

NOTICE OF EMISSION REDUCTION CREDIT USE OR RETIREMENT

INSTRUCTIONS: Complete one form per emission-generating source per calendar year to provide notice to the Division of Air Quality (DAQ) that the source is seeking to use emission reduction credits (ERCs) per 45CSR28.

It is recommended that this form be reviewed in its entirety before attempting to complete the individual form entries. By their nature, open-market emission trading programs involve many eligibility criteria; your responses may disqualify the proposed ERC use, and therefore your source may not be eligible to participate in the program..

45CSR28 which authorizes air pollution emissions banking and trading is a non-federally approved rule. Facility's that choose to use this voluntary program accept any and all liability associated with participating in this program.

PURPOSE OF NOTICE: <input type="checkbox"/> PROPOSE USE OF EMISSION REDUCTION CREDITS <input type="checkbox"/> RETIREMENT OF EMISSION REDUCTION CREDITS For Retirement of ERCs, only these sections of this form need to be completed: <ul style="list-style-type: none"> • User Information • Background Information on ERC Generation • ERC Use Accounting Information (first 2 boxes only) • Certification of Information 		
USER INFORMATION		
1. Company Name (as registered with the Secretary of State's Office)		
2. Company Mailing Address (Street, City, State, Zip Code)		
3. Name of Facility (if different from above)		4. This Prospective Registrant is the: <input type="checkbox"/> Owner <input type="checkbox"/> Operator <input type="checkbox"/> Both
5. DAQ Facility ID Number □ □ □ - □ □ □ □ □	6. Contact Person Name & Title	7. Contact Person Telephone Number () -
8. Is the prospective registrant a resident of the state of West Virginia? <input type="checkbox"/> YES <input type="checkbox"/> NO If YES, provide a copy of the Certificate of Incorporation/Organization/Limited Partnership (one page) including any name change amendments OR other <i>Business Certificate</i> . If NO, provide a copy of the Certificate of Authority/Authority of L.L.C/Registration (one page) including any name change amendments OR other <i>Business Certificate</i> .		
9. If applicable, is the prospective registrant in compliance with tax payments for Unemployment Compensation and Worker's Compensation as required by the Bureau of Employment Programs? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> DOES NOT APPLY, explain _____ If NO, then this company is not eligible for emission trading credit generation, trading, or use per Section 4.1 of 96CSR1, "Rule Implementing the Requirement That Prohibits Agencies from Granting, Issuing, or Renewing Contracts, Licenses, Permits, Certificates, or Other Authority to Conduct a Trade, Profession, or Business to or with Any Employing Unit Who Is in Default with Regards to Unemployment Compensation or Workers' Compensation."		

SOURCE INFORMATION	
10. Source Name	
11. Source Location (if non-point source reduction, identify area) Include street, city, county, state, and zip code. Include detailed directions on how to reach the source including all road or street designations as well as a clear copy of a map (a general county highway map will suffice).	

11A. Will ERC use records, including data and test runs required by all applicable emission monitoring and quantification protocols, be maintained at this location? <input type="checkbox"/> YES <input type="checkbox"/> NO If NO, please identify this location:		
12A. UTM Northing (km):	12B. UTM Easting (km):	12C. UTM Zone:
13. Source Description (attach complete description about process or equipment where ERCs will be used) <input type="checkbox"/> point source <input type="checkbox"/> non-point source <input type="checkbox"/> fugitive source		
14. Specific identification of proposed ERC use (attach full explanation, if necessary):		
15. List all current 45CSR13, 45CSR14, 45CSR19, 45CSR30 (Title V) permit numbers and consent orders associated with this source, <i>if applicable</i> .	16. Emission Point ID Number(s), <i>if applicable</i>	17. Affected Source Classification Code(s) (SCC), <i>if applicable</i>

