



Province of Alberta

ENVIRONMENTAL PROTECTION
AND ENHANCEMENT ACT

EMISSIONS TRADING REGULATION

Alberta Regulation 33/2006

With amendments up to and including Alberta Regulation 180/2015

Office Consolidation

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(Consolidated up to 180/2015)

ALBERTA REGULATION 33/2006

Environmental Protection and Enhancement Act

EMISSIONS TRADING REGULATION

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Part 1 Interpretation and Administration

Interpretation

1(1) In this Regulation,

- (a) “account holder” means the holder of an emissions trading account;
- (b) “Act” means the *Environmental Protection and Enhancement Act*;
- (c) “annual MWh output” means annual net electricity output in megawatt hours;
- (d) “approval” means an approval issued under the Act authorizing an activity consisting of all or any of the construction, operation and reclamation of a power plant;
- (e) “approval holder” means the holder of an approval;
- (f) “baseline emission rate” means the baseline emission rate of a generating unit established in accordance with Part 4;
- (g) “coal-fired generating unit” means a generating unit fired solely or primarily with coal;
- (h) “*Cogeneration Guidelines*” means the *Guidance Document for Cogeneration Emissions* published by the Minister’s Department, as amended or replaced from time to time;
- (i) “cogeneration plant” means a facility that produces, solely or primarily from combustion of natural gas, thermal energy that is used in manufacturing or production processes and to generate electricity, but does not include a facility operating under an industrial approval;
- (j) “cogeneration unit” means a single line of process equipment that is directly related to the production of electricity at a cogeneration plant;

- (k) “compliance purposes” means using emission credits for the purposes of meeting emissions limits as set out in an approval;
- (l) “current emissions standards” means the most current emissions standards for electricity generation as set out in the *Emissions Standards*;
- (m) “design life” means the following periods:
 - (i) for Wabamun units 1, 2 and 4 operating under approval number 10323-02-00 issued under the Act, the period ending on December 31, 2010;
 - (ii) subject to subclause (iv), for every other coal-fired generating unit operating on January 1, 2006, the period ending on the later of
 - (A) December 31 of the 40th year after the date the generating unit was commissioned, or
 - (B) the date of expiry of the power purchase arrangement in effect with respect to the generating unit on December 31, 2003, as the power purchase arrangement read on December 31, 2003;
 - (iii) subject to subclause (iv), for every natural gas-fired generating unit operating on January 1, 2006, the period ending on the later of
 - (A) December 31 of the 30th year after the date the generating unit was commissioned, or
 - (B) the date of expiry of the power purchase arrangement in effect with respect to the generating unit on December 31, 2003, as the power purchase arrangement read on December 31, 2003;
 - (iv) for every coal-fired or natural gas-fired generating unit that is retrofitted on or after January 1, 2006 to meet current emissions standards and for which an order is made under section 54, the period ending,
 - (A) in the case of a coal-fired generating unit, December 31 of the 40th year after the date the generating unit was retrofitted, and

- (B) in the case of a natural gas-fired generating unit, December 31 of the 30th year after the date the generating unit was retrofitted;
- (v) for every coal-fired or natural gas-fired generating unit that is commissioned on or after January 1, 2006, the period ending,
 - (A) in the case of a coal-fired generating unit, December 31 of the 40th year after the date the generating unit was commissioned, and
 - (B) in the case of a natural gas-fired generating unit, December 31 of the 30th year after the date the generating unit was commissioned;
- (n) “Director” means the person designated by the Minister as Director for the purposes of this Regulation;
- (o) “emission credit” means an emission credit described in section 31 that is generated in connection with a generating unit located in Alberta;
- (p) “*Emissions Standards*” means the *Alberta Air Emissions Standards for Electricity Generation* published by the Minister’s Department, as amended or replaced from time to time;
- (q) “emissions trading account” means one or more accounts in the registry;
- (r) “excluded cogeneration plant” means a facility that
 - (i) produces, solely or primarily from combustion of coal, thermal energy that is used in manufacturing or production processes and to generate electricity, or
 - (ii) operates under an industrial approval and produces thermal energy that is used in manufacturing or production processes and to generate electricity;
- (s) “generating unit” means
 - (i) a single line of process equipment of a power plant that is directly related to the production of electricity,
 - (ii) a peaking unit,
 - (iii) a cogeneration unit, or
 - (iv) any other structure or component of a power plant designated by the Minister as a generating unit;

- (t) “industrial approval” means an approval issued under the Act authorizing
 - (i) all or any of the construction, operation and reclamation of a power plant as defined in the *Activities Designation Regulation* (AR 276/2003), and
 - (ii) at least one other activity as defined in the Act;
- (u) “natural gas-fired generating unit” means a generating unit fired solely or primarily with natural gas;
- (v) “new unit” means a generating unit referred to in clause (m)(iv) or (v);
- (w) “NO_x” means nitrogen oxides (expressed as NO₂);
- (x) “peaking unit” means a peaking unit described in the *Emissions Standards*;
- (y) “power plant” means
 - (i) a power plant as defined in the *Activities Designation Regulation* (AR 276/2003) that is fired solely or primarily by natural gas or coal, but does not include an excluded cogeneration plant, or
 - (ii) any other plant, structure or thing that produces electricity that is designated by the Minister as a power plant;
- (z) “registry” means the Emissions Trading Registry established by section 11;
- (aa) “registry operator” means
 - (i) the person to whom the Minister delegates the registry operator’s powers, duties or functions, or
 - (ii) if no person is delegated the registry operator’s powers, duties and functions, or for those powers, duties or functions not delegated, the Minister;
- (bb) “SO₂” means sulphur dioxide;
- (cc) “table A unit” means a generating unit of a power plant listed in the Schedule;
- (dd) “third party auditor” means a person who has the qualifications set out in section 53;

- (ee) “unit operator” means the approval holder of a generating unit or, if there is no approval for the generating unit, the owner of the generating unit;
- (ff) “year” means calendar year, unless otherwise expressly provided in this Regulation.

(2) For the purposes of subsection (1)(m), a generating unit is operating on January 1, 2006 if the approval to which the generating unit is subject contains terms and conditions authorizing the release of substances to the atmosphere from the generating unit.

(3) For the purposes of sections 19, 36 and 37, a generating unit is decommissioned when the generating unit has ceased to operate and the approval to which the generating unit is subject prohibits the release of substances to the atmosphere from the generating unit.

Measurements

2 For the purposes of this Regulation, the final result of any calculation made under this Regulation that is measured in tonnes and that is not a whole number when expressed in tonnes shall be rounded down to the nearest tonne.

Incorporation of Cogeneration Guidelines and Emissions Standards

3 Pursuant to section 38 of the Act, the *Cogeneration Guidelines* and the *Emissions Standards* are incorporated into and form part of this Regulation.

Emissions trading program

4 The Minister is authorized to establish such programs and other measures as the Minister considers necessary to support and enhance emissions trading under this Regulation for the purposes described in section 13 of the Act.

Part 2 Establishment of Delegated Authority

Delegation

5 If the Minister delegates the powers, duties and functions of the registry operator to a person other than an employee referred to in section 17(1) of the Act, that person is a delegated authority within the meaning of section 37(d), (e) and (f) of the Act and this Part.

Fees, assessments and charges

6(1) The delegated authority is authorized to levy and collect fees, assessments and charges for services provided with respect to the operation of the registry in amounts approved by the Minister.

(2) The Minister may enter into an agreement with the delegated authority

- (a) respecting the delegated authority's powers, duties and functions, and
- (b) providing for the payment of fees, assessments and charges to the delegated authority in addition to any fees, assessments and charges that the delegated authority may levy under subsection (1).

(3) Notwithstanding the *Financial Administration Act*, but subject to any agreement entered into between the delegated authority and the Minister under subsection (2), any money collected by the delegated authority under subsection (1) or (2) belongs to the delegated authority.

Recovery of amounts owing

7 Where a person fails to pay a fee, assessment or charge levied by the delegated authority under this Regulation, the delegated authority may recover the outstanding amount by an action in debt.

Freedom of information and protection of privacy

8(1) The delegated authority must comply with the *Freedom of Information and Protection of Privacy Act* in the course of carrying out its powers, duties and functions under this Regulation.

(2) The delegated authority must designate a person to be responsible for freedom of information and protection of privacy matters.

(3) If a request for access to information pursuant to the *Freedom of Information and Protection of Privacy Act* is made, the delegated authority must,

- (a) in the case of a request made directly to the delegated authority, immediately direct the request to the Freedom of Information and Protection of Privacy Co-ordinator of the Minister's Department, and
- (b) in every other case, comply with such directions regarding the request as may be provided by the Co-ordinator.

(4) All records in the custody or under the control of the delegated authority that are required in the carrying out of its powers, duties or functions under this Regulation are subject to the *Records Management Regulation* (AR 224/2001).

(5) All information and records issued or maintained by the delegated authority in the course of carrying out its powers, duties and functions under this Regulation become and remain the property of the Crown in right of Alberta.

(6) The delegated authority must designate a person to be responsible for records management matters.

Annual report

9(1) The delegated authority must, not more than 6 months after the end of its fiscal year, prepare and submit to the Minister an annual report with respect to the delegated authority's powers, duties and functions under this Regulation.

(2) The report must include a general summary of the delegated authority's policies and activities in that fiscal year and a financial report that includes an audited financial statement.

(3) The Minister is authorized to disclose personal information reported under this section, and this subsection constitutes an authorization for the purposes of section 40(1)(f) of the *Freedom of Information and Protection of Privacy Act*.

Government Organization Act, Schedule 10

10 Sections 5, 6, 7 and 9 of Schedule 10 to the *Government Organization Act*, with any necessary modifications, apply in respect of the delegated authority.

Part 3 Emissions Trading Registry

Division 1 Establishment and Administration

Registry established

11(1) The Emissions Trading Registry is established.

(2) The registry is to be issued and maintained in an electronic or other form but, when required, the registry operator may issue documentation as evidence of an electronic record or of any transfer or other matter recorded in or that is required for the administration or operation of the registry, or otherwise.

Components of the registry

12 The registry is composed of the following:

- (a) emissions trading accounts and the information recorded in them;
- (b) the information required to be recorded in the registry.

Administration and operation of the registry

13(1) The registry is to be administered and operated by the registry operator in accordance with

- (a) this Regulation,
- (b) if the registry operator is a delegated authority, any agreement entered into between the delegated authority and the Minister under section 6(2), and
- (c) any program or measure established by the Minister under section 4.

(2) The registry operator has the following duties and functions:

- (a) to keep the registry up to date;
- (b) to establish and maintain a registry website;
- (c) to maintain accurate records based on the information provided to the registry operator;
- (d) to record the baseline emission rate for each generating unit;
- (e) to maintain a history of transfers for each emission credit or for each block of emission credits;
- (f) to keep historical data on
 - (i) emission credits extinguished,
 - (ii) the manner in which emission credits are extinguished, and
 - (iii) the unit holder and generating unit in respect of which emission credits are extinguished;
- (g) to keep a record of the aggregate of all emission credits in all current emissions trading accounts;
- (h) to record the emissions represented by the emission credits in emissions trading accounts;

- (i) to record any other information required by this Regulation to be recorded or retained in the registry;
- (j) if the registry operator is a delegated authority, generally to carry out the terms of any agreement entered into between the delegated authority and the Minister under section 6(2).

(3) The registry operator may correct a technical or clerical error made in the registry by the registry operator or as a result of a technical or clerical error in the information provided to the registry operator, but if the registry operator does so, it must notify any person affected by the correction accordingly.

Public and confidential information in the registry

14(1) The following information in the registry is public information and must be provided by the registry operator through the registry website:

- (a) the identity of account holders;
- (b) the baseline emission rate for each generating unit;
- (c) the annualized air emissions data for each generating unit as reported in the unit operator's annual report as required under section 55(1);
- (d) the annual MWh output for each generating unit as reported in the unit operator's annual report as required under section 55(1);
- (e) the design life of each generating unit and the dates when physical reduction in emissions from the generating unit must take place;
- (f) the number of emission credits issued in respect of each generating unit, if applicable;
- (g) the number of emission credits that have been used for compliance purposes for each generating unit and their serial number, if applicable;
- (h) the annual report of the registry operator.

(2) The following information in the registry must be treated by the registry operator as confidential:

- (a) emission credits in a holding account;
- (b) individual transfers of emission credits.

(3) Subject to subsection (2), the following information is public information and must be disclosed by the registry operator on the written request of any person, unless the unit operator makes a request under section 35(4) of the Act that the information be kept confidential and the Director approves the request:

- (a) underlying data used in determining the baseline emission rate for each generating unit;
- (b) the unit operator's application for emission credits and accompanying materials;
- (c) detailed air emissions and annual MWh output for each generating unit;
- (d) any other information held in the registry.

Annual report of registry operations

15 The registry operator must, on or before June 30 of each year, or any other date specified by the Minister, prepare and publish a report containing at least the following information in respect of the preceding year:

- (a) the number of emission credits issued;
- (b) the number of emission credits that have been used for compliance purposes, retired, cancelled or otherwise extinguished;
- (c) the number of emission credits discounted and what that discount represents;
- (d) the number of transactions recorded by the registry;
- (e) the aggregate balance of emission credits recorded in the registry.

Division 2 Issuance and Operation of Emissions Trading Accounts

Issuance of emissions trading accounts

16(1) A unit operator of a generating unit with a maximum continuous rating of 25 megawatts or more must establish an emissions trading account in respect of the generating unit

- (a) before January 1, 2007, if the unit operator holds an approval with respect to the generating unit when this Regulation comes into force, or

- (b) before January 1 of the year following the year in which the person becomes a unit operator.

(2) A unit operator of a generating unit with a maximum continuous rating of less than 25 megawatts, or any other person, may establish an emissions trading account at any time.

How applications are made

17 An application to establish an emissions trading account must

- (a) be made to the registry operator on a form prescribed by the Director,
- (b) include the information and supporting data required by the form, and
- (c) include the required application fee.

Composition and operation of emissions trading accounts

18(1) An emissions trading account is composed of

- (a) a holding account, in which is to be recorded the emission credits of the account holder,
- (b) a retirement account, in which is to be recorded
 - (i) emission credits that have been used for compliance purposes, retired, cancelled or otherwise extinguished, and
 - (ii) the year in which the emission credits were used for compliance purposes, retired, cancelled or otherwise extinguished,

and

- (c) any other accounts and records that the registry operator considers necessary.

(2) The registry operator may enter into an agreement with a person opening or operating an emissions trading account about the administration, management, operation and closing of the account or accounts held by the person.

Closing emissions trading accounts

19(1) For those unit operators who must establish an emissions trading account, the account remains open until the generating unit

in respect of which the account was opened is decommissioned and the unit operator closes the account.

(2) For those unit operators who may establish an emissions trading account, the account may be closed by the unit operator in accordance with an agreement with the registry operator.

(3) Any other person may close an emissions trading account in accordance with an agreement with the registry operator.

(4) If an emission credit is in an emissions trading account when it is closed, the emission credit is extinguished when the account is closed.

Part 4 Establishing Baseline Emission Rates

Director to establish baseline emission rate

20 On application by a unit operator in accordance with this Part, the Director must establish a baseline emission rate for every generating unit for either or both of the following, as the case requires:

- (a) NO_x in kg/MWh;
- (b) SO₂ in kg/MWh.

Division 1 Baseline Emission Rates for Generating Units

Baseline emission rates for table A units

21(1) The baseline emission rate for NO_x and, if applicable, the baseline emission rate for SO₂ for a table A unit are the following:

- (a) for a coal-fired generating unit having no unusual operating conditions or prolonged shutdowns in the period January 1, 2000 to December 31, 2002, the baseline emission rate is,
 - (i) for NO_x, the average NO_x emissions in kg/MWh in the period January 1, 2000 to December 31, 2002, and
 - (ii) for SO₂, the average SO₂ emissions in kg/MWh in the period January 1, 2000 to December 31, 2002;

- (b) for a coal-fired generating unit having unusual operating conditions or prolonged shutdowns in the period January 1, 2000 to December 31, 2002, the baseline emission rate is,
 - (i) for NO_x, the average NO_x emissions in kg/MWh in the earliest 3 years of normal operation after January 1, 2000, and
 - (ii) for SO₂, the average SO₂ emissions in kg/MWh in the earliest 3 years of normal operation after January 1, 2000;
- (c) subject to subsection (2), for a natural gas-fired generating unit that was commissioned before January 1, 2000 and having no unusual operating conditions or prolonged shutdowns in the period January 1, 2000 to December 31, 2002, the baseline emission rate for NO_x is the average NO_x emissions in kg/MWh in the period January 1, 2000 to December 31, 2002;
- (d) subject to subsection (2), for a natural gas-fired generating unit that was commissioned before January 1, 2000 and having unusual operating conditions or prolonged shutdowns in the period January 1, 2000 to December 31, 2002, the baseline emission rate for NO_x is the average NO_x emissions in kg/MWh in the most recent 3 years of normal operation before January 1, 2006;
- (e) subject to subsection (2), for a natural gas-fired generating unit that was commissioned after January 1, 2000 and before January 1, 2006, the baseline emission rate for NO_x is,
 - (i) until the unit has 3 years of normal operation, the average NO_x emissions in kg/MWh in the first year of normal operation, and
 - (ii) after 3 years of normal operation, the average NO_x emissions in kg/MWh in the first 3 years of normal operation.

(2) Where the calculation of a baseline emission rate for a generating unit under subsection (1)(c), (d) or (e) results in a baseline emission rate for NO_x that is less than 0.2 kg/MWh, the baseline emission rate for NO_x for that generating unit is 0.2 kg/MWh.

(3) For the purposes of this section, the Director may determine either or both of the following:

- (a) whether or not a generating unit had unusual operating conditions or a prolonged shutdown;
- (b) whether or not a generating unit had a period of normal operation.

Baseline emission rates for new units

22(1) The baseline emission rate for NO_x and, if applicable, the baseline emission rate for SO₂ for a new unit are the following:

- (a) for a coal-fired generating unit, the baseline emission rate is,
 - (i) for SO₂, 0.72 kg/MWh, and
 - (ii) for NO_x, 0.621 kg/MWh;
- (b) for a natural gas-fired generating unit that has
 - (i) a maximum continuous rating of 20 megawatts or less, the baseline emission rate for NO_x is 0.5 kg/MWh;
 - (ii) a maximum continuous rating of more than 20 megawatts but not more than 60 megawatts, the baseline emission rate for NO_x is 0.3 kg/MWh;
 - (iii) a maximum continuous rating of more than 60 megawatts, the baseline emission rate for NO_x is 0.2 kg/MWh.

(2) Between January 1, 2006 and December 31, 2015, the baseline emission rate for NO_x and the baseline emission rate for SO₂ for Genesee 3 unit operating under approval number 773-01-00 issued under the Act are,

- (a) for SO₂, 0.80 kg/MWh, and
- (b) for NO_x, 1.18 kg/MWh.

(3) After January 1, 2016, the baseline emission rate for NO_x and the baseline emission rate for SO₂ for Genesee 3 unit operating under approval number 773-01-00 issued under the Act are,

- (a) for SO₂, 0.80 kg/MWh, and
- (b) for NO_x, 0.621 kg/MWh.

Baseline emission rates for cogeneration units

23 The baseline emission rate for a cogeneration unit is to be calculated in accordance with the *Cogeneration Guidelines*.

Baseline emission rates for other generating units

24 The Minister must determine the baseline emission rate for any generating unit referred to in section 1(1)(s)(iv).

Division 2**Application for Baseline Emission Rates****Application for baseline emission rate**

25(1) The unit operator of a table A unit with a maximum continuous rating of 25 megawatts or more must apply for a baseline emission rate for the table A unit on or before August 1, 2006.

(2) The unit operator of a table A unit with a maximum continuous rating of less than 25 megawatts may apply for a baseline emission rate for the table A unit on or before January 1, 2007.

(3) A unit operator described in subsection (2) ceases to be eligible to apply emission credits in respect of the table A unit if an application under subsection (2) is not made on or before January 1, 2007.

(4) The unit operator of a new unit with a maximum continuous rating of 25 megawatts or more must apply for a baseline emission rate for the new unit within 6 months of the date it is commissioned or retrofitted at or after the end of its design life, as the case may be.

(5) A unit operator of a new unit with a maximum continuous rating of less than 25 megawatts may apply for a baseline emission rate for the new unit within 6 months of the date it is commissioned or retrofitted at or after the end of its design life, as the case may be.

How applications are made

26 An application for a baseline emission rate for a generating unit must

- (a) be made by the unit operator to the Director on a form prescribed by the Director,
- (b) include the information and supporting data required by the form,

- (c) include the verification by a third party auditor of the information and data provided with the application form as required by the form, and
- (d) include the required application fee.

Director's review of application

27(1) The Director must review the application for a baseline emission rate for a generating unit.

(2) In reviewing the application, the Director may do one or more of the following:

- (a) request additional information or data;
- (b) require verification or further verification by a third party auditor of any information or data;
- (c) collect any additional information or conduct any review that the Director considers necessary in order to determine the baseline emission rate for the generating unit;
- (d) direct the applicant to resubmit the application and give any directions about the new application that the Director considers necessary.

(3) The Director may

- (a) establish the baseline emission rate for the generating unit by notice in writing to the unit operator and the registry operator,
- (b) refuse an application for a baseline emission rate for a generating unit by notice in writing to the unit operator and the registry operator, giving reasons for the refusal, or
- (c) establish an interim baseline emission rate for a generating unit.

(4) If the Director determines the baseline emission rate for a generating unit, the Director must provide to the registry operator the information and data submitted by the unit operator and any other information considered by the Director in establishing the baseline emission rate.

