RULE 10.9 **RICE STRAW EMISSION REDUCTION CREDITS AND BANKING**

(Adopted 4/6/2009; Amended 10/6/2014)

A. GENERAL

A.1 **PURPOSE:** The purpose of this rule is to provide a federally recognized procedure for quantifying and certifying rice straw burning emission reductions, and issuing the resulting Emission Reduction Credit (ERC) certificates. This rule provides the only process by which ERC certificates issued for reductions in rice straw burning may be stored for later use to meet federal new source review offset requirements. Once issued in accordance with this rule, the procedures in Rule 10.2 - EMISSION REDUCTION CREDIT AND BANKING shall be used as the administrative mechanism for sources to transfer ERCs to other sources for use as offsets.

A.2 **APPLICABILITY:** The provisions of this rule shall apply to any agricultural operation that grew rice and burned rice straw in the in the Sacramento Federal Nonattainment Area (SFNA) portion of the District during the baseline period.

B. DEFINITIONS

Unless otherwise defined below, the terms used in this rule are the same as defined in District Rule 10.1 - NEW SOURCE REVIEW.

B.1 **Agricultural Burning:** Open outdoor fires used in the growing of crops. For the purpose of this rule, agricultural burning is considered to be a source and such activity requires an agricultural burn permit.

B.2 **Agricultural Burn Permit:** A permit issued by the District, which is required in order to conduct an agricultural burn.

B.3 **Agricultural Operation:** Equipment used exclusively in the growing of agricultural crops or in the commercial raising of fowl or animals.

B.4 **Air Pollution Control Officer (APCO):** The Air Pollution Control Officer of the Feather River Air Quality Management District (District), or his or her designee.

B.5 **Applicant:** For a new application, the owner (or his/her designee) of the parcel. For a re-certification

application, the current owner (or his/her designee) of an existing rice straw burning ERC.

B.6 **Applicant Designee:** The person, company, or entity submitting an application on behalf of the applicant. Such designee shall provide written authorization signed by the applicant to serve as the designee.

B.7 **Banking:** The system of quantifying, certifying, recording, and storing ERCs for future use and transfer. This system shall be called the ERC Bank.

B.8 **Baseline Period:** Calendar years 1988 through 1992.

B.9 **Certified:** ERCs which have been evaluated under the requirements of this rule and other applicable District, State, and Federal Rules and Regulations and which have been granted by the APCO.

B.10 **Emission Reduction Credits (ERCs):** Reductions of actual emissions that are registered with the District in accordance with the requirements of Rule 10.2 - EMISSION REDUCTION CREDIT AND BANKING.

B.11 **Historic Burn Fraction (HBF):** The amount of rice (as a percentage of the amount planted) which was burned during the baseline period. The HBF equals 100%.

B.12 **New Application:** An application submitted in accordance with this rule for which the District has not already issued an ERC for reductions in rice straw burning for a parcel(s) prior to adoption of this rule.

B.13 **Parcel:** A legally identifiable piece of land as registered with a County Assessor’s office for property tax purposes and assigned an Assessor’s Parcel Number (APN).

B.14 **Re-Certification Application:** An application submitted in accordance with this rule for which the District has previously issued an ERC for reductions in rice straw burning for a parcel(s) prior to adoption of this rule.

B.15 **Register:** The document that records all ERC deposits, withdrawals, transfers, and transactions.

B.16 **Restricted Burn List:** A list (maintained by the District) of parcels which have restrictions related to future agricultural burning.

B.17 **Rice Straw Burning:** The intentional open burning of rice straw material. For the purpose of this rule, rice straw burning is considered to be a source and such activity requires an agricultural burn permit.

B.18 **Rice Straw Burning Emission Reductions:** Emission reductions that qualify for banking pursuant to Section 41865 of the California Health and Safety Code.

B.19 **Rice Growing Acreage:** The amount of acreage contained in a parcel that was used for the growing of rice during the baseline period.

