Rule 431 Emission Reduction Credits and Banking

(Adopted February 15, 1995; Amended July 18, 1996; Amended and Recodified June 24, 1999; Amended May 24, 2001; Recodified August 22, 2002; Amended May 28, 2009)

RULE 431 CONTENTS

1. PURPOSE

2. APPLICABILITY

3. DEFINITIONS

4. REGISTRATION OF EMISSION REDUCTION CREDITS

5. ADJUSTMENTS TO EMISSION REDUCTION CREDITS

6. TRANSFER AND USE OF EMISSION REDUCTION CREDITS

7. ELIGIBILITY OF OPEN BIOMASS EMISSION REDUCTION CREDITS

8. APPLICATION PROCEDURES FOR OPEN BIOMASS EMISSION REDUCTION CREDITS

9. ADMINISTRATIVE PROCEDURES AND TIMETABLE FOR OPEN BIOMASS EMISSION REDUCTION CREDITS

10. OPEN BIOMASS BURNING EMISSION REDUCTION CREDIT CALCULATIONS

11. DISTRICT ENFORCEMENT CONSIDERATIONS FOR OPEN BIOMASS EMISSION REDUCTION CREDITS

12. ELIGIBILITY OF STATIONARY SOURCE EMISSIONS REDUCTIONS FOR CREDIT

13. APPLICATION PROCEDURE FOR STATIONARY SOURCE EMISSION REDUCTION CREDITS

14. ADMINISTRATIVE PROCEDURES AND TIMETABLE FOR STATIONARY SOURCE EMISSION REDUCTION CREDITS

15. STATIONARY SOURCE ERC CALCULATIONS

16. COMMUNITY BANK

RULE 431

1 PURPOSE

1.1 To provide a mechanism for permitted and non-permitted emission sources to deposit, transfer, and use Emission Reduction Credits (ERCs) as offsets as allowed by applicable laws and regulations. To ensure that all emission reductions are transferred through the Butte County Air Quality Management District's (DISTRICT's) emission reduction credit bank pursuant to the California Health and Safety Code (HSC). All transfers and uses of emission reductions that are required under the DISTRICT's New Source Review (NSR), Rule 430 of this Regulation, shall be processed in accordance with this Rule.

1.2 To define ERC eligibility standards, quantitative procedures, and administrative practices and to ensure that ERCs are real, permanent, quantifiable, surplus, and enforceable.

1.3 To provide a mechanism for intra-basin transfer and use of banked ERCs.

1.4 To ensure that open biomass burning is restricted or prohibited for a parcel for which an ERC certificate has been issued exists.

1.5 To ensure that Phase Down emission reductions qualify as air quality offsets and emission reduction credits.

1.6 To set forth procedures for disbursing ERCs from the Community Bank.

2 APPLICABILITY:

The provisions of this Rule apply to the deposit, transfer, and use of ERCs from stationary sources and open biomass burning sources of air pollution emissions. References in this Rule to non-permitted source, permit exempt, shutdown, curtailment, authority to construct and permit to operate do not apply to open biomass burning sources. Additional details and procedures covering open biomass burning sources can be found in the DISTRICT Administrative Code Part B.

3 DEFINITIONS:

3.1 **Actual Emissions:** Means the measured or estimated emissions that most accurately represent the emissions from an emissions unit.

3.2 **Actual Emission Reductions:** Means a reduction in actual emissions from an emissions unit. Actual emission reductions shall be calculated on a quarterly basis, pursuant to Sections 10 or 15 of this Rule, and shall meet the following requirements:

3.2.1 Emission reductions shall be real, enforceable, quantifiable, and

permanent.

3.2.2 Emission reductions shall be in excess of any emission reductions that are:

3.2.2.1 Required or encumbered by any laws, rules, regulations or orders; or

3.2.2.2 Attributed to a control measure proposed or contained in a State Implementation Plan; or

3.2.2.3 Contained as measures in the adopted DISTRICT Air Quality Attainment Plan for attaining annual reductions required for the California Clean Air Act (CCAA) and the Federal Clean Air Act. Actual emission reductions attributed to a proposed control measure may be re-eligible as actual emission reductions in the following circumstances:

3.2.2.3.1 For control measures identified in the DISTRICT Air Quality Attainment Plan or State Implementation Plan, no rule has been adopted within two (2) years from the scheduled adoption date provided, however, the Air Pollution Control Officer (APCO) has not extended the scheduled adoption date;

3.2.2.3.2 For control measures not identified in the DISTRICT Air Quality Attainment Plan or State Implementation Plan, no rule has been adopted within two (2) years from the date of the latest public workshop notice.

