC, the department shall provide written notice of such preliminary decision to the owner(s) or operator(s) and the public public notice of its decision. The public notice shall include the name and address of the applicant; the proposed quantity and type of emission reductions to be approved or disapproved; an explanation of the department's initial assessment; the opportunity and time periods to submit written public comments concerning the application; and the name and address of the person to whom public comments and requests for public hearings should be sent. A period of 30 days after the date of publication will be allowed for owner or operator and public comment. The notice of preliminary approval may be incorporated with a notice of preliminary approval of an air permit for which the ERC will be used as offsets. If the notice of preliminary approval is not associated with an air permit, the department's preliminary decision relates only to the banking of the emission reductions and not to the use of the ERCs.~~

~~C.~~ ERC Certificates

1. Issuance of ERC Certificates. Upon conclusion of the 30-day owner(s)' or operator(s)' comment period provided in Subsection B of this Section, the department shall have 30 days to render a decision as to whether the department approves, conditionally approves, or disapproves the application. This decision shall be promptly delivered in writing by registered mail to the owner(s) or operator(s). If the department decides to approve the ERC bank balance sheet application, the department shall issue an ERC certificate to the owner(s) or operator(s). A copy of the ERC certificate shall be retained by the department, and the original shall be delivered to the owner(s) or operator(s). Delivery by the department of the ERC certificate to owner(s) or operator(s) shall be accomplished by registered mail. The issued ERC certificate shall be recorded in the banking register/database.

2. Upon issuance of a permit that relies upon the use of approved ERCs as offsets, the department shall be responsible for recalculating the ERC balance for that entity and for providing that entity with an adjusted ERC certificate. In the case of a partial use of an ERC from an emission reduction project, the department shall issue a new certificate reflecting the available credits remaining. The remaining ERC(s) shall be reviewed again in accordance with LAC 33:III.607 at the time a request is received to use the remaining portion.

3. Transfer of ERCs. An ERC certificate may be transferred in whole or in part. The role of the department in the transfer of an ERC certificate shall be limited to providing information to the public, documenting ERC transfers, and registering ERC certificates. The department shall be notified by letter within 30 days of any transfer of an ERC to another party. This correspondence should indicate the new owner, the previous owner, the amount of ERC transferred, and the date of transfer. The department shall then issue a certificate indicating the new owner. In the case of a partial transfer, the department shall issue a new certificate to the new owner as well as a revised certificate to the current owner reflecting the available credits to each owner. The banking database shall be adjusted accordingly.

ED. Appeals. The owner(s) or operator(s) may appeal the department's decision following provisions specified in R.S. 30:2024.

F. Cancellation of ERC Bank Balance Sheet. Withdrawal of a bank balance sheet by an owner or operator shall result in the cancellation of the bank balance sheet. If an owner or operator resubmits the application, the application shall be treated as a new application, and the review and approval process will start over as if the applicant had submitted the bank balance sheet for the first time.

G. Governing Rules. ERC bank balance sheets shall be reviewed in accord with federal and state rules in effect at the time of the submittal of the ERC bank balance sheet.

HE. Request for Recalculation of ERCs. Anytime after the original ERC application is submitted, the applicant may request the recalculation of the ERCs for the purpose of using alternative baseline

emissions, an alternative baseline period, or availability of more accurate emissions data (i.e., performance test data, etc.). The review and approval of this recalculation request shall follow the same **schedule procedure** as set forth in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:878 (August 1994), amended by Office of Environmental Assessment, Environmental Planning Division, LR 28:

§619. Registration of Emission Reduction Credit Certificates Bank

A. ~~Banking Register/Database.~~ The department shall maintain a banking register/database that shall consist of a record of all information concerning ~~titles, interest, and other matters such as liens, encumbrances, changes of records,~~ **applications**, deposits, withdrawals, and transactions, as well as pertinent date(s) concerning such information. THE CURRENT TOTAL POINT-SOURCE EMISSIONS INVENTORY FOR BOTH NO_x AND VOC SHALL ALSO BE INCLUDED. All data in the banking register/database shall be available to the public upon request. ~~It is the goal of the department to establish a computerized database which will allow the public to ascertain the amount of reductions which are registered or banked in each designated ozone nonattainment area. In lieu of a computerized database, a paper copy of the amount of reductions that are registered or banked will be available at the department.~~

B. ERC Certificates. Certificates ~~will~~ shall be issued ~~at the point of trade for approved ERCs.~~ A record of each ERC certificate issued shall be retained by the department. Each ERC certificate shall ~~contain~~, at minimum:

- ~~1.~~ be numbered consecutively;
- ~~21.~~ bear the date of issuance;
- ~~32.~~ be signed by the ~~administrative authority~~ **department** **permitting authority**;
- ~~4.~~ bear the seal of the state;
- ~~53.~~ include the owner(s)' name(s); and address(es); ~~and phone number(s);~~
- ~~64.~~ state the ~~address~~ name of the **facility** **stationary source** where the emission reduction occurred;
- ~~75.~~ indicate the method of ERC creation;
- ~~86.~~ show the quantity of the ERC and type of pollutant; and
- ~~97.~~ show when the emission reduction occurred.

C. Multiple ERC Certificates and Multiple Ownership. Single or multiple ERC certificates may be issued for a particular emission reduction project. At the owner(s)' or operator(s)' request, multiple ERC certificates shall be issued for each owner's proportional share.

