Air Program Fact Sheet
Emission Reduction Credits

October 2018

This information is designed to provide a basic overview of emission reduction credits (ERCs) and answer frequently asked questions about how ERCs are established, how and when they can be used, and other procedures associated with ERCs. The terms "credits" and "ERCs" are used interchangeably in this document. This fact sheet is for informational purposes only and is not intended to be a complete description of the statutory and regulatory requirements associated with ERCs.

General

1. What are ERCs?

   ERCs are emissions reductions certified in a permit that can be used to meet offset requirements under the Nonattainment New Source Review (NNSR) program. Sources undergoing major construction or major modification in a nonattainment area must offset any new emissions according to a ratio that depends on the severity of nonattainment of the region. Sources can offset their emissions internally or use ERCs that the source previously established or obtained from another source. ERCs are established through qualifying emission reductions at stationary sources, are maintained through elective operation permits (EOPs), and are used to offset emissions in nonattainment areas.

2. What makes an emission reduction eligible for use as an ERC?

   Pursuant to state and federal requirements, emission reductions must be surplus, permanent, quantifiable, and federally enforceable to be eligible for use as an ERC (40 CFR 51.165(a)(3)(ii)(C)(1)(i); s. NR 408.06(7)(a)1., Wis. Adm. Code).

   - *Surplus:* To be considered surplus, emission reductions cannot be reductions that the source was otherwise obligated or has elected to make (e.g., permitted synthetic minor limits or consent decree requirements).
   - *Permanent:* To be made permanent, emission reductions are established by going through a federally enforceable process such as the construction permitting process or a consent order that has been approved by EPA into the state implementation plan (SIP), or through the revocation of existing permits, if a source is being permanently shut down.
   - *Quantifiable:* To be quantifiable, emissions reductions that generate credits are calculated and included as part of a permanent and federally-enforceable action.
   - *Federally enforceable:* To be federally enforceable, emission reductions must have limits or requirements enforceable by EPA, such as those established through one of the processes described above. (40 CFR 51.165(a)(1)(xiv)).

Establishing and maintaining ERCs

3. How are emissions reductions quantified when establishing ERCs?

   Emission reductions are typically quantified using actual emissions data from the 24-month period immediately prior to the reduction occurring; however, the department may allow the use of a different 24-month period if the source demonstrates that it is more representative of actual emissions from the source. The lookback period may be

either within five years of the occurrence of the reduction for any existing electric utility steam generating unit, or within ten years for any other source. This timeframe is consistent with how the department considers "actual emissions" under s. NR 408.02(1), Wis. Adm. Code, for other New Source Review purposes and is also consistent with direction provided by EPA in the federal register notice "Emissions Trading Policy Statement; General Principles for Creation, Banking, and Use of Emission Reduction Credits," 51 Fed. Reg. 43814 (December 4, 1986) (incorporated by reference into Wisconsin's code at s. NR 484.06(1), Wis. Adm. Code).

4. How are ERCs maintained?

   Once qualifying emission reductions have been established, a source must maintain the newly generated credits in an elective operation permit (EOP), pursuant to s. 285.60(2)(b), Wis. Stats. Even if a source is not otherwise required to have an operation permit, it will be issued an EOP in order to maintain ERCs. Using an EOP to maintain ERCs also makes credits easily transferable through the NR 407.11, Wis. Adm. Code, administrative revision process. Minor sources can also establish ERCs so long as they are maintained in an EOP.

5. How are ERCs reported?

   The holder of ERCs must report them separately as actual emissions in the ERC holder's annual emission inventory report, pursuant to s. NR 438.03(1)(d), Wis. Adm. Code. Failing to meet the reporting requirements in the EOP could result in credits being invalidated. See Question #6. Pursuant to s. NR 438.03(1)(d), Wis. Adm. Code, the holder of ERCs shall report them separately as actual emissions on their annual emission inventory report.

Using ERCs

6. For how long do ERCs remain valid?

   ERCs do not have a prescribed duration or expiration date. ERCs generated under one ozone standard can be used as offsets under another ozone standard if the state has not used the emissions reduction to demonstrate attainment or reasonable further progress and the department includes the ERCs in the baseline inventory for the new standard (40 CFR 51.165(a)(1)(vi)(E)(3); 40 CFR 51.165(a)(3)(ii)(C); s. NR 408.06(9), Wis. Adm. Code). ERCs may also become invalid if the holder fails to meet the requirements for their maintenance including reporting credits annually as emissions per s. NR 438.03(1)(d).