Director's interim decision

28 If the Director determines an interim baseline emission rate for a generating unit, the Director must

- (a) give notice in writing to the unit operator and the registry operator of the interim baseline emission rate for the generating unit, and
- (b) provide to the registry operator the information and data submitted by the unit operator and any other information considered by the Director in establishing the interim baseline emission rate.

Registry operator's functions

29 On receipt of an interim baseline emission rate for a generating unit and the information and data provided by the Director, the registry operator must

- (a) give notice of the Director's interim decision on the registry operator's website,
- (b) make available on the registry operator's website the information and data provided by the Director, and
- (c) specify a date, which must be at least 45 days after the notice is published on the website, by which the public may make written submissions to the Director about the Director's interim decision.

Decision on interim baseline emission rate

30(1) After reviewing any written submissions received and considering any other information the Director considers relevant, the Director must, if satisfied that the interim baseline emission rate is appropriate for a generating unit, establish the baseline emission rate for the generating unit by notice in writing to the unit operator and the registry operator.

(2) If, after the period referred to in section 29(c), the Director is satisfied the interim baseline emission rate requires modification, the Director must establish the baseline emission rate and notify the unit operator and registry operator accordingly.

Part 5 Emission Credits

What an emission credit is

31 An emission credit is

- (a) a unit of measurement specified in section 32 that is recorded with a unique serialized number in the registry in accordance with this Regulation, and

- (b) a licence, revocable by law, authorizing the unit operator who holds the emission credit to apply the unit of measurement represented by the emission credit against the unit operator's compliance requirements under an approval, in accordance with
 - (i) the unit operator's approval, and
 - (ii) this Regulation.

Unit of measurement

32 The unit of measurement on which an emission credit for NO_x and SO₂ is based on is one tonne of NO_x or SO₂ discounted, if applicable, in accordance with section 33.

Discounted emission credits

33(1) An emission credit is discounted by 10% if the credit is not used for compliance purposes within 2 years from the end of the year in which the emission credit was generated pursuant to Division 1 of this Part.

(2) This section does not apply in respect of an emission credit generated from a natural gas-fired generating unit with a baseline emission rate for NO_x of 0.2 kg/MWh.

Division 1

How Emission Credits are Generated

Eligibility for emission credits below the baseline emission rate

34(1) A unit operator is eligible for emission credits if a generating unit

- (a) emits fewer kilograms of NO_x in a year than its baseline emission rate for NO_x multiplied by its annual MWh output for that year, or
- (b) emits fewer kilograms of SO₂ in a year than its baseline emission rate for SO₂ multiplied by its annual MWh output for that year.

(2) The NO_x emission credits in respect of a generating unit are calculated by applying the following formula:

$$\frac{[(A \times B) - C]}{1000}$$

where

- A is the baseline emission rate for NO_x;
- B is the MWh output for the generating unit for the year;
- C is the actual NO_x emissions for the year.

(3) The SO₂ emission credits in respect of a generating unit are calculated by applying the following formula:

$$\frac{[(A \times B) - C]}{1000}$$

where

- A is the baseline emission rate for SO₂;
- B is the MWh output for the generating unit for the year;
- C is the actual SO₂ emissions for the year.

Two or more generating units - one stack

35 If 2 or more generating units share one stack, the emission credits for each unit are to be calculated and determined by the Director on a pro rata basis, based on the annual MWh output for each generating unit.

Emission credits for early decommissioning

36(1) A unit operator is eligible for emission credits for decommissioning a generating unit before the end of its design life in accordance with the following formula:

$$\frac{\left[A - \left(\frac{B+C}{2} \right) \right] \times D}{1000}$$

where

- A is the existing baseline emission rate for the generating unit;
- B is the current emissions standards;
- C is the baseline emission rate for the generating unit as if it were a new generating unit;
- D is the average generation rate of the unit, based on the 3 highest years out of the 5 years prior to the decommissioning.

(2) A unit operator is eligible for emission credits under this section for each year beginning with the full first year the generating unit is decommissioned and ending with the last year of the generating unit's design life.

(3) Emission credits under this section must be calculated separately for NO_x and, if applicable, SO₂ using the formula set out in subsection (1).

Emission credits for decommissioning at end of design life

37(1) A unit operator is eligible for emission credits for decommissioning the generating unit at the end of the generating unit's design life in accordance with the following formula:

$$\frac{(A \times B)}{1000}$$

where

A is the current emissions standards for the generating unit as if it were a new generating unit;

B is the average annual generation of the generating unit based on the 3 highest years out of the previous 5 years.

(2) A unit operator is eligible for emission credits under this section for each of the 3 years immediately following the end of the generating unit's design life.

(3) Emission credits under this section must be calculated separately for NO_x and, if applicable, SO₂ using the formula set out in subsection (1).

(4) Wabamun units 1, 2 and 4 operating under approval number 10323-02-00 issued under the Act are not eligible for emission credits under this section.

Emission credits for retrofitting

38(1) A unit operator is eligible for emission credits for making a written commitment to the Director to meet the current emissions standards within 3 years from the end of the generating unit's design life.

(2) A commitment under subsection (1) must be made by an officer of the unit operator within 6 months of the end of the generating unit's design life.

(3) Emission credits under this section are calculated in accordance with the following formula:

$$\frac{(A \times B)}{1000}$$

where

A is the current emissions standards for the generating unit as if it were a new generating unit;

B is the average annual generation of the generating unit based on the 3 highest years out of the previous 5 years.

(4) A unit operator is eligible for emission credits under this section for each of the 3 years immediately following the end of the generating unit's design life.

(5) Emission credits under this section must be calculated separately for NO_x and, if applicable, SO₂ using the formula set out in subsection (3).