~~D. Duplicate Copy of the ERC Certificate. The department may reissue a lost, mutilated, or destroyed ERC certificate after the ERC certificate title bearer vouches that the original has been lost, mutilated, or destroyed. The word Duplicate, will appear on the reissued certificate.~~

~~E. Inclusion of ERC Bank in the Emissions Inventory. The department shall be responsible for including the banked ERCs in the current emissions inventory so that the credits are considered to be "in the air" for air quality planning purposes. Any failure by the department to fulfill this responsibility shall not affect the validity of the ERCs in any manner.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:879 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2449 (November 2000), LR 28:

§621. Repealed. Protection of Banked Life and Adjustment of Approved ERCs

~~A. Only ERCs used as offsets are valid are valid for use as offsets for 10 years from the date of their actual emission reduction to the atmosphere, except as specified in Subsection B of this Section. ERCs can also be used for netting, but only during the contemporaneous period as specified in LAC 33:III.504. An ERC is considered to be used upon issuance of a permit that relies upon the ERC as offsets.~~

~~B. ERCs may be used by the ERC certificate owner(s) or operator(s) or by any entity to whom the ERC certificate has been transferred, except that the department may reduce the quantity of ERCs under the following circumstances:~~

~~1. Adjustments for New Emission Reduction Requirements. If a new or revised federally enforceable regulation is adopted that will require, or would have required, all or a portion of the emission reductions that comprise the ERC, that portion of the emission reduction required by the new regulation shall not be considered surplus. The quantity of ERCs shall be adjusted accordingly to account for new and revised emission reduction requirements in effect at the time of use of the ERCs. ERCs generated from the permanent shutdown of an emissions unit or facility shall not be adjusted.~~

~~2. Adjustments for Netting. Emission reductions used in a netting analysis (i.e., to determine the net emissions increase) as provided in LAC 33:III.504 that prevented the increase from being considered "significant" are not eligible for use as offsets. The quantity of ERCs used for this purpose shall be adjusted accordingly.~~

1.——Adjustments for Attainment Planning Purposes. The department will maintain a bank balance (of VOC reductions which have not been designated for either netting or offset purposes) sufficient to demonstrate the commitments made in the reasonable further progress plan which may be a reduction identified to satisfy the 15 percent VOC Reasonable Further Progress Plan or the contingency measures associated with the same plan. The department shall confiscate only those ERCs from the bank that are needed for attainment purposes either as a support to the 15 percent VOC RFP or when a milestone of that plan has been missed. ERCs which have already been used or for which a permit application has been submitted (either for netting or offsetting purposes) shall not be reduced in quantity or confiscated under any circumstance.

2.——Prior notification and comment opportunity. The department shall notify the owner(s) of reduction credits, in writing, its plans to confiscate in order to meet the 15 percent VOC RFP or contingency measures. A 30 day comment period will be allowed for the affected facility(ies) to respond to the department's confiscation or to submit an alternative emissions reduction proposal.

3.——Refunding of Unused ERCs. If all of the ERCs withheld for the reasonable further progress demonstration are not utilized, then the department shall refund the unused ERCs to the generating sites on a pro rata basis. Refunds will be in a direct proportion to a site's individual contribution to the amount of ERCs withheld for reasonable further progress. The period of time that an ERC was held by the department will not count toward the contemporaneous period for netting or the ten year life for offsetting purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:879 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1623 (September 1999), repealed LR 28:

§623. Repealed. Withdrawal, Use, and Transfer of Emission Reduction Credits

A.——Withdrawal of ERCs. An ERC certificate may be withdrawn in whole or in part. The ERC owner must submit a written request to withdraw and use the ERCs. This request may be submitted in the form of an ERC bank application or as part of a permit application for construction or modification. The administrative authority shall have 30 calendar days to review the request. Upon such request to withdraw ERCs from the bank, the department shall be responsible for recalculating the quantity of available ERCs for that entity and for providing that entity with an adjusted bank balance sheet ERC certificate. In the case of a

~~partial withdrawal, the assistant secretary department shall issue a new certificate reflecting the available credits remaining.~~

~~B. Use of ERCs. ERCs shall be used in accordance with applicable regulations. ERCs may be used anytime after the issuance of an ERC certificate. After the ERC has been used, the ERC owner shall relinquish title to the ERC, and the banking register shall indicate that the ERC has been used. After an ERC is applied to an air permit or a project or otherwise used, the quantity shall not be changed for any reason. An ERC may be used:~~

- ~~1. to offset increased emissions from new or modified sources in nonattainment or attainment areas in accordance with LAC 33:III.504;~~
- ~~2. for netting under nonattainment new source review or prevention of significant deterioration programs in accordance with LAC 33:III.504 and 509;~~
- ~~3. where allowed, to establish alternative emission limits (which have been approved by both the department and the U.S. EPA); and~~
- ~~4. in another manner deemed appropriate and in accordance with applicable state and federal law.~~

~~CB. Transfer of ERCs. An ERC certificate may be transferred in whole or in part. The role of the department in the transfer of an ERC certificate shall be limited to providing information to the public, documenting ERC transfers, and registering ERC certificates. The administrative authority department shall be notified within 30 days of any transfer of the credit an ERC to another party. The old certificate shall be submitted to the assistant secretary who The department shall then issue a new certificate within 30 days indicating the new owner. In the case of a partial transfer, the assistant secretary department shall issue a new certificate to the new owner as well as a revised certificate within 30 days to the current owner reflecting the available credits to each owner. The original ERC certificate shall be canceled. The banking register/database indicate the transfer to the new owner (and reduction of credits when a partial transfer takes place) and the invalidation of the original ERC certificate.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:880 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2449 (November 2000), repealed LR 28:

§625. Application and Processing Fees

Repealed. ~~Fees will be assessed when the application process does not coincide with a permit application, permit modification, required initial reporting or required annual reporting.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:880 (August 1994), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28: