

**RECIPROCITY AGREEMENT  
BY AND BETWEEN  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
AND  
STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

**ON THE INTERSTATE TRADING OF  
EMISSION REDUCTION CREDITS**

**THIS AGREEMENT**, executed this 17<sup>th</sup> day of June, 1996, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection, hereinafter referred to as "PADEP", and the State of New York, Department of Environmental Conservation, hereinafter referred to as "NYSDEC,"

**WITNESSETH:**

**WHEREAS**, the 1990 Amendments to the Federal Clean Air Act (CAA) provide specific deadlines and requirements for attainment of the National Ambient Air Quality Standards for criteria pollutants,

**WHEREAS**, criteria pollutants are defined as any air contaminant for which a NAAQS has been promulgated under 40 CFR Part 50,

**WHEREAS**, PADEP, an Executive Agency of the Commonwealth of Pennsylvania ("Commonwealth"), pursuant to the Air Pollution Control Act (35 P.S. §4001 et seq.) is authorized to implement the provisions of the CAA in the Commonwealth,

**WHEREAS**, the PADEP, has established and implemented an emission reduction credit (ERC) program for the purpose of offsetting increases in the emission of criteria pollutants,

**WHEREAS**, under 25 Pa. Code § 127.208(5), ERCs may be obtained from or traded in another state which has reciprocity with the Commonwealth for the trading and use of ERCs,

**WHEREAS**, the NYSDEC, an Executive Agency of the State of New York ("New York") pursuant to the Environmental Conservation Law (Article 19 - Air Pollution Control), is authorized to implement the provisions of the CAA in New York,

**WHEREAS**, the NYSDEC has established an ERC trading rule (6 NYCRR Part 231) allowing the use of ERCs from another state in the Ozone Transport Region if New York has a reciprocal trading agreement with the other state,

**WHEREAS**, it is necessary for new and existing major stationary air contamination sources to have sufficient ERCs to offset proposed increases in the emission of criteria pollutants such as nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOCs),

**WHEREAS**, PADEP and NYSDEC intend to establish reciprocity so that ERCs can be obtained from or traded and used by facilities in either the Commonwealth or New York,

**NOW, THEREFORE**, in consideration of the premises and the mutual promises herein contained, and intending to be legally bound hereby, the parties hereto covenant and agree as follows:

**PROVISIONS:**

1. The PADEP and the NYSDEC mutually agree that only emission reductions which are surplus at the time of generation, permanent, quantifiable and federally enforceable shall be certified as ERCs. ERCs can be generated from shutdown, source reduction, over control, or curtailment of production or hours of operation.
2. The PADEP and the NYSDEC mutually agree that emission reductions which have been certified by the state in which they were generated may be used or traded in either the Commonwealth or New York in accordance with the trading and use requirements of the state in which the credits will ultimately be used for offset purposes, unless otherwise specified herein.
3. The PADEP and the NYSDEC mutually agree to implement the necessary enforcement measures to ensure that an ERC-generating source or facility does not exceed emission limitations or violate permit conditions applicable to the generation of ERCs in the respective state. The state in which the ERCs were generated will notify the ERC-user state of any such violations.
4. The parties understand and agree that it is the responsibility of the generating state to assist the user state in responding to comments on ERCs received by the user state. The parties shall, upon request, exchange information concerning the generation, trading and use of ERCs.
5. The parties mutually agree that each state will maintain an ERC Registry of all certified emission reduction credits and provide a copy of the registry to the other state within 15 days after the end of each calendar quarter.

6. The PADEP and the NYSDEC understand and agree that nothing in this Agreement shall be construed to compel either agency to produce information or documents which the agency deems confidential or privileged.

The parties further acknowledge and understand that the right of access by the public to information under applicable state law is not affected by this Agreement.

7. The PADEP and the NYSDEC acknowledge and understand that this Agreement does not pertain to the Ozone Transport Commission's "Nitrogen Oxide Budget Rule" currently under development by States in the Ozone Transport Region pursuant to the Memorandum of Understanding among the States of the Ozone Transport Commission on Development of Regional Strategy Concerning the Control of Stationary Source Nitrogen Oxide Emissions," dated September 27, 1994.
8. The PADEP and NYSDEC understand and agree that nothing in this document shall affect the rights, duties and authority of either the PADEP or the NYSDEC under the law. The agencies reserve their authority and rights to take any enforcement action which they deem necessary to fulfill their duties and responsibilities under the law.
9. This Agreement may be terminated by either party, with or without cause, at any time, by 30 days written notice to the other.
10. The PADEP and the NYSDEC mutually agree that the provisions of this Agreement shall be severable and should any term, provision or paragraph of this Agreement be declared by a Court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect.
11. The PADEP and the NYSDEC acknowledge and agree that this Agreement sets forth the entire understanding between the parties on this subject matter. This Agreement may be modified only in writing as an amendment to this Agreement.

**IN WITNESS WHEREOF**, The parties hereto have executed this Agreement, the day and year first above written, intending to be legally bound hereby.

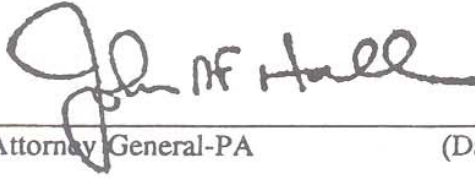
**State of New York**  
**Department of Environmental Conservation**

  
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Gary L. Spielmann  
Executive Deputy Commissioner

**Commonwealth of Pennsylvania**  
**Department of Environmental Protection**

  
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James M. Seif  
Secretary

Approved as to Legality and Form:



Office of Attorney General-PA (Date)



6-9-96

Office of General Counsel (Date)



MR 5/17/96

Chief Counsel/Assist. Counsel (Date)  
PADEP