BACKGROUND INFORMATION ON ERC USE	
18. Is this a prior notice of proposed ERC use? <input type="checkbox"/> YES <input type="checkbox"/> NO If NO, then the proposed ERC use is ineligible per 45CSR28.13.1. All persons applying to use, trade, or retire ERCs must provide prior notice to the Director.	
19. Will the proposed ERC use result in a requirement to obtain a permit under the provisions of 45CSR13, 45CSR14, 45CSR19, or 45CSR30? <input type="checkbox"/> YES <input type="checkbox"/> NO If YES, then the appropriate permit application(s) for the proposed ERC use must be submitted, and such permit(s) must be issued <i>before</i> the ERCs may be used. Otherwise, such ERC use is ineligible per 45CSR28.4.8.. If NO, then all ERCs may only be used to the extent allowed by rule, and in a manner consistent with federal new source review requirements. Nothing in the rule shall be construed to relieve any person of the requirement to obtain a permit under the provisions of 45CSR13, 45CSR14, 45CSR19, or 45CSR30.	
20. Does this facility participate in a regional nitrogen oxides trading program established pursuant to final rules promulgated by US EPA (for example, 45CSR1 or 45CSR26 when final)? <input type="checkbox"/> YES <input type="checkbox"/> NO If YES, then this source is prohibited from generating, trading, or using nitrogen oxides emissions reductions credits under 45CSR28 (45CSR28.4.11).	
21. Is this source subject to oxides of nitrogen emission limits under the 1990 amendments to Title IV of the Clean Air Act (Acid Rain Program)? <input type="checkbox"/> YES <input type="checkbox"/> NO If YES, and this source has obtained through a Title IV Acid Rain Permit an alternative contemporaneous emission limit (ACEL) or an alternative emission limit (AEL), then this source is prohibited from generating, trading, or using oxides of nitrogen emissions reductions credits under 45CSR28 (45CSR28.4.9).	
22. Will the proposed use be of volatile organic compound (VOC) ERCs? <input type="checkbox"/> YES <input type="checkbox"/> NO 22A. If YES, then the VOC ERCs may only be used to compensate for emission overages of VOCs, as a class of compounds, but shall not be used to allow emission overages of a specific VOC. 45CSR28.4.6. allows an exception where a demonstration has been made to the Director that the use would result in an environmental benefit in the use area.	
22B. Is this exception being sought? <input type="checkbox"/> YES <input type="checkbox"/> NO If YES, then attach a demonstration of how such a proposed ERC use would result in an environmental benefit; include air dispersion analyses as necessary.	

23. Will the proposed (VOC) ERC use be employed to satisfy emission offset requirements per 45CSR19? YES NO

If YES, and if the ERCs purchased to cover the proposed ERC use resulted from the installation of a maximum achievable control technology required for a HAP pursuant to section 112 of the 1990 Clean Air Act Amendments, then this proposed use is ineligible per 45CSR28.7.4..

USE OF ERCs WITHIN AND BETWEEN GEOGRAPHIC AREAS AND SOURCES

24. Check all applicable conditions for use of Oxides of Nitrogen (NO_x) ERCs: DOES NOT APPLY

- The ERCs are proposed to be used in the *same* "geographic area" where they were generated.
- The "geographic area" where the ERCs are proposed to be used is in an attainment area for NO₂.
- The "geographic area" where the ERCs are proposed to be used is in a nonattainment or maintenance area for NO₂, AND the area where the ERCs were generated is an adjacent area which contributes to the NO₂ air quality problem in the proposed use area. Please supply air quality analyses to substantiate this item.

NO_x ERCs may be used in any area of the state of WV provided that *at least one* of the above conditions is satisfied (45CSR28.10.4), except as otherwise provided by the director or the provisions of 45CSR28.4.1..

25. Check all applicable conditions for the use of VOC ERCs in an ozone nonattainment or maintenance area (for example, 45CSR21): DOES NOT APPLY

- The source, process, or process equipment that generated the ERCs is located in the same ozone nonattainment or maintenance area where the ERCs are proposed to be used.
- The source, process, or process equipment that generated the ERCs is located within 100 kilometers of the nearest border of the nonattainment or maintenance area where the ERCs are proposed to be used.

VOC ERCs may be used in an ozone nonattainment or maintenance area provided that *at least one* of the above conditions is satisfied (45CSR28.10.6), except as otherwise provided by the director or the provisions of 45CSR28.4.1..