3.2.3 Notwithstanding Section 3.2.2.1 of this Rule, emission reductions due to the decreased open burning of rice fields that were planted prior to the Connelly-Areias-Chandler Rice Straw Burning Reduction Act of 1991 shall qualify as actual emission reductions in accordance with HSC Section 41865(r)(1).

3.3 Affected Pollutants: Means all air pollutants for which an ambient air quality standard has been established by the U.S. Environmental Protection Agency (EPA) or the California Air Resources Board (CARB), and the precursors to such pollutants.

3.4 Applicable Requirements: Means air quality requirements with which a facility must comply pursuant to the State Implementation Plan, the Federal Clean Air Act as amended in 1990 and implementing regulations, and other provisions of the United States Code of Federal Regulations, and DISTRICT Rules, Regulations or permit requirements.

3.5 Applicant: The person, entity, landowner or their designee applying for an ERC certificate.

3.6 Bankable Emissions: Reductions in affected pollutants which meet the applicable provisions of the DISTRICT's banking and NSR Rules.

3.7 Banking System: The procedures of quantifying, certifying, recording, and storing ERCs for future use or transfer.

3.8 Banking Register: The document that records all ERC applications, deposits, withdrawals, transfers, and other transactions including the claiming of open biomass burning offset credits by stationary sources existing prior to first adoption of this Rule.

3.9 Biomass: Material derived from the harvesting of crops or removal of vegetation, including timber, except for material from processed dimensional timber.

3.10 COMMUNITY BANK: A depository of certified emission reduction credits available for loan at no cost to essential public services for compliance with offset requirements specified in Rule 430-*New Source Review*..

3.11 Control Efficiency: Means the ratio of controlled emissions to uncontrolled emissions of the proposed air pollution control technology which will be incorporated, by means of enforceable permit conditions, in the Authority to Construct and Permit to Operate. Emission reductions attributed to lowering throughput rates or operating hours shall not be considered in determining control efficiency.

3.12 Emission Reduction Credits: Reductions of actual emissions from an emission source that are registered with the DISTRICT in accordance with this Banking Rule. Reductions will be specified by pollutant, by location, and in units of pounds per calendar quarter.

3.13 Emissions Unit: Means an identical operation, parcel(s), process, or control equipment, such as an article, machine, or other contrivance, which emits, may emit, or results in the emissions of any affected pollutant directly or as fugitive emissions.

3.14 Enforceable: Means real, quantifiable, permanent, verifiable and legally binding.

3.15 ERC Certificate: A document certifying title to defined quantities and types of emission reductions issued by the DISTRICT to the owner(s) identified on the certificate.

3.16 Essential Public Services: The following facilities shall be considered essential public services:

3.16.1 A sewage treatment plant; or
3.16.2 A prison, jail or correctional facility;
3.16.3 A police or fire fighting facility; or
3.16.4 A school; or
3.16.5 A hospital; or
3.16.6 A landfill gas control or processing facility; or
3.16.7 A water delivery operation; or
3.16.8 An environmental cleanup operation;or
3.16.9 A biomass to energy conversion facility.

3.17 Historic Actual Emissions: Means actual emissions from an existing emissions unit averaged over the two (2) consecutive years immediately preceding the date of application. If the last two (2) years are unrepresentative of normal operations as determined by the APCO, then two (2) consecutive years of the previous five (5) years may be used. Where an emissions unit has been in operation for less than two (2) years, a shorter averaging period of at least one (1) year may be used, providing it represents the full operational history of the emissions unit. For rice straw burning the phase down emissions baseline years will be a five-year period (1988 through 1992).

3.18 No-burn List: A list of parcels for which ERCs exist and which will not receive burn permits.

3.19 Non-permitted Emissions: Emissions of pollutants into the atmosphere from sources that do not have air pollution operating permits. Non-permitted sources include exempt facilities.

