

(Adopted October 15, 1993)(Amended December 7, 1995)(Amended May 11, 2001)
(Amended December 5, 2003)(Amended September 3, 2004)(Amended January 7, 2005)
April 1, 2005
PAR2007c

PROPOSED AMENDED RULE 2007. TRADING REQUIREMENTS

- (a) Purpose
The purpose of this rule is to define the RECLAIM trading unit and to establish trading requirements for RECLAIM.
- (b) Nature of RECLAIM Trading Credits (RTCs)
 - (1) An RTC is a limited authorization to emit RECLAIM pollutants in accordance with the restrictions and requirements of District rules and state and federal law.
 - (2) An RTC may be bought, sold, traded or otherwise transferred or acquired in accordance with the provisions of this rule.
 - (3) An RTC shall not constitute a security or other form of property, but may be used as collateral or security for indebtedness.
 - (4) The District reserves the right to amend the RECLAIM rules in response to program reevaluations pursuant to Rule 2015 - Backstop Provisions, or at other times. Nothing in District rules shall be construed to limit the District's authority to condition, limit, suspend or terminate any RTCs or the authorization to emit which is represented by a Facility Permit.
- (c) Term of RTCs
 - (1) An RTC shall be denominated in terms of one pound of a RECLAIM pollutant and shall have a term of one year. Cycle 1 facilities, representing approximately half of the total RTCs allocated in each trading zone, will receive RTCs that have an issue date of January 1 and an expiration date of December 31. The remaining Cycle 2 facilities will receive RTCs that have an issue date of July 1 and an expiration date of June 30.
 - (2) A Facility Permit holder may acquire and use RTCs, except as provided in paragraphs (c)(4), (c)(5), and (c)(6), issued in either cycle regardless of the facility's initial RTC allocation cycle. However, the expiration date of an RTC is not affected by trading for use in the other cycle.

- (3) A Facility Permit holder may acquire and use expired RTCs, except as provided in paragraph (c)(4), (c)(5), and (c)(6), to reconcile emissions during a quarter in which the annual Allocation was exceeded, if the following conditions are met:
 - (A) such transaction and use occurs during the reconciliation period immediately following the quarter during which the subject emissions occurred; and
 - (B) the RTCs are used to reconcile emissions that occurred during the RTC term.
- (4) Notwithstanding Rule 2004, a Facility Permit holder of a Power Producing Facility may not use NO_x RTCs to reconcile emissions for any quarter starting on or after January 1, 2001 and ending January 7, 2005, unless such RTCs were:
 - (A) acquired prior to January 12, 2001 by the Facility Permit holder or any facility under common ownership, or
 - (B) generated under an approved emission reduction credit program, other than RECLAIM allocations, or
 - (C) acquired pursuant to paragraph (c)(8) of this rule.

The date of acquisition of RTCs specified in subparagraph (c)(4)(A) shall be evidenced by either the RTC Listing, as provided under subdivision (d) of this rule, or by a purchase agreement that was executed by both trading parties on or before January 11, 2001 for which the RTC trade registration was received by the Executive Officer by either May 1, 2001, or May 11, 2001 if the purchase agreement or contract was for future transfer of RTCs. The execution date of the purchase agreement shall be evidenced by either notarization or sworn statements by the trading parties.
- (5) Notwithstanding paragraph (c)(4) of this rule, RTCs purchased after January 11, 2001, and the trade registration was received by the Executive Officer prior to May 1, 2001, may be used for demonstrating compliance with the first quarter of calendar year 2001 only.
- (6) The Facility Permit holder of a Power Producing Facility may sell NO_x RTCs to the District at a price not to exceed the Participation Fee specified in Rule 2020 (h)(1). Such sales shall not disqualify the facility from participating in the Mitigation Fee Program.

- (7) A Facility Permit holder of a Power Producing Facility may sell NOx RTCs above the facility's original allocation issued by the District for each compliance year. Transfer of such RTCs to any party prior to January 7, 2005 shall disqualify the Facility Permit Holder from participating in the Mitigation Fee Program for the year or years for which the RTCs are transferred or sold.
- (8) Notwithstanding the requirements of paragraph (c)(7), on and after January 7, 2005, a Facility Permit holder of a Power Producing Facility may buy NOx RTCs valid for Compliance Year 2005 or any future compliance year from any party.
- (9) Notwithstanding the requirements of paragraph (c)(7), on and after January 7, 2005, a Facility Permit holder of a Power Producing Facility may only sell or transfer NOx RTCs of its original allocation issued by the District for Compliance Years 2005 or 2006 to new power generating facilities brought on line as of January 1, 2004 or later, and may sell or transfer NOx RTCs for Compliance Year 2007 or any future compliance year of its original allocation issued by the District to any party.
- (10) Notwithstanding the requirements of paragraph (c)(7), on and after January 7, 2005, a Facility Permit holder of a Power Producing Facility may sell or transfer NOx RTCs to another facility under common ownership for any compliance year.

(d) RTC Listing

The Executive Officer will maintain an RTC Listing specifying all RTCs held by each facility or person. The listing is the official and controlling record of RTC holdings. The Executive Officer will amend the RTC Listing upon any of the following actions:

- (1) RTC transfer;
- (2) change in name of an RTC holder;
- (3) expiration of unused RTCs;
- (4) a reduction of a facility's annual emission Allocation pursuant to Rule 2010 (b)(1)(A) or (b)(3); or
- (5) at the end of each quarter's reconciliation period.

