

1 15A NCAC 02D .2301 is proposed for re adoption without change as follows:
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3 **SECTION .2300 – BANKING EMISSION REDUCTION CREDITS**
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Commented [BJ1]: Changes to Section .2300 overall are primarily administrative and clarifications. There are no changes to this rule.

5 **15A NCAC 02D .2301 PURPOSE**

6 This Section provides for the creation, banking, transfer, and use of emission reduction credits for:

- 7 (1) nitrogen oxides (NO_x),
- 8 (2) volatile organic compounds (VOC),
- 9 (3) sulfur dioxide (SO₂),
- 10 (4) fine particulate (PM_{2.5}), and
- 11 (5) ammonia (NH₃)

12 for offsets under 15A NCAC 02D .0531, Sources in Nonattainment Area.
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14 *History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12);

15 *Eff. December 1, 2005.*

16 *Readopted Eff. _____.*
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1 15A NCAC 02D .2302 is proposed for readoption without change as follows:

Commented [BJ2]: No changes are proposed.

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3 **15A NCAC 02D .2302 DEFINITIONS**

4 For the purposes of this Section, the following definitions shall apply:

- 5 (1) "Air permit" means a construction and operation permit issued under 15A NCAC 02Q .0300,
6 Construction and Operation Permits, or .0500, Title V Procedures.
- 7 (2) "Banking" means a system for recording emission reduction credits so that they may be used or
8 transferred in the future.
- 9 (3) "Enforceable" means enforceable by the Division. Methods for ensuring that emission reduction
10 credits are enforceable include conditions in air permits issued.
- 11 (4) "Federally designated ozone nonattainment area in North Carolina" means an area designated as
12 nonattainment for ozone and described in 40 CFR 81.334.
- 13 (5) "Federally designated fine particulate (PM2.5) nonattainment area in North Carolina" means an area
14 designated as nonattainment for fine particulate (PM2.5) and described in 40 CFR 81.334.
- 15 (6) "Netting Demonstration" means the act of calculating a "net emissions increase" under the
16 preconstruction review requirements of Title I, Part D of the Federal Clean Air Act and the
17 regulations promulgated there under in 15A NCAC 02D .0530, Prevention of Significant
18 Deterioration, or .0531, Sources in Nonattainment Area.
- 19 (7) "Permanent means assured for the life of the corresponding emission reduction credit through an
20 enforceable mechanism such as a permit condition or revocation.
- 21 (8) "Quantifiable" means that the amount, rate, and characteristics of the emission reduction credit can
22 be estimated through a reliable, reproducible method.
- 23 (9) "Real" means a reduction in actual emissions emitted into the air.
- 24 (10) "Surplus" means not required by any local, State, or federal law, rule, order, or requirement and in
25 excess of reductions used by the Division in issuing any air permit, in excess of any conditions in
26 an air permit to avoid an otherwise applicable requirement, or to demonstrate attainment of ambient
27 air quality standards in 15A NCAC 02D .0400 or reasonable further progress towards achieving
28 attainment of ambient air quality standards. For the purpose of determining the amount of surplus
29 emission reductions, any seasonal emission limitation or standard shall be assumed to apply
30 throughout the year. The following are not considered surplus:
- 31 (a) emission reductions that have previously been used to avoid 15A NCAC 02D .0530 or
32 .0531 (new source review) through a netting demonstration;
- 33 (b) Emission reductions in hazardous air pollutants listed pursuant to Section 112(b) of the
34 federal Clean Air Act to the extent needed to comply with 15A NCAC 02D .1109, .1111,
35 or .1112; however, emission reductions in hazardous air pollutants that are also volatile
36 organic compounds beyond that necessary to comply with 15A NCAC 02D .1109, .1111,
37 or .1112 are surplus; or

1 (c) emission reductions used to offset excess emissions from another source as part of an
2 alternative mix of controls ("bubble") demonstration under 15A NCAC 02D .0501.
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4 *History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12);

5 *Eff. December 1, ~~2005~~, 2005;*

6 *Readopted Eff.*
7
8

1 15A NCAC 02D .2303 is proposed for readoption with substantive change as follows:

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3 **15A NCAC 02D .2303 APPLICABILITY AND ELIGIBILITY**

4 (a) Applicability. Any facility that has the potential to emit nitrogen oxides, volatile organic compounds, sulfur
5 dioxide, ammonia, or fine particulate (PM2.5) in amounts greater than 25 tons per year and that is in a federally
6 designated ozone or fine particulate (PM2.5) nonattainment area in North Carolina is eligible to create and bank
7 nitrogen oxides, volatile organic compounds, sulfur dioxide, ammonia, or fine particulate (PM2.5) emission reduction
8 credits.

9 (b) Eligibility of emission reductions.

10 (1) To be approved by the Director as an emission reduction credit, a reduction in emissions shall be
11 real, permanent, quantifiable, enforceable, and surplus and shall have occurred:

12 (A) for ozone after December 31, 2002 for areas previously designated nonattainment under
13 the 1997 8-hour ozone standard including the Charlotte-Gastonia-Rock Hill, NC-SC
14 nonattainment area, the Raleigh-Durham-Chapel Hill nonattainment area, the Rocky
15 Mount nonattainment area, and the Haywood and Swain Counties (Great Smoky
16 Mountains National Park) nonattainment area, and after December 31, 2000 for all other
17 nonattainment areas.

18 (B) for fine particulate (PM2.5) after December 31, 2002 for the areas previously designated
19 nonattainment under the 1997 PM2.5 standard including the former Greensboro-Winston-
20 Salem-High Point, NC and Hickory-Morganton-Lenoir, NC nonattainment areas.

21 (2) To be eligible for consideration as emission reduction credits, emission reductions may be created
22 by any of the following methods:

- 23 (A) installation of control equipment beyond what is necessary to comply with existing rules;
- 24 (B) a change in process inputs, formulations, products or product mix, fuels, or raw materials;
- 25 (C) a reduction in actual emission rate;
- 26 (D) a reduction in operating hours;
- 27 (E) production curtailment or reduction in throughput;
- 28 (F) shutdown of emitting sources or facilities; or
- 29 (G) any other enforceable method that the Director finds resulting in real, permanent,
30 quantifiable, enforceable, and surplus reduction of emissions.

31 (c) Ineligible for emission reduction credit. Emission reductions from the following are not eligible to be banked as
32 emission reduction credits:

- 33 (1) sources covered under a special order or variance until compliance with the emission standards that
34 are the subject of the special order or variance is achieved;
- 35 (2) sources that have operated less than 24 months;
- 36 (3) emission allocations and allowances used in a federal emissions budget trading program under 15A
37 NCAC 02D .1419 or .2408; program.

Commented [BJ3]: Clarifying language is added to reflect change in attainment status.

Commented [BJ4]: Clarifying language is added to reflect change in attainment status.

Commented [BJ5]: Language is updated to reflect that additional programs have come into existence since original adoption.

- 1 (4) emission reductions outside North Carolina; or
2 (5) mobile sources.

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4 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12);*

5 *Eff. December 1, 2005;*

6 *Amended Eff. July 1, ~~2007~~ 2007;*

7 *Readopted Eff. _____.*

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1 15A NCAC 02D .2304 is proposed for readoption without change as follows:

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3 **15A NCAC 02D .2304 QUALIFICATION OF EMISSION REDUCTION CREDITS**

4 For purposes of calculating the amount of emission reduction that can be quantified as an emission reduction credit,
5 the following procedures shall be followed:

6 (1) The source's average actual annual emissions before the emission reduction shall be calculated in
7 tons per year. In calculating average actual annual emissions before the emission reduction, data
8 from the 24-month period immediately preceding the reduction in emissions shall be used. The
9 Director may allow the use of a different time period, not to exceed seven years immediately
10 preceding the reduction in emissions if the owner or operator of the source documents that such
11 period is more representative of normal source operation.

12 (2) The emission reduction credit generated by the emission reduction shall be calculated by subtracting
13 the allowable annual emissions rate following the reduction from the average actual annual
14 emissions prior to the reduction.

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16 *History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12);

17 *Eff. December 1, ~~2005~~, 2005;*

18 *Readopted Eff. _____.*

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1 15A NCAC 02D .2305 is proposed for readoption without substantive change as follows:
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3 **15A NCAC 02D .2305 CREATING AND BANKING EMISSION REDUCTION CREDITS**

4 (a) The owner or operator of a source seeking to create and bank emission reduction credits shall submit over the
5 signature of the responsible official for a Title V facility or the official identified in 15A NCAC 02Q .0304(j) as defined
6 in 15A NCAC 02Q .0303 for a non-Title V facility the following information, which may shall be on an application
7 form provided by the Division:

Commented [BJ6]: Language is updated for consistency with changes to 02Q .0303 as part of its readoption.

- 8 (1) the company name, contact person and telephone number, and street address of the source seeking
9 the emission reduction credit;
- 10 (2) a description of the type of source where the proposed emission reduction occurred or will occur;
- 11 (3) a detailed description of the method or methods to be employed to create the emission reduction;
- 12 (4) the date that the emission reduction occurred or will occur;
- 13 (5) quantification of the emission reduction credit as described under ~~Rule .2304 of this Section;~~ 15A
14 NCAC 02D .2304;
- 15 (6) the proposed method for ensuring the reductions are permanent and enforceable, including any
16 necessary application to amend the facility's air permit or, for a shutdown of an entire facility, a
17 request for permit rescission;
- 18 (7) whether any portion of the reduction in emissions to be used to create the emission reduction credit
19 has previously been used to avoid 15A NCAC 02D .0530 (prevention of significant deterioration)
20 or .0531 (nonattainment major new source review) through a netting demonstration;
- 21 (8) any other information necessary to demonstrate that the reduction in emissions is real, permanent,
22 quantifiable, enforceable, and surplus; and
- 23 (9) a complete permit application if the permit needs to be modified to create or enforce the emission
24 reduction credit.

25 (b) If the Director finds that

- 26 (1) all the information required to be submitted under Paragraph (a) of this Rule has been submitted;
- 27 (2) the source is eligible under ~~Rule .2303 of this Section;~~ 15A NCAC 02D .2303;
- 28 (3) a complete permit application has been submitted, if necessary, to implement the reduction in
29 emissions; and
- 30 (4) the reduction in emissions is real, permanent, quantifiable, enforceable, and surplus; the Director
31 shall issue the source a certificate of emission reduction credit once the facility's permit is modified,
32 if necessary, to reflect permanently the reduction in emissions. ~~The Director shall register the~~
33 ~~emission reduction credit for use only after the reduction has occurred.~~

34 The Director shall register the emission reduction credit for use only after the reduction has occurred.

35 (c) Processing schedule.

- 36 (1) The Division shall send written acknowledgement of receipt of the request to create and bank
37 emission credits within 10 days of receipt of the request.

- 1 (2) The Division shall review all request to create and bank emission credits within 30 days to determine
2 whether the application is complete or incomplete for processing purposes. If the application is
3 incomplete the Division shall notify the applicant of the deficiency. The applicant shall have 90 days
4 to submit the requested information. If the applicant fails to provide the requested information within
5 90 days, the Division shall ~~return~~ withdraw the application.
- 6 (3) The Director shall either approve or disapprove the request within 90 days after receipt of a complete
7 application requesting the banking of emission reduction credits. Upon approval the Director shall
8 issue a certificate of emission reduction credit.

9
10 *History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12);
11 *Eff. December 1, ~~2005~~, 2005;*
12 *Readopted Eff. _____.*
13
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1 15A NCAC 02D .2306 is proposed for readoption without substantive change as follows:

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3 **15A NCAC 02D .2306 DURATION OF EMISSION REDUCTION CREDITS**

4 Banked emission reduction credits are permanent until withdrawn by the owner or until ~~withdrawn~~ by the Director
5 under ~~Rule .2310 of this Section.~~ 15A NCAC 02D .2310.

Commented [BJ7]: Duplicative language is eliminated.

6

7 *History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12);

8

Eff. December 1, 2005. 2005;

9

Readopted Eff. _____.

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1 15A NCAC 02D .2307 is proposed for reoption without substantive change as follows:

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3 **15A NCAC 02D .2307 USE OF EMISSION REDUCTION CREDITS**

4 (a) Persons holding emission reduction credits may withdraw the emission reduction credits and may use them in any
5 manner consistent with this Section.

6 (b) An emission reduction credit may be withdrawn only by the owner of record or by the Director under ~~Rule 15A~~
7 NCAC 02D .2310 of this Section and may be withdrawn in whole or in part. In the case of a partial withdrawal, the
8 Director shall issue a revised certificate of emission reduction credit to the owner of record reflecting the new amount
9 of the credit and shall revoke the original certificate.

10 (c) Emission reduction credits may be used for the following purposes:

11 (1) as offsets or netting demonstrations required by 15A NCAC 02D .0531 for a major new source of:

- 12 (A) nitrogen oxides or volatile organic compounds in a federally designated ozone
13 nonattainment area, or
- 14 (B) fine particulate (PM2.5) in a federally designated PM2.5 nonattainment area;

15 (2) as offsets or netting demonstrations required by 15A NCAC 02D .0531 for a major modification to
16 an existing major source of:

- 17 (A) nitrogen oxides or volatile organic compounds in a federally designated ozone
18 nonattainment area, or
- 19 (B) fine particulate (PM2.5) in a federally designated PM2.5 nonattainment area;

20 or

21 ~~(3) as part of a netting demonstration required by 15A NCAC 02D .0530 when the source using the~~
22 ~~emission reduction credits is the same source that created and banked the emission reduction credits;~~
23 ~~or~~

24 ~~(4)(3)~~ to remove a permit condition that created an emission reduction credit.

25 (d) Emission reduction credits generated through reducing emissions of one pollutant shall not be used for trading
26 with or offsetting of another pollutant, for example emission reduction credits for volatile organic compounds in an
27 ozone nonattainment area shall not be used to offset nitrogen oxide emissions.

28 (e) Limitations on use of emission reduction credits.

29 (1) Emission reduction credits shall not be used to exempt a source from:

30 ~~(A) prevention of significant deterioration requirements (15A NCAC 02D .0530) for netting~~
31 ~~demonstrations unless the emission reduction credits have been banked by the facility at~~
32 ~~which the new or modified source is located and have been banked during the period~~
33 ~~specified in 15A NCAC 02D .0530. This Subparagraph does not preclude the use of~~
34 ~~emission reductions not banked as emission credits to complete netting demonstrations.~~

35 ~~(B)~~ (A) nonattainment major new source review (15A NCAC 02D .0531) unless the emission
36 reduction credits have been banked by the facility at which the new or modified source is
37 located and have been banked during the period specified in 15A NCAC 02D .0531. This

Commented [BJ8]: This language is unnecessary and is proposed to be eliminated because the PSD program itself precludes use of these credits in a netting demonstration.

Commented [BJ9]: This language is unnecessary and is proposed to be eliminated because the PSD program precludes use of these in a netting demonstration.

1 Subparagraph does not preclude the use of emission reductions not banked as emission
2 credits to complete netting demonstrations.

3 ~~(E)~~ (B) new source performance standards (15A NCAC 02D .0524), national emission standards
4 for hazardous air pollutants (15A NCAC 02D .1110), or maximum achievable control
5 technology (15A NCAC 02D .1109, .1111, or .1112); or

6 ~~(D)~~ (C) any other requirement of ~~Subchapter~~ 15A NCAC 02D unless the emission reduction
7 credits have been banked by the facility at which the new or modified source is located.

8 (2) Emission reduction credits shall not be used to allow a source to emit above the limit established by
9 a rule in ~~Subchapter~~ 15A NCAC 02D. (If the owner or operator wants to permit a source to emit
10 above the limit established by a rule in Subchapter 15A NCAC 02D, he needs to follow the
11 procedures in 15A NCAC 02D .0501 for an alternative mix of controls ["bubble".])

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13 *History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12);
14 Eff. December 1, 2005; 2005;
15 Readopted Eff. _____.

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1 15A NCAC 02D .2308 is proposed for re adoption without change as follows:
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3 **15A NCAC 02D .2308 CERTIFICATES AND REGISTRY**

4 (a) Certificates of emission reduction credit issued by the Director shall contain the following information:

- 5 (1) the pollutant reduced (nitrogen oxides, volatile organic compounds, sulfur dioxide, ammonia, fine
6 particulate);
- 7 (2) the amount of the credit in tons per year;
- 8 (3) the date the reduction occurred;
- 9 (4) company name, the street address and county of the source where the reduction occurred; and
10 (5) the date of issuance of the certificate.