VOC ERCs are eligible to be used in any area of the state of WV which is an attainment area for ozone not subject to a maintenance plan (45CSR28.10.5.), except as otherwise provided by the director or the provisions of 45CSR28.4.1..

BACKGROUND INFORMATION ON ERC GENERATION

("Ozone season" means the period of time beginning on and including April 1 through October 31 of each calendar year (45CSR28.2.27))

26. POLLUTANT(S)	ERCs TRANSFERRED			TRANSFER PRICE		
	27. Ozone Season ERCs	28. Non-Ozone Season ERCs	29. TOTAL ERCs (sum of # and #)	30. Ozone Season (\$/ton)	31. Non-Ozone Season (\$/ton)	32. TOTAL (\$)

If price paid for ERCs is not provided here, then it must be provided by separate notice to the director within seven (7) days of the starting date of the use period (45CSR28.13.8.).

33. REGISTRY ERC SERIES NUMBER (identifying ERCs proposed to be used)

34. OZONE SEASON RESTRICTIONS (for VOC and NO_x ERC use only): DOES NOT APPLY

Were the VOC or NO_x ERCs proposed to be used generated during the ozone season? YES NO

If NO (the ERCs were generated during the ozone season), then these ERCs may be used any time during a calendar year, but ERCs used for the purpose of compliance with an ozone season emission limitation for VOCs or NO_x (for example, 45CSR21) shall have been generated during an ozone season (45CSR28.5.1.).

If YES (the ERCs were generated during the non-ozone season), then these ERCs shall be used only during the non-ozone season in the same or a subsequent calendar year (45CSR28.5.2.).

PROPOSED QUANTITY OF ERC USE (Actual Tons)

Pollutant Name	Attainment Status	Time of Year ERCs Proposed to be Generated (actual tons)								
		Jan Feb	Mar April	May June	July Aug	Sept Oct	Nov Dec	Total/ Yr	Total/ Ozone Season	

35A.	35B.	35C. 35D.	35E. 35F.	35G. 35H.	35I. 35J.	35K. 35L.	35M. 35N.	35O.	35P.
36A.	36B.	36C. 36D.	36E. 36F.	36G. 36H.	36I. 36J.	36K. 36L.	36M. 36N.	36O.	36P.
37A.	37B.	37C. 37D.	37E. 37F.	37G. 37H.	37I. 37J.	37K. 37L.	37M. 37N.	37O.	37P.
38A.	38B.	38C. 38D.	38E. 38F.	38G. 38H.	38I. 38J.	38K. 38L.	38M. 38N.	38O.	38P.
39A.	39B.	39C. 39D.	39E. 39F.	39G. 39H.	39I. 39J.	39K. 39L.	39M. 39N.	39O.	39P.
40A.	40B.	40C. 40D.	40E. 40F.	40G. 40H.	40I. 40J.	40K. 40L.	40M. 40N.	40O.	40P.

"Ozone season" means the period of time beginning on and including April 1 and continuing through October 31 of each calendar year (45CSR28.2.27)

41. ERC Use Start Date	42. ERC Use End Date	43. # of Ozone Season Days in ERC Use Period	44. # of Non-Ozone Season Days in ERC Use Period
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ERC USE ACCOUNTING INFORMATION

45. If the ERCs proposed to be used were part of a future-effective Notice of Emission Reduction Generation, have these ERCs actually been generated in a manner consistent with the ERC Generation Notice? YES NO

If NO, then the proposed ERC use is ineligible per 45CSR28.7.6. All ERCs must have been generated before being used or traded.

46. Have copies of all **Notice(s) of Emission Reduction Credit Generation**, and (if applicable) **Notice(s) of Emission Reduction Credit Transfer/Trade** corresponding to the ERCs proposed to be used been included with this submittal? YES NO

If NO, then the proposed ERC use is ineligible per 45CSR28.13.2.f..