(e) Acquisition of RTCs

RTCs may be acquired only as follows:

- (1) Initially, the Facility Permit holder is granted, pursuant to Rule 2002, RTCs for each year equal to the facility's annual Allocation for that year.
- (2) Any person may acquire RTCs through purchase, trade or other means of transfer from any person who holds RTCs. The following requirements shall govern the transfer of RTCs:
 - (A) The transfer of RTCs shall be effective only upon amendment by the Executive Officer of the RTC Listing.
 - (B) The Executive Officer shall not amend the RTC Listing unless the seller and the buyer have jointly filed a Registration of RTC Transfer. The Registration of RTC Transfer shall include, but not be limited to, the following information:
 - (i) identification of the seller and buyer. If the seller is an agent, broker, or other intermediary representing the owner of the RTC, the owner of the RTC shall also be identified. In the case of pooled transactions or markets, buyers and owners of RTCs involved in the transactions of RTCs can be identified in aggregate;
 - (ii) RTC expiration date;
 - (iii) the actual date of the trading transaction;
 - (iv) purchase agreement or transaction confirmation;
 - (v) the amount and type of emissions involved in this transaction for each buyer, seller, and owners of RTCs;
 - (vi) the transaction date and the date on which the transfer is to be effective;
 - (vii) the Regulation XIII zone and the RECLAIM trading zone from which the RTCs originated;
 - (viii) the price per pound of emissions, if sold;
 - (ix) if the RTCs for transfer are for the current compliance year, the seller shall indicate one or more of the following four causes for the generation of RTCs:
 - (I) process change;
 - (II) addition of control equipment;
 - (III) production decrease; or
 - (IV) equipment or facility shutdown.

- If the seller is not a RECLAIM facility, and cause for generation has been previously reported, no cause need be indicated.
- (x) if the RTCs for transfer are valid for a subsequent compliance year, the seller shall comply with clause (vii) or may alternatively indicate that the manner of generating the RTCs has not yet been determined;
 - (xi) the buyer shall indicate one or more of the following three uses of the RTCs:
 - (I) issuance of RTC Certificate;
 - (II) increase of Allocation to satisfy annual compliance or increased production; or
 - (III) use under Rule 2005 - New Source Review for RECLAIM.
 - (xii) the origin of the RTCs, such as allocation issued by the District, converted from mobile source emission reduction credits, or converted from area source credits.
- (C) The parties to an agreement for a contingent right to purchase RTCs or a forward contract shall report to the District the total volume of RTCs in such contract agreement, the dates, the relevant time frames for the future delivery of credits, and all prices paid within five (5) business days of the contract agreement. An agent, broker, or other intermediary representing the contracting parties may report on their behalf. Such a report need not identify the potential buyer and seller. Once the contingent right has been exercised as a transfer of RTCs with disclosure pursuant to paragraph (e)(2), all other applicable rules shall apply.
- (D) The Executive Officer shall not amend the RTC Listing to identify a new holder of RTCs, or to add RTCs to an existing RTC holder, until an equivalent amount of RTCs are debited from the seller.
- (E) When RTCs are transferred from an Allocation, the debit shall result in an automatic amendment of the Allocation.

- (F) When the buyer is a RECLAIM facility, the Executive Officer shall amend the buyer's Allocation or issue an RTC certificate in the name of the buyer, as requested pursuant to subparagraph (e)(2)(H).
 - (G) When the buyer is not a RECLAIM facility the Executive Officer will issue an RTC certificate in the name of the buyer.
 - (H) The seller and buyer shall jointly file a Registration of RTC transfer within five (5) business days of the date of the trading transaction.
- (3) For pooled transactions or markets, in the event that any of the RTCs involved in the transactions are subsequently invalidated, the agent, broker, or intermediary representing the buyers and sellers shall revise the transaction or identify the specific buyers and sellers of each RTC transferred within 2 business days of written notice by the Executive Officer. Failure to provide the information shall constitute a violation of this rule and result in invalidation of all pooled buyer's RTCs in proportion to the amount obtained in the purchase. If this does not occur, each buyer of the RTCs involved in the pooled transaction or market shall be subject to a violation notice.
- (f) Date of Eligibility for Trading of RTCs
 - (1) RTCs issued as part of an Allocation are eligible for transfer upon approval of the Facility Permit;
 - (2) RTCs credited pursuant to Rule 2008 - Mobile Source Credits, are eligible for transfer upon issuance; and
 - (3) RTCs to replace existing ERCs held by non-RECLAIM facilities pursuant to Rule 2002 (c)(5) are eligible for transfer upon issuance.
- (g) RTC Certificates
 - (1) RTC Certificates may only be issued by the Executive Officer for RTCs which are not part of an Allocation.
 - (2) RTC Certificates shall designate the name of the holder, the Regulation XIII zone and RECLAIM trading zone from which the RTC originated, the issue date, the expiration date, and an annual emissions value.

- (3) RTC Certificates may be acquired by transfer as set forth in subdivision (e). In addition, a Facility Permit holder may elect to reduce the Allocation and, upon such amendment to the Facility Permit by the Executive Officer, shall be issued an RTC Certificate. The value of the certificate shall be equivalent to the reduction in the Allocation in the year for which the certificate is issued.
 - (4) RTC certificates may be surrendered for application to create or increase an Allocation.
- (h) Retirement of RTCs

RTCs may be surrendered to the District for retirement from the market. All RTC retirements will be documented annually through the annual program audit, and used to provide further progress for clean air. RTCs retired to their issue date shall be exempt from the RTC Allocation Fee specified in Rule 301 - Permit Fees.
- (i) RTC Trading Prohibition

No person shall, in connection with any agreement or proposed agreement for the transfer of any RTC, knowingly make or cause to be made to any other person any false report or statement regarding RTCs.