11 (b) The Division shall maintain an emission reduction credit registry that constitutes the official record of all
12 certificates of emission reduction credit issued and all withdrawals made. The registry shall be available for public
13 review. For each certificate issued, the registry shall show the amount of the emission reduction credit, the pollutant
14 reduced, the name and location of the facility generating the emission reduction credit, and the facility contact person.
15 The Division shall maintain records of all deposits, deposit applications, withdrawals, and transactions.

16
17 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12);*

18 *Eff. December 1, 2005. 2005;*

19 *Readopted Eff. _____.*
20
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1 15A NCAC 02D .2309 is proposed for readoption without change as follows:
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3 **15A NCAC 02D .2309 TRANSFERRING EMISSION REDUCTION CREDITS**

4 (a) If the owner of a certificate of emission reduction credit transfers the certificate to a new owner, the Director shall
5 issue a certificate of emission reduction credit to the new owner and shall revoke the certificate held by the current
6 owner of record.

7 (b) If the owner of a certificate of emission reduction credit transfers part of the emission reduction credits represented
8 by the certificate to a new owner, the Director shall issue a certificate of emission reduction credit to the new owner
9 reflecting the transferred amount and shall issue a certificate of emission reduction credit to the current owner of
10 record reflecting the amount of emission reduction credit remaining after the transfer. The Director shall revoke the
11 original certificate of emission reduction credit.

12 (c) For any transferred emission reduction credits, the creator of the emission reduction credit shall continue to have
13 enforceable conditions in the appropriate permit to assure permanency of the emission reduction and shall be held
14 liable for compliance with those conditions; the user of any transferred emission reduction credits shall not be held
15 liable for any failure of the creator to comply with its permit.

16
17 *History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(12);

18 *Eff. December 1, 2005. 2005;*

19 *Readoption Eff. _____.*
20
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1 15A NCAC 02D .2310 is proposed for reoption without substantive change as follows:

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3 **15A NCAC 02D .2310 REVOCATION AND CHANGES OF EMISSION REDUCTION CREDITS**

Commented [BJ10]: The proposed changes consist of minor grammatical and technical changes.

4 (a) The Director may withdraw emission reduction credits if the emission reduction ~~credits~~credits:

- 5 (1) have already been used;
- 6 (2) are incorrectly calculated; or
- 7 (3) achieved are less than those claimed.

8 (b) If a banked emission reduction credit ~~were~~was calculated using an emission factor and the emission factor changes,
9 the Director shall revise the banked emission reduction credit to reflect the change in the emission factor. If a banked
10 emission reduction credit had been used, then no change shall be made in the ~~use~~used credit.

11 (c) When a rule is adopted or amended in ~~this Subchapter~~15A NCAC 02D or ~~Subchapter~~ 15A NCAC 02Q after
12 November 1, 2005, the Director shall adjust the banked emission reduction credits to account for changes in emissions
13 that would be allowed under the new emission limitation with which the source must currently comply if it is still
14 operating. If a source has permanently ceased operations, then the Director shall make no adjustments in its banked
15 emissions reduction credits. If a banked emission reduction credit has been used, no change shall be made in the used
16 credit.

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18 *History Note:* Authority *G.S. 143-215.3(a)(1); 143-215.107(a)(12);*

19 *Eff. December 1, 2005; 2005;*

20 *Readopted Eff. _____.*

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1 15A NCAC 02D .2311 is proposed for readoption as follows:
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3 **15A NCAC 02D .2311 MONITORING**

4 The Director shall require the owner or operator of a source whose emissions are being reduced to create an emission
5 reduction credit to verify the reduction in emissions with a source test, continuous emission monitoring, or other
6 methods that measure the actual emissions or may require the use of parametric monitoring to show that the source or
7 its control device is being operated in the manner that it is designed or is permitted.
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9 *History Note:* Authority G.S. 143-215.3(a)(1); 143-215.66; 143-215.107(a)(12);
10 *Eff. December 1, ~~2005~~, 2005;*
11 *Readopted Eff. _____.*
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