3.20 Offsets: The use of an emission decrease from one or more sources to compensate for an emission increase in a non-attainment pollutant or its precursor from a new or modified source subject to the requirements of the DISTRICT's NSR Rule.

3.21 Parcel(s): A legally identifiable piece of land, or a portion of that land, or combined lands under common ownership, as registered with the County Assessor's office for property tax purposes.

3.22 Permanent: Means verifiable, real, quantifiable and legally binding emission reductions which continue or endure without fundamental or marked change.

3.23 Phase Down: Refers to any parcel(s) that was planted with rice during the years from 1988-1992.

3.24 Potential to Emit: Refers to the maximum daily capacity of a stationary

source or emissions unit to emit affected pollutants under its physical and operational design. Any physical or operational limitation on the daily capacity of the source or unit to emit a pollutant, including pollution control equipment and restrictions in hours of operation, type of material combusted, stored, or processed, shall be treated as part of its design limitation if they are incorporated into the applicable permit as enforceable permit conditions.

3.25 Proposed Emissions: The potential to emit for a new or post-modification emissions unit.

3.26 Quantifiable: Means the ability to estimate emission reductions in terms of both their amount and characteristics. The same method of estimating emissions should generally be used to quantify the emission levels before and after the reduction.

3.27 Quarterly: Means calendar quarters beginning in January, April, July and October.

3.28 Real: Means emission reductions that are not artificial, fraudulent or illusory.

3.29 Registered owner: The person, entity, landowner or their designee in whose name the ERC certificate is issued and listed in the banking register.

3.30 Restricted Burn List: Means a list of parcels for which ERCs exist and can receive a restricted burn permit.

3.31 Restricted Burn Permit: Means a permit to burn specific fields within an emissions unit or parcel of land for which an ERC certificate has been issued. The restricted burn permit ensures that the actual emissions are less than or equal to the amount allotted to the permit holder.

3.32 Shutdown: Either the earlier of the permanent cessation of emissions from a source or an emissions unit or the surrender of that unit's or source's operating permit. If prior to the surrender of the operating permit, the APCO determines that the source or emissions unit has been removed or fallen into an inoperable or unmaintained condition, the APCO may notify the owner of the intent to cancel the permit. If the owner cannot demonstrate to the satisfaction of the APCO, or does not respond within 60 days from the DISTRICT'S notice to cancel the permit, that the owner intended to operate again, then the APCO may cancel the permit and deem the source shutdown as of the date of the last emissions.

3.33 Source: Any building, structure, facility, or emissions unit which emits or may emit any affected pollutant directly or as a fugitive emission. A source may have a Permit to Operate or be exempt from permit. For purposes of this

Rule open biomass burning will be considered a source and such activity requires an annual burning permit.

3.34 Surplus: Means emission reductions that are in excess of any emission reductions which are proposed or contained in a DISTRICT Air Quality Attainment Plan for attaining reductions required to attain and maintain federal and State ambient air quality standards. Emission reductions due to the decreased open burning of rice fields that were planted prior to the Connelly-Areias-Chandler Rice Straw Burning Reduction Act of 1991 shall qualify as surplus emission reductions in accordance with HSC Section 41865(r) (1).

3.35 Transfer: The conveyance of an ERC certificate from one entity to another by the DISTRICT.

4 REGISTRATION OF EMISSION REDUCTION CREDITS

4.1 The DISTRICT shall maintain a bank register, which shall consist of the following:

4.1.1 A record of all deposits, withdrawals, and other transactions with regard to the DISTRICT's banking system.

4.1.2 A record of all open biomass burning offset credits derived from reduced burning within the DISTRICT and which credits are claimed by stationary sources existing prior to the adoption of this Rule (pre-existing source).

4.2 In the event that open burning biomass emission credits are claimed by a new or modified stationary source as offsets and obtained from outside the DISTRICT, the DISTRICT shall report the claiming of such offset credits to the district of origin of the biomass material.