B.20 **Surplus:** The amount of emission reductions that are, at the time of generation of an ERC, not otherwise required by federal, state, or local law, not required by any legal settlement or consent decree, and not relied upon to meet any requirement FRAQMD related to the California State Implementation Plan (SIP). However, emission reductions required by a state statute that provides that the subject emission reductions shall be considered surplus may be considered surplus for purposes of this rule if those reductions meet all other requirements of this section. Examples of federal, state, and local laws, and of SIP-related requirements, include, but are not limited to, the following:

a. The federally-approved California SIP;
b. Other adopted State air quality laws and regulations not in the SIP, including but not limited to, any requirement, regulation, or measure that:
    1. the District or the State has included on a legally-required and publicly-available list of measures that are scheduled for adoption by the District or the State in the future; or
    2. is the subject of a public notice distributed by the District or the State regarding an intent to adopt such revision;
c. Any other source or source-category specific regulatory or permitting requirement, including, but not limited to, Reasonable Available Control Technology (RACT), New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), Best Available Control Measures (BACM), Best Available Control Technology (BACT), and the Lowest Achievable Emission Rate (LAER); and
d. Any regulation or supporting documentation that is required by the federal Clean Air Act but is not

contained or referenced in 40 Code of Federal Regulations(CFR) Part 52, including but not limited to: assumptions used in attainment and maintenance demonstrations (including Reasonable Further Progress demonstrations and milestone demonstrations), including any proposed control measure identified as potentially contributing to an enforceable near-term emissions reduction commitment; assumptions used in conformity demonstrations; and assumptions used in emissions inventories.

C. STANDARDS

C.1 **DETERMINATION IF A PARCEL IS ELIGIBLE:** A particular parcel qualifies to generate ERCs under this rule if the following requirements are met:

a. The parcel is located in the Sacramento Federal Nonattainment Area (SFNA); and
b. Rice straw burning occurred on the parcel during the baseline period.

C.2 **DETERMINATION OF AVAILABLE ACREAGE:** The available acreage for generating ERCs shall be determined by adding all of the rice growing acreage of a FRAQMD applicant's eligible parcels and multiplying by 75% x HBF. In no case shall the total available acreage for the entire District exceed 36,228 acres. In the event that the District receives applications for which the total available acreage exceeds 36,228 acres, the District shall lower the amount of available acreage for each application in accordance with Section D.4.

C.3 **DETERMINATION OF ANNUAL EMISSION REDUCTIONS AVAILABLE:** The amount of annual emission reductions available shall be determined by multiplying the available acreage times the applicable emission factor in the following table:

Pollutant	**Emission Factor** (lbs/acre)
Volatile Organic Compounds (VOC)	14.1
Nitrogen Oxides (NOx)	15.6
Carbon Monoxide (CO)	172.2

Particulate Matter less than 10 microns (PM_{10})	18.9
Sulfur Oxides (SOx)	3.3

C.4 **DETERMINATION OF QUARTERLY EMISSION REDUCTIONS AVAILABLE:** The emission reductions shall be quantified on a calendar quarter basis. The following percentages shall be used to determine the amount of emission reductions in each calendar quarter:

Calendar Quarter	Percentage
First Quarter	34%
Second Quarter	22%
Third Quarter	6%
Fourth Quarter	38%

C.5 **PRIORITY RESERVE ADJUSTMENT:** Before the APCO may issue an ERC, the calculated emission reductions shall be reduced by 5%. Emission reductions captured by this adjustment shall pass to the District's Priority Reserve Bank.

C.6 **DEED RESTRICTION:** Prior to the issuance of an ERC, a deed restriction shall be placed on the parcel or group of contiguous parcels for which ERCs will be granted and a copy provided to the District. The deed restriction shall prohibit agricultural burning on the parcel consistent with the ERC.

C.7 **RESTRICTED BURN LIST:** Prior to the issuance of an ERC, the District shall place the parcel or group of contiguous parcels on the restricted burn list. In each calendar year, no agricultural burn permit may be issued for greater than 25% of the rice growing acreage of any parcel listed on the restricted burn list.

C.8 **BURNING PROHIBITION**: No person shall conduct agricultural burning on more than 25% of the rice growing acreage of a parcel which has received an ERC certificate pursuant to the provisions of this rule. In addition, applicants must comply with California Health & Safety Code, Section 41865.

D. ADMINISTRATIVE REQUIREMENTS

D.1 **APPLICATION FILING DEADLINE:** All applications to obtain rice straw ERC certificates in accordance with this rule shall be submitted no later than October 6, 2009 or upon

approval of this rule by the United States Environmental Protection Agency (US EPA) into the California SIP, whichever is later. Applications submitted after October 6, 2009 or after approval of this rule by the US EPA into the SIP, whichever is later, shall not be eligible for ERCs under this rule.