7. Where can ERCs be used as offsets?

   Federally enforceable emissions offsets shall be obtained from the same source or other sources in the same nonattainment area, except that the emissions offsets may be obtained from a source in another nonattainment area if (1) the other area has an equal or higher nonattainment classification than the area in which the source is located, and (2) emissions from the other area contribute to a violation of a national ambient air quality standard in the nonattainment area in which the proposed new or modified source would be constructed. (42 USC § 7503(c); s. NR 408.06(2), Wis. Adm. Code).

8. Can ERCs be used as offsets in another state?

   Yes, however use in another state would be subject to the same limitations noted above. In addition, interstate trades would require case-by-case SIP revisions by both states, which apply the requirements from the more stringent state. (See 51 FR 43834 (Dec. 4, 1986)).

9. Are ERCs created under the 1997 or 2008 ozone standards still valid for transfer or use as offsets?

   ERCs created under the 1997 or 2008 ozone standards may still be valid if facilities reported the ERCs to the department (under s. NR 438.03(1)(d), Wis. Adm. Code) and the department included the ERCs as existing emissions in its attainment planning (40 CFR 51.165(a)(1)(vi)(E)(3); 40 CFR 51.165(a)(3)(ii)(C); s. NR 408.06(9), Wis. Adm. Code. The department is currently determining which ERCs established under these standards may still be available for offset purposes and if the state needs to take any additional action to confirm their availability for current or future use.

10. How do I know what ERCs are available, or whether ERCs I think I may have are still valid?

    The department can facilitate identification of ERCs available in Wisconsin that could potentially be used for offset purposes and can work with permit holders to determine if ERCs they are holding are still available for use.

11. Can VOC credits be exchanged with NOx credits and vice versa?

    No. State rules require that sources obtain VOC offsets for VOC emissions increases and NOx offsets for NOx emissions increases (s. NR 408.06(1)(a), Wis. Adm. Code).

12. How do I use an ERC as an offset?

    An ERC is used as an offset as part of a construction permitting action for a major source in a nonattainment area. Credits must be adjusted at the time of use to reflect any new control requirements (e.g., RACT or NSPS requirements established after the credits were initially established). (NR408.06(1)(g)). The credit holder's operation permit would be revised to reflect the credits used and any remaining credit balance.

    Credits must have been established after the last day of the base year used for SIP planning for the most recent NAAQS, unless the credits were included as existing emissions in the baseline inventory used for the SIP (40 CFR 51.165(a)(3)(ii)(C); s. NR 408.06(1)(e), Wis. Adm. Code).

Selling and purchasing ERCs

13. What procedures apply if I am going to sell or purchase ERCs?

    ERC transactions are reflected in permits. As described in Question #4, the department issues a separate EOP to the source that holds the credits. If the source sells the credits, the permit is administratively revised to reflect the new ownership of credits. Once revised, the buyer becomes the permit holder and is responsible for meeting all the requirements in that permit. If only a portion of the credits held in an EOP is sold, then the EOP is administratively revised to show the reduced number of credits held, and a new EOP is issued to the buyer reflecting the number of purchased credits. When all the credits held in an EOP are used as offsets in a major nonattainment area permit, the EOP is revoked. Both buyers and sellers should contact the department to obtain the necessary permits or permit revisions. The department recommends purchasers confirm the status of the ERCs with the department before completing any transaction.

For more information:

Contact the department for further questions.

Permitting (credit establishment, use and trading):
Kristin Hart
(608) 266-6876
kristin.hart@wisconsin.gov

Emissions inventory reporting:
Maria Hill
(608) 216-3179
Maria.Hill@wisconsin.gov

State implementation plan requirements and status of existing ERCs:
David Bizot
(608) 267-7543
David.Bizot@wisconsin.gov

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Wisconsin Department of Natural Resources
Bureau of Air Management
Box 7921- AM/7
Madison, WI 53707
PHONE 608-266-7718 • FAX 608-267-0560
Publication AM-567 2018