4.3 The APCO may only grant an ERC certificate after the emission reductions have actually occurred and upon satisfaction of the following applicable provisions:

4.3.1 If the emission reductions were created as a result of greater operating efficiencies, reduced throughput, shortened operating hours, or from the application of more efficient control technology, a revised Permit to Operate must be issued. This revised permit must include specific quantifiable emission limits reflecting the reduced emissions.

4.3.2 If the emission reductions were created as a result of the shutdown of a permitted source or emitting unit, the Permit to Operate or permit to burn has been surrendered and voided or modified to ensure that the emissions reductions are permanent.

4.4 When all the requirements of this Rule have been satisfied and the emission

reductions have actually occurred, the APCO shall issue the ERC certificate. After granting an ERC certificate, the name on the certificate shall be entered into the banking register. Such information may be made available for public inspection.

4.5 All ERC certificate information concerning titles, interests, liens, restrictions, encumbrances, and other changes of record shall be identified in the DISTRICT's banking register until the certificate is canceled or nullified by operation of law.

4.6 Each ERC certificate shall be numbered, bear the date of issuance, be signed by the APCO, bear the seal of the DISTRICT, and contain information regarding the quantity and type of ERCs. One copy of the ERC certificate shall be retained by the DISTRICT and the original shall be delivered to the applicant. Transmittal of the ERC certificate to the owner shall be accomplished in person or by registered mail. The person accepting the ERC certificate shall sign a receipt therefore and provide such proof of identity as the APCO may require.

4.7 ERC certificates issued pursuant to Section 7 of this Rule shall be valid and effective only after, and on the condition that, the ERC certificate is recorded as a condition of the parcel deed. The notice of recording shall be in a form approved by the DISTRICT, and include the following information at a minimum: owner of the ERC certificate, Assessor Parcel Number, owner of the property, notice of open burning restriction and date of recording.

4.8 At the option of joint owners of ERCs, such persons may receive one ERC certificate for the entirety or separate ERC certificates reflecting each proportional share and separate ownership. The DISTRICT's bank shall reflect the consolidation or separation of the ERCs.

4.9 Title to an ERC certificate shall be deemed registered at the time the required information concerning the ERC is entered into the banking register. Title will be vested in the applicant's name or his/her designee and shall inure to the benefit of his or her heirs. In the case of ERCs granted for open burning of biomass, title will be vested with the landowner or landowner's designee.

4.10 All dealings with ERCs and all liens, restrictions, encumbrances, and changes subsequent to the first registration shall be deemed to be subject to the terms of this Regulation, and to such amendments and alterations as may hereafter be made.

4.11 The APCO may reissue lost or destroyed ERC certificates after the registered owner certifies in writing that the original has been lost or destroyed.

5 ADJUSTMENTS TO EMISSION REDUCTION CREDITS

5.1 Except as provided in Section 5.2 below, the DISTRICT shall take five percent (5%) of the emission reductions before the ERCs are granted and apply the emissions toward attainment of the air quality standards or place the emissions into a community bank controlled by the DISTRICT.

5.2 An applicant may restrict use of the ERCs only for the applicants own future use, at the same parcel or site, in which case the DISTRICT will not adjust the ERCs. The applicant may have the restriction removed by the DISTRICT upon payment of costs incurred by the DISTRICT to re-issue an unrestricted ERC certificate.

5.3 Deposits are permanent until used by the depositor or any party to whom the ERC certificate has been transferred. After issuance of the certificate, subsequent changes in regulations to require the type of emission reductions which have been banked shall not reduce or eliminate the ERC.

5.4 Owners of ERC certificates may donate their ERCs to the DISTRICT for purposes of assisting the DISTRICT towards attainment of the air quality standards. Such donations shall be deposited into the Community Bank.

6 TRANSFER AND USE OF EMISSION REDUCTION CREDITS

6.1 The ERCs may be used at the time of, or anytime after deposit into the DISTRICT's banking system by the registered owner, or owner's designee of the ERC certificate to provide offsets for increase in emissions from new or modified sources subject to the DISTRICT’s NSR Rule.

6.2 Transfer in whole or in part of an ERC certificate shall be done by the registered owner in accordance with applicable procedures of this Rule. Upon payment of a transfer fee a new ERC certificate, certifying the title or interest in the ERC, shall be issued and the original certificate shall be canceled. Such cancellation shall be recorded in the banking register.