D.2 **APPLICATION REQUIREMENTS - NEW APPLICATIONS:** The applicant shall submit one application for each parcel or for each set of contiguous parcels. The application shall contain the following information:

a. List of each parcel included in the application, including APN and any owner's designation or identifier.
b. The acreage of each parcel that was used to grow rice during the baseline period, and documentation of such acreage.
c. Documentation that rice straw burning occurred on the acreage of each parcel (identified above) during the baseline period. Examples of acceptable documentation include, but are not limited to, copies of a District burn permit, log books, pictures, or other District approved verifiable records. In the event that a burn permit or other records are not available, the District may accept a signed affidavit (under penalty of perjury) from the applicant certifying that rice straw on the parcel was burned during the baseline period.
d. A statement of intent to file a deed restriction, as required by Section C.6, for each parcel or for each set of contiguous parcels for which an application is being submitted (A copy of the deed restriction must be provided prior to final issuance of the rice straw ERC certificate).
e. Filing fees for the evaluation and issuance of ERCs in accordance with District Rule 7.11 - ERC BANKING FEE.

D.3 **APPLICATION REQUIREMENTS - RE-CERTIFICATION APPLICATIONS:** The applicant shall submit one application for each existing ERC certificate. In addition to the information in Section D.2, prior to re-issuance of the ERC, the applicant must surrender all previous certificates issued for rice straw burning on the parcel or group of contiguous parcels.

D.4 **AVAILABLE ACREAGE ADJUSTMENT**: In the event that the District receives applications in which the requested available acreage totals to more than 36,228 acres, the District shall lower the percentage available as follows:

a. The re-certification applications meeting the criteria of this rule shall get full credit on their acreage.

b. The applications with verifiable burn records will have second priority. If the total available acreage for all these applications along with the recertification applications does not exceed 36,228 acres, these applications will get full credit. If the total of all these applications along with the recertification applications exceeds 36,228 acres, these applications shall be adjusted proportionally so that the total acreage for which all rice straw burning ERCs are issued does not exceed 36,228 acres.
c. For all remaining applications with affidavits for burn documentation, the amount of rice straw acreage determined to be available shall be adjusted proportionally so that the total acreage for which all rice straw burning ERCs are issued does not exceed 36,228 acres.

D.5 **APPLICATION PROCESSING PROCEDURES:**

a. **COMPLETE APPLICATION:** The APCO shall determine whether the application is complete not later than 30 days after receipt of the application for ERC certificates. If the APCO determines that the application is not complete, the applicant shall be notified in writing of the decision specifying the information required. If the specified information is not submitted within 30 days the application shall be canceled by the APCO.

b. **ADDITIONAL INFORMATION:** Upon receipt of additional information for an incomplete application, a new 30 day period to determine completeness shall begin. During the processing of the application, the APCO may request an applicant to clarify, amplify, correct, or otherwise supplement the information submitted in the application.

c. **PRELIMINARY DECISION:** Following acceptance of an application as complete, the APCO shall perform the evaluations required to determine compliance with all applicable District Rules and Regulations and make a preliminary written decision as to whether the emission reduction should be certified as ERCs. The decision should be supported by a succinct written analysis.

d. **PUBLICATION AND PUBLIC COMMENT:** Within 10 calendar days following a preliminary decision, the APCO shall publish, in at least one newspaper of general circulation in the District, a notice stating the preliminary decision of the APCO, noting how the

pertinent information can be obtained, and inviting written public comment for a 30 day period following the date of publication.

e. **DEED RESTRICTION:** Within 90 calendar days of the public notice being published, the applicant shall submit a final copy of the legal deed restriction for all parcels upon which the ERC is based. The ERC shall not be issued prior to this submittal.

f. **PUBLIC INSPECTION:** The APCO shall make available for public inspection at the District office the information submitted by the applicant and the APCO's analysis no later than the date the notice of the preliminary decision is published, pursuant to Section D.5.d. All such information shall be transmitted to the California Air Resources Board and the US EPA regional office, and to any party which requests such information no later than the date of publication.

g. **FINAL ACTION:** After considering all written comments, the APCO shall take final action on the applications within 180 days after the application filing deadline, as listed in Section D.1.

D.6 **VIOLATIONS:** Failure to comply with any provision or restriction of this rule shall be considered a violation of this rule.

E. MONITORING AND RECORDS

E.1 **BURN RECORDS:** For any parcel or group of contiguous parcels for which a rice straw ERC certificate has been issued, the initial ERC holder or current land owner shall keep records of the amount of acres, crop type, and burning that has occurred during the previous 5 years.

F. PROGRAM EVALUATION

Within two (2) years after adoption of this rule, the District shall evaluate the program and submit an evaluation report to the US EPA. The report shall include a discussion of the total number of applications approved, total acreage subject to this rule, and total amount of ERCs issued.