

**REGULATION IV
AUTHORITY TO CONSTRUCT REGULATIONS**

Rule 412 **Emission Reduction Credit**

- A. The Air Pollution Control Officer shall allow emissions reductions which exceed those required by these Rules and Regulations to be banked for use in the future by a source owner or by others through agreement with the source owner. Reductions approved under this Rule shall be certified by the Air Pollution Control Officer and maintained for offset eligibility in an emission reduction bank. Banked emissions shall be used only for emission offsets pursuant to this Regulation.
- B. Emission reductions eligible for credit under this Rule shall be actual emissions averaged over a two year period from sources holding Permits to Operate, reduced through the modification of equipment, modification of operations schedules, or shutdown occurring after January 1, 1981. Eligible reductions shall be real, permanent, and enforceable, and shall not derive from enactment of more restrictive emission regulations. Emission reductions produced by modifications of operations schedules or equipment shall be secured by the Air Pollution Control Officer through conditions of Permits to Operate. No emission reduction shall be eligible for credit unless the applicant can demonstrate that the reduction will produce no corresponding emission increase within the District or impacting the District. Emission reductions shall be substantiated by source test, emission monitor, operating record or other data as required by the Air Pollution Control Officer. Engineering data may be substituted for source test data upon approval of the Air Pollution Control Officer.
- C. Eligible emission reductions shall be banked pursuant to the following provisions:
1. Applications for reduction credit shall be submitted on forms or pursuant to guidelines approved by the Air Pollution Control Officer. Failure to provide all required information shall constitute denial of the application.
 2. The Air Pollution Control Officer shall publish a Public Notice once in a newspaper of general circulation in the District at least thirty (30) days prior to making a final decision on an application. The notice shall state the location of the application available for public review, the quantity, and type of pollutant proposed for reduction, and instructions for submitting comments.

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3. If after the review of public comments, the application is approved by the Air Pollution Control Officer, the emission reductions shall be certified by return of a certificate to the applicant identifying the pollutant type, and daily average, and annual quantities approved for banking.
 4. Certified emission reductions shall continue to be banked until withdrawn pursuant to the provisions of this Rule.
- D. Emission reductions certified for banking shall be withdrawn pursuant to the following provisions:
1. The use, sale, or exchange of certified reductions shall be at the discretion of the depositor, provided that exclusive right to use, and authorize use shall not constitute an unrestricted right. Certified reductions shall only be used as emission offsets within the District, or outside the District with the approval of the Air Pollution Control Officer, pursuant to the provisions of this Regulation. If the Air Quality Management District Board determines that emission reductions contained within an approved Nonattainment Plan or other applicable air quality maintenance plan are not being met within established schedules, the Air Pollution Control Board may declare a moratorium on or restrict the withdrawal of certified reductions until the applicable plan is modified or the reduction schedule is met. The Air Pollution Control Officer shall notify all affected depositors of the declaration of a moratorium or restriction and its cancellation.
 2. Certified reduction on deposit for less than two (2) years shall comply with offset requirements in existence on the date of deposit when withdrawn. The use of all other withdrawn reductions shall comply with offset requirements in existence on the date of issuance of an Authority to Construct.
 3. If there is more than one owner of the source of the certified reduction, initial title to that reduction shall be deemed to be owned by such co-owners in the same manner as they hold title to the source of the reduction at the time the reduction was certified by the Air Pollution Control Officer.
 4. Certified emission reductions shall be reduced by that quantity required by any applicable emission limitation adopted by the Air Quality Management District within two (2) years succeeding the issuance of the reduction certificate.

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5. Withdrawal of the certified reductions may be made in whole, or in part, upon application to, review, and determination of withdrawal availability by the Air Pollution Control Officer. Prior to the use of certified reductions, applicable certificates shall be surrendered by the depositor to the Air Pollution Control Officer.
- E. In the event that the Air Pollution Control Officer disapproves the certification or withdrawal of emission reductions, the affected applicant or depositor shall have the right to appeal such decision to the Hearing Board of the District within 30 days after receipt of the notice of disapproval. The Hearing Board shall conduct a public hearing to consider the appeal pursuant to the provision of Regulation VII, Procedure Before the Hearing Board.