6.3 Nothing in this Rule prevents the lease or temporary transfer, in whole or in part, of ERCs represented by certificates to be used as offsets, provided the DISTRICT has procedures for adjusting the ERC at the end of the lease period to account for the facility historic actual emissions. However, no transfers shall be made until application is made to the DISTRICT and approval given by the APCO.

6.4 Except as provided below, all emission reductions to be used as offsets under the NSR Rule must first be processed through this Rule and receive an ERC certificate in accordance with the requirements of this Rule. Onsite

reductions in emissions which are contemporaneous with onsite increases in emissions from other emissions units and meet the requirements of the NSR Rule are not required to go through this ERC/Banking Rule.

6.5 ERCs which result from stationary source shutdowns and curtailments shall not be used as offsets for a new or modified stationary source where permitted emissions would exceed emission thresholds established for the DISTRICT in the Federal Clean Air Act for major source modifications, unless the applicant can establish the following:

6.5.1 The proposed new source or modification is a replacement, and the shutdown or curtailment occurred after August 7, 1977, or

6.5.2 An application for credit was filed with the DISTRICT within 180 days of the date of the last emission; and

6.5.2.1 The crediting of shutdown emissions complies with the most recent emission trading policy or regulations of EPA; and

6.5.2.2 The DISTRICT has met statutory planning mandates and air quality improvement milestones.

6.6 On transfer of ownership of ERCs to a stationary source for use as offsets the registered owner shall provide information to the DISTRICT on costs, if any, in dollars per ton, on a per pollutant basis, of emission offsets purchased for, or acquired by, the new or modified source.

7 ELIGIBILITY OF OPEN BIOMASS EMISSION REDUCTION CREDITS: Except as noted below, emission reductions must comply with the definition of historic actual emission reductions, and will be deemed to have occurred when the parcel(s) has been placed on the no-burn list or restricted burn list. An applicant may apply for ERCs for the amount calculated using Section 10 of this Rule. Applicants that have been required to phase down rice straw burning under the Connelly-Areias-Chandler Rice Straw Burning Reduction Act of 1991 are eligible for the actual emission reductions that have occurred from the time that the field was initially planted with rice, subject to the following:

7.1 Emission reductions from decreased open burning of rice fields that were planted prior to the Connelly-Areias-Chandler Rice Straw Burning Reduction Act of 1991, and burned any one of the years 1988-1992 are eligible for banking 100% of the actual emission reductions able to be quantified respective to any one (1) of the five (5) baseline years.

7.2 Emission reductions from decreased open burning of rice fields that were planted after 1992 are eligible for banking those reductions calculated based on the historic actual emissions, subject to the calculation procedures of Section 10 of this Rule.

8 APPLICATION PROCEDURES FOR OPEN BIOMASS EMISSION REDUCTION CREDITS

8.1 Any person, entity, landowner, or authorized agent, which owns or operates an emissions unit for which eligible emission reductions have occurred or will occur may apply for an ERC certificate in accordance with the requirements of this Rule. If the applicant is not the landowner, written authorization from the landowner must be included with the application for an ERC certificate.

8.2 The person or entity requesting the ERC certificate shall make an application on forms supplied by the DISTRICT.

8.3 The application may be for reductions in one or more affected pollutants.

8.4 Applicants may claim confidentiality of information contained in the application pursuant to applicable provisions of the Federal Clean Air Act, Government Code, and HSC.

9 ADMINISTRATIVE PROCEDURES AND TIMETABLE FOR OPEN BIOMASS EMISSION REDUCTION CREDITS: The APCO shall prepare the administrative procedures and timetable for open biomass ERCs in the DISTRICT Administrative Code Part B.

10 OPEN BIOMASS BURNING EMISSION REDUCTION CREDIT CALCULATIONS: The DISTRICT Administrative Code Part B contains emission factors (EF), fuel loading factors (FL), default historical burn fractions (HBF), and default quarterly burn fractions (QBF). Default HBFs and QBFs may be used to calculate the ERCs. The following information will be used in the calculation of ERCs; however, when using default HBF and QBF factors, Sections 10.3 and 10.4 below do not apply:

10.1 Basic Information: The applicant shall provide data on the crop type, exact location of the parcel including assessor's parcel number and other information regarding parcel location required in the DISTRICT Administrative Code Part B, and acreage burned (AB) during the eligibility period. The applicant shall use county burn permit/authorization records or other verifiable records to validate the information as specified in the DISTRICT Administrative Code Part B. The type of biomass residue and the AB will be used in the ERC calculation.

