



DEPARTMENT OF THE NAVY

NAVAL FACILITIES ENGINEERING COMMAND
200 STOVALL STREET
ALEXANDRIA VA 22332 2300

IN REPLY REFER TO

4200
Ser 111A/96-63
5 FEB 96

From: Commander, Naval Facilities Engineering Command

Subj: AIR EMISSION REDUCTION CREDITS (ERCS) (4-96)

Ref: (a) OPNAVINST 5090.1B

1. The Clean Air Act, as amended, 42 U.S.C §§7401 et seq., authorizes states to use economic incentives such as fees, marketable permits, and auctions of emission rights to meet air quality requirements. See 42 U.S.C. §§7410(a)(2)(A) and 7502(c)(6). One form of economic incentive is the emission reduction credit or "ERC". An ERC, which represents the right to emit a certain quantity of a particular pollutant, is created when a source voluntarily reduces its air emissions below the level at which it is allowed to operate.

The source can then bank the ERC for its own future use or sell or otherwise transfer the ERC to another source. Paragraph 5-5.5 of reference (a) directs that naval commands and activities acquire any ERCs needed to operate as if ERCs were personal property.

2. Because ERCs are to be acquired as if they were personal property, the authority of NAVFAC contracting officers to procure these credits has been questioned. In so far as the requirements for emission credits are directly associated with the planning, design, operation and disposal of facilities, it is established policy that NAVFAC contracting officers may acquire air emission reduction credits in support of facility requirements via the authority provided by existing warrants. Because ERCs are available on the open market, no special guidance on contracting procedures are believed required at this time.

3. Questions concerning this authority may be addressed to addressed to J. Schneider, Code 111A on (703)-325-9021. Technical questions concerning ERCs should be addressed to Felix Mestey, Code 41 on (703) 325-8539.


WILLIAM C. TIMPERLEY

By direction

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