47. Has a copy of the affidavit of publication for a legal ad published in a newspaper of general circulation in the area where the credits are proposed to be used, notifying the public of the intent to use ERCs and including the information required by 45CSR28.13.2.k. been included with this submittal? YES NO

If NO, then the proposed ERC use is ineligible per 45CSR28.13.2.k..

If YES, include a copy of both the affidavit, and the legal ad with this Notice.

At a minimum the legal ad must meet the criteria of a Class I legal advertisement. The legal ad should be published on the day of submittal to the DAQ or within five (5) days of this date, but not before submittal to the DAQ.

48. Is the facility at which the ERCs are proposed to be used located within one hundred (100) kilometers of any Class I area? YES NO

If YES, then a copy of this Notice and its attachments must be provided to the Federal Land Manager (FLM) at the same time it is submitted to the DAQ. Provide the Name, Mailing Address, and Telephone No. for the FLM to whom this submittal was made: _____

HAZARDOUS AIR POLLUTANTS:

49. Will the new or increased emissions or emission overages at the source using ERCs entail or include emissions of a HAP?
 YES NO

If YES, then such HAPs must be identified and quantified (45CSR28.13.2.j.). For each (speciated) HAP provide maximum hourly, monthly, annual emissions and supporting calculations.

49A. Will the proposed use of ERCs result in an actual emissions increase of any **individual** HAP at the facility?
 YES NO

If YES, then the proposed use of ERCs is ineligible per 45CSR28.4.3.. The use of ERCs shall not result in an actual emissions increase of any HAP at a particular facility. Additionally, one or more HAPs cannot be traded for a different group of HAPs. ERCs generated by reductions of HAPs that are also VOCs or PM₁₀, may be used to allow increases of VOCs or PM₁₀, respectively, which no NOT contain HAPs.

AIR QUALITY IMPACTS

50. For ERCs proposed to be used in an attainment area: DOES NOT APPLY
 TRUE FALSE The proposed ERC use will not cause a violation of a National Ambient Air Quality Standard (NAAQS)
 TRUE FALSE The proposed ERC use will not cause a violation of a PSD increment

If either of the above are FALSE, then the proposed ERC use is not allowed per 45CSR28.4.1..

Note that the proposed ERC use also must not cause a violation of an applicable attainment area maintenance plan. For all TRUE choices, attach supporting documentation.

51. For ERCs proposed to be used in a nonattainment area, the proposed use of ERCs must result in emissions reductions consistent with the requirements for reasonable further progress for the nonattainment area, and the attainment demonstration specified in the SIP (45CSR28.4.1.). A factor to consider in this review is whether the short-term emissions from the proposed ERC use be consistent with the short-term emissions from the ERCs generated.

52. Will the proposed use of ERCs in any area (attainment or non-attainment) result in increased actual emissions or overages equivalent to, or exceeding, any of the following amounts at a facility? YES NO

PM ₁₀	15 tons per year	CO	100 tons per year
SO ₂	40 tons per year	VOC	40 tons per year
NO ₂ /NO _x	40 tons per year	Lead	0.6 tons per year

If YES, then air quality analyses demonstrating that the provisions of 45CSR28.4.1. are met must be included with this submittal (for example, in an attainment area, the proposed ERC use will not cause a violation of a NAAQS, a PSD increment, or of an applicable attainment area maintenance plan; in a non-attainment area, the proposed ERC use will result in emissions reductions consistent with the requirements for reasonable further progress for the nonattainment area, and the attainment demonstration specified in the SIP) per 45CSR28.13.2.i..

If such air quality analyses involve air dispersion modeling, the standards and procedures set forth in EPA's Guideline on Air Quality Models (GAQM) found at 40 CFR 51, Appendix W, are to be used. Air dispersion modeling submittals are to be based on a protocol approved by DAQ.

52A. On a case-by-case basis the DAQ may require an air quality analysis for use of ERCs in amounts below those annual thresholds shown above, based on the proposed *short-term rate* of emissions, source emission parameters, and air quality in the geographic are of ERC use (45CSR28.4.1.).

If the nature of the proposed ERC use requires an air quality analysis based on any of these factors, then include the air quality analysis with this Notice.

