

## **Emission Offset Interpretative Ruling, 40 C.F.R. Pt. 51, app. S (edited)**

This appendix sets forth EPA's Interpretative Ruling on the preconstruction review requirements for stationary sources of air pollution (not including indirect sources) under 40 CFR subpart I and section 129 of the Clean Air Act Amendments of 1977, Public Law 95-95, (note under 42 U.S.C. 7502). A major new source or major modification which would locate in any area designated under section 107(d) of the Act as attainment or unclassifiable for ozone that is located in an ozone transport region or which would locate in an area designated in 40 CFR part 81, subpart C, as nonattainment for a pollutant for which the source or modification would be major may be allowed to construct only if the stringent conditions set forth below are met. These conditions are designed to insure that the new source's emissions will be controlled to the greatest degree possible; that more than equivalent offsetting emission reductions (emission offsets) will be obtained from existing sources; and that there will be progress toward achievement of the NAAQS. \* \* \*

### **IV. Sources That Would Locate in a Designated Nonattainment Area**

A. Conditions for approval. If the reviewing authority finds that the major stationary source or major modification would be constructed in an area designated in 40 CFR 81.300 et seq. as nonattainment for a pollutant for which the stationary source or modification is major, approval may be granted only if the following conditions are met:

Condition 1. The new source is required to meet an emission Limitation 4 which specifies the lowest achievable emission rate for such source.

Condition 2. The applicant must certify that all existing major sources owned or operated by the applicant (or any entity controlling, controlled by, or under common control with the applicant) in the same State as the proposed source are in compliance with all applicable emission limitations and standards under the Act (or are in compliance with an expeditious schedule which is Federally enforceable or contained in a court decree).

Condition 3. Emission reductions (offsets) from existing sources in the area of the proposed source (whether or not under the same ownership) are required such that there will be reasonable progress toward attainment of the applicable NAAQS. Except as provided in paragraph IV.G.5 of this Ruling (addressing PM<sub>2.5</sub> and its precursors), only intrapollutant emission offsets will be acceptable (e.g., hydrocarbon increases may not be offset against SO<sub>2</sub> reductions).

Condition 4. The emission offsets will provide a positive net air quality benefit in the affected area (see Section IV.D. below). Atmospheric simulation modeling is not necessary for volatile organic compounds and NO<sub>x</sub>. Fulfillment of Condition 3 and Section IV.D. will be considered adequate to meet this condition.

Condition 5. The permit applicant shall conduct an analysis of alternative sites, sizes, production processes and environmental control techniques for such proposed source that demonstrates that the

benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification. \* \* \*

C. Baseline for determining credit for emission and air quality offsets. The baseline for determining credit for emission and air quality offsets will be the SIP emission limitations in effect at the time the application to construct or modify a source is filed. Thus, credit for emission offset purposes may be allowable for existing control that goes beyond that required by the SIP. Emission offsets generally should be made on a pounds per hour basis when all facilities involved in the emission offset calculations are operating at their maximum expected or allowed production rate. The reviewing agency should specify other averaging periods (e.g., tons per year) in addition to the pounds per hour basis if necessary to carry out the intent of this Ruling. When offsets are calculated on a tons per year basis, the baseline emissions for existing sources providing the offsets should be calculated using the actual annual operating hours for the previous one or two year period (or other appropriate period if warranted by cyclical business conditions). Where the SIP requires certain hardware controls in lieu of an emission limitation (e.g., floating roof tanks for petroleum storage), baseline allowable emissions should be based on actual operating conditions for the previous one or two year period (i.e., actual throughput and vapor pressures) in conjunction with the required hardware controls.

1. No meaningful or applicable SIP requirement. Where the applicable SIP does not contain an emission limitation for a source or source category, the emission offset baseline involving such sources shall be the actual emissions determined in accordance with the discussion above regarding operating conditions.

Where the SIP emission limit allows greater emissions than the uncontrolled emission rate of the source (as when a State has a single particulate emission limit for all fuels), emission offset credit will be allowed only for control below the uncontrolled emission rate. \* \* \*

### **3. Emission Reduction Credits from Shutdowns and Curtailments.**

(i) Emissions reductions achieved by shutting down an existing source or curtailing production or operating hours may be generally credited for offsets if they meet the requirements in paragraphs IV.C.3.i.1. through 2 of this section.

(1) Such reductions are surplus, permanent, quantifiable, and federally enforceable.

(2) The shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this paragraph, a reviewing authority may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emission units. However, in no event may credit be given for shutdowns that occurred before August 7, 1977.

(ii) Emissions reductions achieved by shutting down an existing source or curtailing production or operating hours and that do not meet the requirements in paragraphs IV.C.3.i.1. through 2 of this section may be generally credited only if:

(1) The shutdown or curtailment occurred on or after the date the new source permit application is filed;  
or

(2) The applicant can establish that the proposed new source is a replacement for the shutdown or curtailed source, and the emissions reductions achieved by the shutdown or curtailment met the requirements of paragraphs IV.C.3.i.1. through 2 of this section. \* \* \*

#### G. Offset Ratios.

1. In meeting the emissions offset requirements of paragraph IV.A, Condition 3 of this Ruling, the ratio of total actual emissions reductions to the emissions increase shall be at least 1:1 \* \* \*