10.2 Acreage Burned (AB): The applicant for emission reductions from open biomass burning shall provide the acreage burned for each parcel(s) of land for which ERCs are applied. Phase down acreage must have been burned for at least one of the five (5) baseline years of 1988 through 1992. The applicant

shall use county burn permit/authorization records or other verifiable records to determine the acreage.

10.3 Historical Burn Fraction (HBF): The applicant shall provide available data on historical biomass burn percentage for the parcel(s). The historical burn fraction (0-1) is an adjustment to the amount of ERCs available. The applicant may use county burn permit authorization records or other verifiable records to determine the amounts of prior burning. For rice straw burning a historical burn fraction of one (1) will be used for the phase down period.

10.4 Quarterly Burn Fraction (QBF): The applicant may provide available data on quarterly biomass burning for the parcel(s). The applicant may use county burn permit authorization records or other verifiable records to determine the date(s) of burning.

10.5 The biomass fuel loading (FL) and emission factors (EF) set forth in the DISTRICT Administrative Code Part B or other best available data as approved by the APCO shall be used for the crops indicated.

10.6 Discount Acreage (DA): The applicant may reduce the total acreage covered by the ERC certificate to allow for continued burning of a portion of the total acreage of the parcel. This reduction in the total acreage covered will be reflected in the emission credits applicable to the parcel(s). The DISTRICT shall either:

10.6.1 Identify the portion(s) of the parcel(s) covered by the discount acreage (i.e. the acreage eligible for a burn permit) and place the remaining acreage on a no-burn list. This portion will not be allowed to change without prior DISTRICT notification and approval; or,

10.6.2 Place the parcel(s) covered by the ERC certificate on a restricted burn list. Burning can only occur on specified fields within the parcel(s) after the DISTRICT has issued a restricted burn permit for the emissions unit (parcel(s)).

10.7 The District will determine a quarterly ERC value for each pollutant based on the following calculation:

$$ERCs = (AB-DA)*HBF*FL*EF*QBF$$

11 DISTRICT ENFORCEMENT CONSIDERATIONS FOR OPEN BIOMASS EMISSION REDUCTION CREDITS

11.1 Revision or cancellation of ERC certificates at the request of the registered owner to allow burning of a parcel(s) for which ERCs have been granted may be handled as follows, with prior written approval from the APCO:

11.1.1 The registered owner may request that the DISTRICT reduce the quantities of the emissions covered by the ERC certificate by the amount of emissions associated with the reduced acreage requested. After the DISTRICT revises the ERC certificate, that portion of the parcel may be burned in accordance with current agricultural burning regulations. The portion of the parcel that is covered by the discount acreage (i.e. the acreage eligible for a burn permit) must be clearly identified. This portion will not be allowed to change without prior DISTRICT notification and approval.

11.1.2 The registered owner may surrender the ERC certificate to the DISTRICT for cancellation and burn the parcel(s) pursuant to current agricultural burning regulations.

11.2 DISTRICT enforcement considerations related to ERC certificates are the following:

11.2.1 To meet the requirement of enforceability, a contract, permit conditions, No-burn list or restricted burn list, and/or other means shall be utilized.

11.2.1.1 The primary means of enforcing open biomass burning ERCs will be by placing the parcels on a No-Burn list or restricted burn list. Based on the DISTRICT's enforcement and tracking policy for biomass ERCs, a restricted burn permit or No-burn list will be issued for a parcel(s) if an ERC is currently in effect for that parcel unless the registered owner applies for cancellation, modification or substitution of the ERC under Section 11.1 of this Rule.

11.2.1.2 At the time of application, the applicant for an open biomass burning ERC certificate must provide information to the DISTRICT on the disposition of the biomass.

11.2.1.3 Emission reduction credits used to offset project emissions in another district shall be implemented through an interdistrict agreement to ensure their enforceability and permanence.