53. Consistency of Impact Areas Between Proposed ERC Use and ERC Generation: All proposed ERC uses for a specific pollutant must be traded with sufficient quantifies of ERCs generated for the same pollutant.

53A. Will the proposed use of NO_x or VOC ERCs be consistent with the ERC generation?
 YES NO NOT APPLICABLE

As regional pollutants, NO_x and VOC are eligible for statewide trading to the extent allowed by rule, including geographic area limitations, and ozone season restrictions.

53B. Will the proposed use of PM₁₀, SO₂, Pb, and CO ERCs be consistent with the ERC generation?

YES NO NOT APPLICABLE

Pollutants with smaller range (more localized) impacts (such as PM₁₀, SO₂, Pb, and CO) are more likely to have a more limited area of impact, and therefore a more limited area of trading. For smaller range impact pollutants, the proposed ERC use must be consistent with the ERC generation, including point source vs non-point source and fugitive emissions impacts. Additionally, these impacts should be qualitatively equivalent in their effects on public health and welfare. Be sure to address what localized increases of these pollutants may result from a proposed ERC use.

54. Will any disproportionate air quality impacts (for example, impacts to environmental justice communities) result from the proposed ERC use? YES NO

If YES, then the proposed ERC use is not allowed per 45CSR28.4.4..

If NO, then attach supporting documentation.

55. Will a "statutory air pollution" as defined by §22-5-2.(6) of the West Virginia State Code result from the proposed ERC use? YES NO

If YES, then the proposed ERC use is not allowed per 45CSR28.4.4.

If NO, state justification (attach page(s), if necessary). Statutory air pollution includes objectionable odors which are prohibited per 45CSR4.:

56. Will the proposed use of ERC in an area that has or needs a federally approved attainment demonstration or maintenance plan be used to comply with a federal requirement? YES NO

If YES, then the use of ERCs generated via a shutdown is prohibited. 45CSR28.4.7. allows an exception where the Director has demonstrated to the satisfaction of US EPA that the relevant approved attainment demonstration or maintenance plan will not be compromised by the use of these ERCs. If the applicant believes this exception may be allowed, please contact the DAQ to discuss this matter PRIOR to this notice submittal.

EMISSION MONITORING AND QUANTIFICATION PROTOCOL

57. What type of emission monitoring and quantification protocol is proposed to quantify emissions baseline and proposed ERC use (45CSR13.2.g.)? Existing Federally Approved Alternate to Federally Approved New

57A. If "Existing Federally Approved" was chosen, then reference these methods and protocols (attach page(s), if necessary): _____

[NOTE: Currently, EPA has not yet published any federally approved emission monitoring and quantification protocols for the purpose of ERC trading for any source category. Until these documents are available, DAQ is requiring the emission monitoring and quantification protocols submitted with each Notice of ERC Generation and each Notice of ERC Use/Retirement form, to follow the procedures of 45CSR28.8.2.b. for new or alternate emission monitoring and quantification protocols, including the prior notice requirements to both DAQ and EPA.]

These emission monitoring and quantification protocol(s) must be consistent with the methods proposed to determine compliance with all applicable requirements. Additionally, they must be creditable, accurate, workable, enforceable, and replicable (45CSR28.8.5.), and ensure that conservative results are obtained (45CSR28.8.6.). Existing federally approved emission monitoring and quantification protocols must meet the requirements of Sections 8.7. and 8.8. of 45CSR28.

Include this Existing Federally Approved emissions monitoring and quantification protocol, along with site-specific information for your facility.

57B. If "Alternate to Federally Approved" or "New" were chosen, then an **Application to Use a New or Alternate Quantification Protocol** must have been submitted both to the DAQ and to US EPA Region III at least 30 days prior to this Notice of ERC Use/Retirement per 45CSR28-8.2.b and 45CSR28-8.3. What date was this form submitted? _____

58. ERC BASELINE: Attach a detailed submittal consistent with emissions monitoring data and the Quantification Protocol, and based on a time period specified by each applicable requirement, and the requirements of Section 6 of 45CSR28, including:

- A detailed description and quantification of all emission standards and limitations. Identify all applicable requirements being complied with through the proposed ERC use. Explain why ERC use is proposed.
- The quantification methods for each source and process for which ERCs are proposed to be used. Include data such as CEM reports, stack testing, etc.
- Quantify the amount of emissions allowed by the applicable requirement (including a permit limit).
- Quantify actual emissions.