(6) Wabamun units 1, 2 and 4 operating under approval number 10323-02-00 issued under the Act are not eligible for emission credits under this section.

Emission credits for cogeneration units

39 Notwithstanding anything in this Division, NO_x emission credits in respect of a cogeneration unit are to be calculated in accordance with the *Cogeneration Guidelines*.

Peaking units

40 The quantity of NO_x emission credits that may be issued under section 34 in respect of a peaking unit is restricted such that the total of the peaking unit's actual NO_x emissions for the year in tonnes and the quantity of NO_x represented by the credits does not exceed the peaking unit's annual mass emission limit for NO_x set out in the *Emissions Standards*, expressed in tonnes.

Division 2 Application for Emission Credits

Application for emission credits

41(1) If a unit operator of a generating unit is eligible for emission credits, the unit operator may apply to the Director for emission credits.

(2) An application for emission credits must

(a) be on the form prescribed by the Director,

- (b) include the information and supporting data required by the form,
- (c) include verification by a third party auditor of the information and data provided with the application form as required by the form, and
- (d) include the required application fee.

(3) The application must be made by December 31 of the 2nd year following the year in which the emission credit was generated pursuant to Division 1 of this Part.

(4) If an application is not made by the date specified in subsection (3), the unit operator ceases to be eligible for emission credits for the generating unit in that year and no emission credits may be generated in respect of the generating unit for the year.

(5) A unit operator must establish an emissions trading account and a baseline emission rate for a generating unit before applying for emission credits in respect of that generating unit.

Review of application for emission credits

42(1) An application for emission credits must be approved by the Director.

(2) The Director may

- (a) request additional information or data,
- (b) require verification or further verification by a third party auditor of any information or data, and
- (c) make any further inquiry or make any inspection or engage in any other verification that the Director considers necessary.

Director's decision

43(1) If the Director is satisfied that emission credits should be issued, the Director must forward the information to the registry operator who must

- (a) issue the emission credits in the name of the unit operator and, for each emission credit or block of emission credits, assign a serialized and unique identifier that identifies
 - (i) the unit operator creating the emission credit and the generating unit in respect of which the emission credit is issued,

- (ii) the type of emission credit,
 - (iii) the year in which the emission credit is to be discounted, if applicable, and
 - (iv) the emissions represented by the emission credit,
- (b) issue to the unit operator a notice of the emission credit issued in respect of a generating unit,
- (c) record in the registry, in the emissions trading account of the unit operator,
- (i) the name and location of the generating unit in respect of which the emission credit is issued,
 - (ii) the date the emission credit is issued,
 - (iii) the number of emission credits issued,
 - (iv) the type of emissions represented by the emission credit, and
 - (v) the type of emission credit,
- (d) retain the documents provided with the application for an emission credit in the registry, and
- (e) if the emission credit will be discounted, indicate the date on which the discount will occur and the amount of the discount.

(2) If the Director is not satisfied that emission credits should be issued or that only some emission credits should be issued, the Director must notify the applicant in writing accordingly and give reasons for the refusal or partial refusal.

(3) An emission credit is issued when the registry operator assigns a unique serialized number to it and records the emission credit in the holding account of the unit operator.

(4) Emission credits issued in a year must be dated effective December 31 of the year in which they were generated pursuant to Division 1 of this Part.

Record keeping

44 A unit operator must retain all records, data and other information used in the preparation of an application for an emission credit for at least 10 years after the application is made.

Division 3 Use of Emission Credits for Compliance Purposes

How emission credits are used for compliance purposes

45 An emission credit may be used by a unit operator for compliance purposes in respect of a generating unit if the unit operator

- (a) has authority under its approval to use emission credits for compliance purposes, and
- (b) provides to the registry operator by April 30 of the year following the year in which the emission credits are used
 - (i) confirmation of their use, and
 - (ii) the serial number of each emission credit used.

Limit on use of emission credits

46 Emission credits may be used for compliance purposes in respect of a generating unit,

- (a) in the case of a coal-fired generating unit, until December 31 of the 50th year after the generating unit was commissioned, and
- (b) in the case of a natural gas-fired generating unit, until December 31 of the 40th year after the generating unit was commissioned.

Division 4 Transfer of Emission Credits

Conditions on transfer of emission credits

47(1) A person must have an existing emissions trading account in order to transfer or to acquire an emission credit.

(2) An emission credit may be transferred from one person to another, but the transfer is not effective until it is recorded in the registry.

(3) No liens or other encumbrances may be registered in the registry against an emission credit.

How emission credits are transferred

48(1) A person transferring an emission credit must notify the registry operator, in the form prescribed by the Director, of

- (a) the transfer and the parties involved,
 - (b) the serial number of the emission credit transferred,
 - (c) the emissions trading accounts affected by the transfer, and
 - (d) any other information required by the registry operator.
- (2) The registry operator
- (a) may require a transfer of emission credits to be authenticated,
 - (b) must confirm the transaction has been recorded in the registry, and
 - (c) must issue a notice of the transfer.

Division 5 Cancellation of Emission Credits

Cancellation of emission credits by Minister

49(1) The Minister may cancel an emission credit where the Minister is of the opinion that the cancellation is in the public interest and necessary to prevent releases of substances from causing significant adverse effects.

(2) If the Minister cancels an emission credit, the Minister may issue an order to an account holder or to any other person.

(3) An order issued under subsection (2) may require the person to whom it is directed to take any measures the Minister considers necessary to minimize or remedy the effects that the emission credit has on the release of substances.

