**DIVISION 268**

**EMISSION REDUCTION CREDITS**

**340-268-0010**

**Applicability**

This division applies to any person who wishes to create or bank an emission reduction credit in the state.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.]

Stat. Auth.: ORS 468A
Stats. Implemented: ORS 468 & ORS 468A
Hist.: DEQ 14-1999, f. & cert. ef. 10-14-99; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

**340-268-0020**

**Definitions**

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.]

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 14-1999, f. & cert. ef. 10-14-99

**340-268-0030**

**Emission Reduction Credits**

Any person who reduces emissions by implementing more stringent controls than required by a permit or an applicable regulation may create an emission reduction credit. Emission reduction credits must be created and banked within two years from the time of actual emission reduction.

(1) Creating Emission Reduction Credits. Emission reductions can be considered credits if all of the following requirements are met:

(a) The reduction is permanent due to continuous overcontrol, curtailment or shutdown of an existing activity or device.

(b) The reduction is in terms of actual emissions reduced at the source. The amount of the creditable reduction is the difference between the contemporaneous (any consecutive 12 calendar month period during the prior 24 calendar months) pre-reduction actual (or allowable, whichever is less) emissions and the post-reduction allowable emissions from the subject activity or device.

(c) The reduction is either:

(A) Enforceable by DEQ through permit conditions or rules adopted specifically to implement the reduction that make increases from the activity or device creating the reduction a violation of a permit condition; or

(B) The result of a physical design that makes such increases physically impossible.

(d) The reduction is surplus. Emission reductions must be in addition to any emissions used to attain or maintain NAAQS in the SIP.

(e) Sources in violation of air quality emission limitations may not create emission reduction credits from those emissions that are or were in violation of air quality emission limitations.

(f) If establishing emission reduction credits due to the replacement of wood stoves and fireplaces, the source must use the procedures in Division 240 to calculate the emission reductions.

(g) Hazardous emissions reductions required to meet the MACT standards at 40 CFR part 60 and part 61, including emissions reductions to meet the early reduction requirements of section 112(i)(5), are not creditable as offsets.However, any emissions reductions that are in excess of or incidental to the MACT standards are not precluded from being creditable as offsets as long as all conditions of a creditable offset are met.

(2) Banking of Emission Reduction Credits.

(a) The life of emission reduction credits may be extended through the banking process as follows:

(A) Emission reduction credits may be banked for ten years from the time of actual emission reduction.

(B) Requests for emission reduction credit banking must be submitted within the 2 year (24 calendar month) contemporaneous time period immediately following the actual emission reduction. (The actual emission reduction occurs when the airshed experiences the reduction in emissions, not when a permit is issued or otherwise changed).

(b) Banked emission reduction credits are protected during the banked period from rule required reduction, if DEQ receives the emission reduction credit banking request before DEQ submits a notice of a proposed rule or plan development action for publication in the Secretary of State's bulletin. The EQC may reduce the amount of any banked emission reduction credit that is protected under this section, if the EQC determines the reduction is necessary to attain or maintain an ambient air quality standard.

(c) Emission reductions must be in the amount of ten tons per year or more to be creditable for banking, except as follows:

(A) In the Medford-Ashland AQMA, PM10 emission reductions must be at least 3 tons per year.

(B) In Lane County, LRAPA may adopt lower levels.

(d) Emission reduction credits will not expire pending DEQ taking action on a timely banking request unless the 10 year period available for banking expires.

(3) Using Emission Reduction Credits: Emission reduction credits may be used for:

(a) Netting actions within the source that generated the credit, through a permit modification; or

(b) Offsets pursuant to the New Source Review program, OAR 340 division 224.

(c) Emission reduction credits are considered used when a complete NSR permit application is received by DEQ to apply the emission reduction credits to netting actions within the source that generated the credit, or to meet the offset and Net Air Quality Benefit requirements of the New Source Review program in OAR chapter 340, division 224.

(d) If the complete NSR permit application or NSR permit that is issued based on that application is amended based on changes to the proposed project, the owner or operator may continue to use the original emission reduction credits and any additional emission reduction credits that may become necessary for the project provided that the changes to the project do not result in a change to the two digit Standard Industrial Classification (SIC) code associated with the project and that the emission reduction credits will continue to satisfy the offset and net air quality benefit criteria for the first two extensions in accordance with OAR 340-224-0030(2). (e) If changes to the project will result in a change to the two digit SIC associated with the project or the offset and net air quality benefit criteria can no longer be met, the original application must be withdrawn; or if a permit or permit modification has been issued, the permit or permit modification must be terminated.

(4) Unused Emission Reduction Credits

(a) Emission reduction credits that are not used, and for which DEQ does not receive a request for banking within the contemporaneous time period, will become unassigned emissions for purposes of the Plant Site Emission Limit (PSEL) and are no longer available for use as external offsets.

(b) Emission reduction credits that are not used prior to the expiration date of the credit will revert to the source that generated the credit and will be treated as unassigned emissions for purposes of the PSEL pursuant to OAR 340-222-0055 and are no longer available for use as external offsets.

(5) Emission Reduction Credit (ERC)Permit

(a) DEQ tracks ERC creation and banking through the permitting process. The holder of ERCs must maintain either an ACDP, Title V permit, or an ERC Permit.

(b) DEQ issues ERC Permits for anyone who is not subject to the ACDP or Title V programs that requests an ERC or an ERC to be banked.

(c) An ERC permit will only contain conditions necessary to make the emission reduction enforceable and track the credit.

(d) Requests for emission reduction credit banking must be submitted in writing to DEQ and contain the following documentation:

(A) A detailed description of the activity or device controlled or shut down;

(B) Emission calculations showing the types and amounts of actual emissions reduced, including pre-reduction actual emission and post-reduction allowable emission calculations;

(C) The date or dates of actual reductions;

(D) The procedure that will render such emission reductions permanent and enforceable;

(E) Emission unit flow parameters including but not limited to temperature, flow rate and stack height;

(F) Description of short and long term emission reduction variability (if any).

(e) Requests for emission reduction credit banking must be submitted to DEQ within two years (24 months) of the actual emissions reduction. DEQ must approve or deny requests for emission reduction credit banking before they are effective. In the case of approvals, DEQ issues a permit to the owner or operator defining the terms of such banking. DEQ insures the permanence and enforceability of the banked emission reductions by including appropriate conditions in permits and, if necessary, by recommending appropriate revisions to the State Implementation Plan.

(f) DEQ provides for the allocation of emission reduction credits in accordance with the uses specified by the holder of the emission reduction credits. The holder of ERCs must notify DEQ in writing when they are transferred to a new owner or site. Any use of emission reduction credits must be compatible with local comprehensive plans, statewide planning goals, and state laws and rules.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468 & ORS 468A
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0265; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1980 10-14-99; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01