If there is no applicable requirement for this purpose, propose an appropriate averaging time that does not exceed a 30-day rolling average determined on a daily basis and complete the required baseline analysis on this basis.

If you are unsure whether the source, process or process equipment is subject to any applicable requirements, contact the Division of Air Quality PRIOR to completing this notice.

59. ERC USE ACTIVITY SUMMARY: Attach a detailed submittal consistent with emissions monitoring data and the Quantification Protocol, and consistent with ERC Baseline methodologies, including:

- Identify and describe the methods considered to reduce emissions.
- Identify and submit the methods, procedures and calculations used to determine baseline emission levels, emission reductions; compliance with applicable requirements and any increases in the emissions of other pollutants as a result of the emission reductions strategy. Include data such as CEM reports, stack testing, etc.
- Quantify all air pollutant emissions, including criteria pollutants and HAP, provide with supporting calculations the maximum short-term emission rate that will occur during the ERC use period based on the underlying applicable requirement; additionally provide maximum hourly (lb/hr) and annual emissions (ton/yr, or ton/ozone season) estimates and supporting calculations (45CSR28.13.2.c.). Proposed ERC use must be calculated in a manner consistent with the method used to calculate the baseline (45CSR28.12.g.).
- Identify specific protocols used to quantify emissions. The overall uncertainty associated with the protocol should be identified and addressed where applicable.

- Propose sufficient monitoring, recordkeeping, and reporting (MRR) for all reductions claimed in order to meet the rule requirement for enforceable ERCs (45CSR28.4.12) and for recordkeeping (45CSR28.9), including for short-term emission rates, for underlying applicable rules, and annual quantities.

All proposed methods used, operations changes made, and maximum short-term emission rates established to accommodate ERC use for which a complete notice and certification have been made become legally enforceable operating requirements upon the start date of the period of ERC use or the beginning date of ERC use throughout the period of ERC use (45CSR28.13.7.).

By submitting a complete Notice of ERC Use or Retirement, this facility accepts all requirements necessary to achieve the emissions reductions proposed, as well as all necessary monitoring, recordkeeping, and reporting as enforceable terms and conditions by the DAQ.

60. BUSINESS CONFIDENTIALITY CLAIMS: Does this notice include information which has been claimed confidential per 45CSR31? YES NO

If YES, identify each segment of such information on each page of this request and all attachments that are claimed confidential in this submittal, and provide justification for each segment claimed confidential using the criteria specified by 45CSR31.4.1, and in accordance with the DAQ's "Precautionary Notice - Claims of Confidentiality" guidance.

CERTIFICATION OF INFORMATION

RESPONSIBLE OFFICIAL CERTIFICATION: I certify that I am authorized (per 45CSR28.2.33) to act on behalf of the company named in box 1 above. I further certify that, to the best of my knowledge, the information contained in this request and all attachments is true, accurate, and complete. I further certify that the above source, process or process equipment shall be operated in compliance with all applicable requirements and the conditions and requirements for the use of ERCs under 45CSR28. This certification does not include a certification that the use of ERCs is consistent with attainment area maintenance plans or nonattainment area reasonable further progress requirements or attainment demonstrations.

61. SIGNATURE OF RESPONSIBLE OFFICIAL (PLEASE USE BLUE INK)

62. DATE

63. NAME & TITLE OF RESPONSIBLE OFFICIAL (printed or typed)	64. TELEPHONE NO. () -
65. RESPONSIBLE OFFICIAL MAILING ADDRESS (Street, City, State, Zip Code)	

Send completed form via certified mail to:

EMISSION TRADING PROGRAM
WVDEP - DIVISION OF AIR QUALITY
601 57th Street, SE
CHARLESTON, WV 25304