Cancellation of emission credits by Director

50(1) The Director may cancel an emission credit if the Director is of the opinion that

- (a) the emission credit was incorrectly or invalidly generated, or
- (b) the issuance of the emission credit was based on incorrect, false or inaccurate information.

(2) If the Director cancels an emission credit, the Director may issue an order to an account holder or to any other person.

- (3) An order issued under subsection (2) may require the person to whom it is directed to take any measures the Director considers necessary
- (a) to minimize or remedy the effects that the emission credit has on the release of substances, or
 - (b) to minimize the effect that the cancellation of the emission credit has on any person who may have acquired the emission credit for value in good faith.

Division 6 Extinguishing Emission Credits

How emission credits are extinguished

51(1) An emission credit is extinguished in any of the following ways:

- (a) by using the emission credit for compliance purposes in accordance with section 45;
- (b) if the emission credit is cancelled under section 49 or 50 or otherwise by law;
- (c) by notice of retirement in accordance with subsection (2);
- (d) if an emissions trading account is closed and section 19(4) applies to extinguish the emission credit.

(2) An emission credit may be retired by its holder giving notice of retirement to the registry operator on the form prescribed by the Director and providing the serial number of the emission credit.

Recording extinguishment of emission credits

52(1) If the registry operator is satisfied that an emission credit has been used for compliance purposes or has otherwise been extinguished, the registry operator must give notice to the holder of the emission credit and

- (a) delete the emission credit from the account holder's holding account,
- (b) record the extinguished emission credit in the account holder's retirement account for the appropriate year and the manner in which the emission credit was extinguished, and

- (c) record any other information related to the extinguishment of the emission credit that is required for the proper administration of the registry.

(2) When an emission credit is extinguished, it is no longer available to be used for compliance purposes.

Part 6 Third Party Auditors

Qualifications for third party auditors

53(1) No person is eligible to be a third party auditor under this Regulation unless the person

- (a) is registered
 - (i) as a professional engineer under the *Engineering and Geoscience Professions Act*, or
 - (ii) as a chartered accountant under the *Regulated Accounting Profession Act*,
- (b) has technical knowledge of
 - (i) emissions,
 - (ii) electricity and steam generation measurements, and
 - (iii) audit practices,and
- (c) has any other qualifications that the Director considers necessary.

(2) A person is not eligible to be a third party auditor for a unit operator if that person is a director, officer or employee of that unit operator or an affiliate, within the meaning of section 2 of the *Business Corporations Act*, of that unit operator.

AR 33/2006 s53;170/2012

Part 7 General Matters

New design life for generating unit

54(1) If the Minister is of the opinion that the establishment of a new design life for a coal-fired generating unit or a natural gas-fired generating unit is warranted because the generating unit has been retrofitted to meet current emissions standards, the

Minister may by order establish a new design life for that generating unit.

(2) The Minister may only make an order under subsection (1) following a request in writing to do so from the unit operator.

Annual reports

55(1) On or before March 31 of each year, in respect of the preceding year, a unit operator who has an emissions trading account must submit to the registry operator a report showing

- (a) the annualized air emissions data for NO_x and, if applicable, for SO₂ for each of the unit operator's generating units, and
- (b) the annual MWh output for each of the unit operator's generating units.

(2) On or before May 31 of each year, a unit operator who has used emission credits for compliance purposes in respect of the generating unit for the previous year must submit to the registry operator a report

- (a) containing a notification from the registry operator that the emission credits have been retired, and
- (b) that includes the following calculation for NO_x and, if applicable, for SO₂ indicating the number of NO_x and SO₂ emission credits retired for compliance purposes for the previous year:

$$\frac{A - (B \times C)}{1000}$$

where

A is the actual emissions in kilograms;

B is the annual MWh output for the generating unit for the year;

C is the current emissions standards.

No right to emission credit

56 Nothing in this Regulation

- (a) ensures or guarantees the availability of emission credits,

- (b) ensures, guarantees or gives a person a right or an entitlement to an emission credit,
- (c) ensures, guarantees or gives a person a right or an entitlement to generate an emission credit, or
- (d) ensures, guarantees or gives a unit operator a right or an entitlement to apply an emission credit for compliance purposes.

Emission credit is not evidence of compliance

57 Neither the verification by a third party auditor nor the issuance of an emission credit under this Regulation is evidence that a unit operator was or is in compliance with or complied with the Act, regulations or an approval.

Part 8
Offences, Expiry and
Consequential Amendment

Offences

58(1) A person who

- (a) contravenes an order under section 49(2) or 50(2),
- (b) performs the functions of a third party auditor while failing to meet the requirements of a third party auditor under section 53,
- (c) retains a person as a third party auditor who fails to meet the requirements of a third party auditor under section 53, or
- (d) contravenes section 16(1), 25(1) or (4), 44 or 55

is guilty of an offence.

(2) A unit operator referred to in section 38(1) is guilty of an offence if the unit operator fails to meet the current emissions standards within 3 years from the end of the generating unit's design life.

(3) No person shall be convicted of an offence referred to in subsection (1) or (2) if the person establishes on a balance of probabilities that the person had taken all reasonable steps to prevent its commission.

(4) A person who is guilty of an offence is liable,

- (a) in the case of an individual, to a fine of not more than \$50 000, or
- (b) in the case of a corporation, to a fine of not more than \$500 000.

Expiry

59 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on November 30, 2017.