11.2.2 Prior to the issuance of an ERC certificate, the registered owner of an ERC-designated parcel(s)/field(s) shall provide notification by certified mail to all growers leasing land covered by the certificate that open biomass burning is restricted. A copy of the certified letter and receipt shall be provided to the DISTRICT and maintained in the DISTRICT files.

11.2.3 Facilities that claim open burning emission reduction offsets pursuant to HSC Sections 41605.5 and 42314.5 must keep a daily log of biomass received by type, origin, quantity, and date. Such facilities will also be required to prepare and submit to the

DISTRICT a quarterly report on their emissions and corresponding biomass offsets. The DISTRICT will further require an annual status report on biomass contracts for the next year prior to re-issuance of the annual Permit to Operate.

11.3 To further ensure enforceability of this Rule refer to the DISTRICT Administrative Code Part B which contains ERC and offset tracking, open biomass burn permitting, and other procedures related to the implementation of this Rule.

12 ELIGIBILITY OF STATIONARY SOURCE EMISSION REDUCTIONS FOR CREDITS: Upon application to the DISTRICT, within 365 days after the emission reductions occurred, the following emission reductions may qualify for ERC certificates. Emission reductions will be deemed to have occurred on the date when emissions actually decreased. The DISTRICT may claim emission reductions not applied for as ERCs under this Rule, from any source, and use such emission reductions toward attainment of air quality standards or deposit the emission reductions into the community bank.

12.1 For non-permitted sources the following additional requirements shall apply:

12.1.1 Emissions must have been included in the 1987 Emission Inventory.

12.1.2 The applicant for the ERCs must apply for and obtain a Permit to Operate from the DISTRICT or execute a legally binding contract with the DISTRICT or through other enforceable means.

12.1.3 An applicant who proposes to bank emissions from permit exempt sources must relinquish the exempt status and obtain permits for any new or modified sources of the same type.

12.1.4 If the emission reductions are due to the shutdown of a non-permitted source, the applicant must demonstrate to the satisfaction of the APCO that the emission reductions from the source meet all applicable requirements of this Rule. The source can no longer be operated within the DISTRICT unless and until a Permit to Operate is obtained from the DISTRICT.

12.2 Under no circumstances shall any emission reductions occurring before the date of adoption, other than as described in Section 12.3 of this Rule, be eligible for ERC certificates.

12.3 Emission reductions occurring after December 31, 1987 and before the date of adoption. The following criteria must be met in order to deem such emission reductions eligible for ERC banking:

12.3.1 Emission reductions formally recognized by the DISTRICT (in written form, emission databases, etc.), shall be deemed eligible emission reductions, provided the APCO determines that such emission reductions comply with the definition of actual emission

reductions.

12.4 A stationary source which obtained offsets pursuant to the DISTRICT's NSR Rule and was issued an Authority to Construct after December 31, 1987, may apply to bank such offsets if the Authority to Construct is canceled or if the Permit to Operate is voluntarily modified or surrendered or is revoked by the DISTRICT.

12.5 The following emission reductions are not eligible for ERCs for banking:

12.5.1 Emission reductions from the shutdown or curtailment of retail gasoline dispensing or retail dry cleaning operations. These facilities may be eligible if they can demonstrate to the satisfaction of the APCO that their emission reductions are not offset by increases in demand and emissions from other similar sources within the DISTRICT.

12.5.2 Emission reductions occurring from the shutdown or curtailment of a stationary source for which the offsets originally provided are no longer enforceable by the DISTRICT.

12.5.3 Emission reductions occurring from the shutdown or curtailment of a stationary source for which the DISTRICT originally provided the required offsets.

12.6 Emission reduction credits resulting from shutdowns or curtailment of sources shall not be more than the quantity of emissions that would have been emitted had the source operated in compliance with rules and regulations applicable to the source at the time of shutdown or curtailment.

12.7 Shutdowns or curtailments must have occurred after December 31, 1987 for State requirements, and November 15, 1990 for federal requirements applicable to major stationary sources and major modifications; or

12.8 The emissions from the emissions unit to be shutdown or curtailed are included in the DISTRICT's 1987 Emission Inventory for State requirements, and in the 1990 Emission Inventory for federal requirements applicable to major stationary sources and major modifications; and

12.9 Applicants for ERCs due to the shutdown of permitted or non-permitted emissions units shall demonstrate to the satisfaction of the APCO that such equipment will no longer operate within the district, except as provided in Section 12.1.4 of this Rule.

