

UPDATED INFORMATIVE DIGEST

Sections Affected: The Board adopted sections 91500 through 91508, Title 17, California Code of Regulations (CCR) pursuant to section 39607.5 of the Health & Safety Code.

Background: In 1995, the State Legislature enacted AB 1777, Brewer, Statutes of 1995, Chapter 805. This statute is now codified in Health and Safety Code sections 39607.5 and 39617. As set forth in section 39607.5, the Air Resources Board (ARB) is directed to develop and adopt a methodology for use by districts to calculate the value of credits when those credits are used to meet certain district requirements. The statute specifies a number of criteria which the methodology must meet, and directs the ARB to consider several factors related to the generation and use of the credits traded.

The first criterion in the statute requires the ARB to ensure that the methodology results in the maintenance and improvement of air quality consistent with the requirements of the Health & Safety Code. ARB is also required to ensure that any credit calculation methodology does not result in the double-counting of emissions. Finally, the statute requires the ARB to consider credit life, banking, and overall trading viability when developing its methodology. Once adopted, the State trading rule will serve as the general framework for interchangeable credit trading programs administered by districts.

Summary of Regulation: The State regulation provides a general framework for the trading of emission credits at the district level. The regulation establishes a uniform credit currency to standardize and facilitate credits exchanged in the trading market (i.e., pounds of a pollutant generated in a specific year). The regulation also identifies general requirements and criteria that districts must meet in certifying, calculating, banking, and authorizing the use of credits. This methodology is designed to ensure that credits are granted only for emission reductions that are real, properly quantified, permanent, enforceable, and surplus to applicable federal, state, and district requirements and adopted air quality plans. The regulation provides districts the flexibility to maintain a distinct NSR program to ensure the availability of credits needed to accommodate industrial growth. Finally, the regulation calls for annual performance audits by districts to ensure implementation of trading programs continues to comply with applicable state and federal requirements.

Credit Exchange Function

The State regulation establishes a uniform currency, expressed in pounds of pollutant that are certified and registered in annual increments. Once a district certifies a credit, it retains full value unless otherwise restricted by state or federal law at the time of use. Credits can be used within the time period specified by districts, unless the State authorizes a different time period for mobile sources or products under ARB regulatory authority. Districts can also maintain a separate pool of credits to accommodate future growth from new industrial sources subject to state and federal permit requirements.

Criteria and Methodologies for Credit Generation and Use

The State regulation establishes general requirements that districts must meet when they develop rules governing the generation and use of interchangeable credits. The requirements are intended to ensure the validity of certified credits and to protect the integrity of air quality plans, so that progress towards achieving clean air is not compromised. The key principle established by the regulation is that of equivalency; that is, the interchangeable use of credits must not result in greater emissions than would otherwise have occurred. This assessment of equivalency must take into account the seasonal nature of each air pollutant traded for compliance purposes. The State regulation also restricts the generation or use of credits above district specified significant risk thresholds for air toxic emissions and requires districts to provide for public disclosure of increased public health risk for credit generation or use. In addition, the State regulation allows the interchangeable use of credits from the South Coast Air Quality Management District's cap and trade program RECLAIM once the District and the ARB concur that such use complies with State law affecting attainment-based trading programs.

To ensure that only valid credits are certified, districts must adopt calculation protocols based on criteria specified in the regulation. Consistent with state and federal law, emission reductions used to generate interchangeable credits must be real, permanent, enforceable, surplus, and quantifiable. Emission reductions must also be calculated using the most stringent of historic actual emissions, applicable requirements contained in state or federal rules or statutes, or the district's air quality plan. The regulation requires that district calculation protocols address emission factors, emission rates, operating parameters, emission certification standards, emission baselines in air quality plans, and other technical information. These requirements for calculation protocols should provide for the information necessary to determine that emission reductions meet the established criteria--real, permanent for the term of credit generation, enforceable, surplus, and quantifiable.

Program Reporting Requirements

Finally, the State regulation requires districts that adopt and implement an interchangeable credit trading program to prepare an annual report that describes the quantity of credits that were generated and how these credits were used. The report must also identify any changes to the interchangeable credit trading program.