AR 33/2006 s59;180/2015

60 *(This section amends the Administrative Penalty Regulation (AR 23/2003); the amendment has been incorporated into that Regulation.)*

Schedule**Table A Units****Part 1 - Gas and Cogeneration Power Plants**

Approval Number	Company	Power Plant	Generating Unit
149007	AES CALGARY ULC	CALGARY THERMAL ELECTRIC POWER PLANT	CTG, HRSG 1 (Combined Cycle) Exhaust Stack CTG, HRSG 2 (Combined Cycle) Exhaust Stack
68179	AIR LIQUIDE CANADA INC	SCOTFORD COMPLEX	Gas Turbine / HRSG Exhaust Stack
152640	ALTEK-TEXAS POWER INC	FORT MACLEOD THERMAL ELECTRIC POWER PLANT	Heat Recovery System Generator Exhaust Stack (B 980)
67774	ATCO POWER	POPLAR HILL	Gas Turbine

11718	ATCO POWER	RAINBOW LAKE	Gas turbine (CUL 83)
			Gas turbine (CUL 140)
			Gas turbine (CUL 171)
69209	ATCO POWER	RAINBOW LAKE	Gas turbine / HRSG RB4
			Gas turbine / HRSG RB5
147709	ATCO POWER CANADA	VALLEYVIEW THERMAL ELECTRIC POWER PLANT	LM 6000 Gas Turbine Exhaust Stack 1
73899	ATCO POWER LTD	MUSKEG RIVER COGENERATION POWER PLANT	Gas Turbine / HRSG Exhaust Stack 1
			Gas Turbine / HRSG Exhaust Stack 2
138365	CALPINE CALGARY POWER PLANT	CALGARY	Heat Recovery Steam Generator Exhaust Stack (HRSG)
11279	CANCARB LIMITED	MEDICINE HAT THERMAL CARBON BLACK MANUFACTURING PLANT	WHRF Main Stack
11610	CITY OF MEDICINE HAT	MEDICINE HAT	Combustion Turbine W.H.R. Steam Generator No. 8 (MH8) (HRSG 8)
			MH10R Combustion Turbine W.H.R. Steam Generator No. 10 (HRSG 10R)

			MH11R Combustion Turbine W.H.R. Steam Generator No. 11 (HRSG 11)
			MH11R Combustion Turbine W.H.R. Steam Generator No. 14 (HRSG 14)
			G.E. LM 6000 simple cycle No. 014 bypass stack
136385	ENCANA MIDSTREAM LTD	CAVALIER POWER PLANT	Stack 1 Heat Recovery Steam Generators (HRSG) Exhaust Stack (#1 Nominal output gas turbine power generator)
			Stack 2 Heat Recovery Steam Generators (HRSG) Exhaust Stack (#2 Nominal output gas turbine power generator)
1395	EPCOR	ROSSDALE (GAS- HP BOILERS)	High Pressure Boiler (Unit 10) Exhaust Stack (75 MW)
			High Pressure Boiler (Unit 8) Exhaust Stack (75 MW)
			Heat Recovery Steam Generator Exhaust Stack (Unit 9)

136858	NEXEN (PANCANADIAN AND CANADIAN OCCIDENTAL PETROLEUM)	BALZAC THERMAL ELECTRIC POWER PLANT	General Electric LM6000 Sprint turbine power generator General Electric LM6000 Sprint turbine power generator
77375	SHELL CANADA LIMITED	SCOTFORD	General Electric PG72121EA Gas Turbine HRSG
136681	TRANSCANADA ENERGY	CARSLAND POWER PLANT	Heat Recovery Steam Generator A Exhaust Stacks (General Electric LM6000 PD gas turbine generator) Heat Recovery Steam Generator B Exhaust Stacks (General Electric LM6000 PD gas turbine generator)
151812	TRANSCANADA ENERGY LTD	BEAR CREEK THERMAL ELECTRIC POWER PLANT	50 MW natural gas fired turbine - Rolls Royce Trent Gas Turbine Generator 30 MW steam turbine generator
136951	TRANSCANADA ENERGY LTD	REDWATER COGENERATION POWER PLANT	General Electric LM6000 PD Gas Turbine / HRU Exhaust Stack
155746	TRANSCANADA ENERGY LTD.	MACKAY RIVER POWER PLANT	General Electric Gas Turbine (EOR HRSG) Exhaust Stack

50096	TRANSCANADA PIPELINE VENTURES	GOLD CREEK POWER PLANT	9100 kw turbine engine exhaust stack 24700 kw turbine engine exhaust stack
11461	U OF ALBERTA	EDMONTON	Stack 1 Boiler 1 Stack 2 Boiler 2 Stack 2 Boiler 3 Stack 2 Boiler 4

Part 2 - Coal Power Plants

Approval Number	Company	Power Plant	Generating Unit
123	ALBERTA POWER (2000) LIMITED & TRANSALTA UTILITIES CORP	SHEERNESS	Unit 1 Unit 2
1512	ATCO ELECTRIC	BATTLE RIVER	Unit 3 Unit 4 Station C Unit 5
773	EPCOR	GENESEE	Coal-fired Boiler #1 Coal-fired Boiler #2
9814	MILNER POWER LIMITED PARTNERSHIP	H.R. MILNER	Main Boiler
10324	TRANSALTA UTILITIES	KEEPHILLS	Unit 1

			Unit 2
9830	TRANSALTA UTILITIES	SUNDANCE	Stack 1, Unit 1
			Stack 2, Unit 2
			Stack 2, Unit 3
			Stack 2, Unit 4
			Stack 3, Unit 5
			Stack 3, Unit 6
10323	TRANSALTA UTILITIES	WABAMUN	Stack 1, Unit 1
			Stack 1, Unit 2
			Stack 2, Unit 3
			Stack 3, Unit 4



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