13 APPLICATION PROCEDURES FOR STATIONARY SOURCE EMISSION REDUCTION CREDITS

13.1 Any person, entity, landowner, or authorized agent, which owns or operates a source at which eligible emission reductions have occurred or will occur may

apply for an ERC certificate in accordance with the requirements of this Rule.

13.2 The person or entity requesting the ERC certificate shall make an application on forms supplied by the DISTRICT.

13.3 The application may be for reductions in one or more affected pollutants. The application shall contain sufficient information to allow for adequate evaluation of actual emission reductions.

13.4 Applicants may claim confidentiality of information contained in the application pursuant to applicable provisions of the Federal Clean Air Act, Government Code, and HSC.

13.5 To verify emission reductions claimed in conjunction with an application for an ERC certificate, the DISTRICT may require source tests by CARB approved methods, continuous monitoring, production records, fuel use records, or any other appropriate means.

14 ADMINISTRATIVE PROCEDURES AND TIMETABLE FOR STATIONARY SOURCE EMISSION REDUCTION CREDITS

14.1 The APCO shall determine whether an ERC application is complete not later than thirty (30) calendar days following receipt of the application, or after a longer time period agreed upon in writing by both the applicant and the APCO.

14.2 If the APCO determines that the application is not complete, the applicant shall be notified in writing of the decision, specifying the additional information that is required. The applicant shall have sixty (60) days, or a longer time period agreed upon in writing by both the applicant and the APCO, to submit the requested information. Upon receipt of additional information, the APCO shall have another thirty (30) days to determine completeness. If no information is submitted or the application is still incomplete, the APCO may cancel the application with written notification to the applicant.

14.3 Upon determination that the application is complete, the APCO shall notify the applicant and CARB in writing. Thereafter, only information to clarify, correct, or otherwise supplement the information submitted in the application may be requested by the DISTRICT.

14.4 Withdrawal of an ERC application by an applicant shall result in cancellation of the application; any re-submittal will be processed as a new application.

14.5 Upon acceptance of an application as complete, the APCO shall have 180 days to take final action on the application after considering all written

comments. Upon completion of the initial assessment, the APCO shall provide written notice of such to the applicant and shall also provide written notice to CARB and EPA and publish notice in a local newspaper of general circulation. The notice shall specify the applicant, the quantity of emission reduction credits requested and a copy of the initial assessment.

14.6 Publication of the notice shall commence a thirty (30) day public comment period during which the APCO shall accept written comments on the merits of the ERC application. Upon conclusion of this thirty (30) day period, the APCO shall have another thirty (30) days to render a decision to approve, conditionally approve, or deny the application. This decision shall be provided in writing to the applicant.

14.7 The applicant or any other party may appeal the APCO's decision following provisions specified in DISTRICT Regulations.

15 STATIONARY SOURCE ERC CALCULATIONS: Calculations of emission reductions shall be determined by the methods described in the DISTRICT's NSR Rule.

16 COMMUNITY BANK

16.1 Application for ERCs from the Community Bank: An applicant for loan of ERCs from the Community Bank shall apply to the APCO and certify the project is an essential public service.

16.2 Loan Term: The base loan term shall be based on project duration as represented in the application and confirmed by the APCO.

16.3 Community Bank Loan Provisions

16.3.1 The APCO shall issue an ERC certificate for each pollutant valid for the term of the loan.

16.3.2 The APCO shall not issue ERC certificates for amounts that exceed the amounts contained in the Community Bank

16.3.3 Community Bank ERCs cannot be transferred or banked by a source, except back into the Community Bank.

16.3.4 If a project or source for which an Authority to Construct has been granted with ERCs from the Community Bank is terminated prior to the commencement of operation, the APCO shall return the ERCs to the Community Bank

16.3.5 At the end of the loan term or premature termination of the project, the ERCs, less the offset ratio amount retired pursuant to Rule 430, shall be returned to the Community Bank.