

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

Preliminary Draft Staff Report Proposed Amendments to Regulation XX – Regional Clean Air Incentives Market

NO_x RECLAIM

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Background

The South Coast Air Quality Management District (SCAQMD) Governing Board adopted the Regional Clean Air Incentives Market (RECLAIM) program in October 1993. The purpose of RECLAIM is to reduce NO_x and SO_x emissions through a market-based approach. The program replaced a series of existing and future command-and-control rules and was designed to provide facilities with the flexibility to seek the most cost-effective solution to reduce their emissions. It also was designed to provide equivalent emission reductions, in the aggregate, for the facilities in the program compared to what would occur under a command-and-control approach. Regulation XX includes a series of rules that specify the applicability and procedures for determining NO_x and SO_x facility emissions allocations, program requirements, as well as monitoring, reporting, and recordkeeping requirements for sources located at RECLAIM facilities.

Regulation XX was amended on December 4, 2015 to achieve programmatic NO_x RECLAIM trading credit (RTC) reductions from compliance years 2016 through 2022. Regulation XX was also amended on October 7, 2016 to address RTCs from facility shutdowns. The SCAQMD Governing Board adopted the 2016 Air Quality Management Plan (AQMP) on March 3, 2017. Control Measure CMB-05 of the 2016 AQMP committed to an assessment of the RECLAIM program in order to achieve further NO_x reductions of five tons per day, including actions to sunset the program and ensure future equivalency to command and control regulations. The adopting Resolution directed staff to modify Control Measure CMB-05 to achieve the five tons per day NO_x emission reduction as soon as feasible but no later than 2025, and to transition the RECLAIM program to a command and control regulatory structure requiring Best Available Retrofit Control Technology (BARCT) level controls as soon as practicable. Staff provided a report on transitioning the NO_x RECLAIM program to a command and control regulatory structure at the May 5, 2017 Governing Board meeting.

California State Assembly Bill 617, which addresses non-vehicular air pollution (criteria pollutants and toxic air contaminants), was approved by the Governor on July 26, 2017. It is a companion legislation to Assembly Bill 398, which was also approved, and extends California's cap-and-trade program for reducing greenhouse gas emissions from stationary sources. RECLAIM facilities that are in the cap and trade program are subject to the requirements of AB-617. Among the requirements of this bill is an expedited schedule for implementing BARCT for cap and trade facilities. Air Districts are to develop by January 1, 2019 an expedited schedule for the implementation of BARCT no later than December 31, 2023. The highest priority would be given to older, higher polluting units that will need to install retrofit controls.

Staff conducted a programmatic analysis of the RECLAIM equipment at each facility to determine if there are appropriate and up to date command and control BARCT rules that would provide a landing spot for all RECLAIM equipment. It was determined that command and control rules would need to be adopted and/or amended to provide implementation timeframes for achieving BARCT compliance limits for certain RECLAIM equipment and to also update some of these rules if the emission limits do not

reflect current BARCT. Staff also determined that there are some RECLAIM facilities that either do not have any emissions, report only emissions from equipment that is exempt from permitting (Rule 219 equipment), or operate RECLAIM equipment that is already meeting BARCT. The RECLAIM transition will first address those facilities that can operate under a command and control regulatory structure without undergoing any equipment modifications to meet BARCT. Subsequent transitioning of facilities will involve command and control rule amendments that will address RECLAIM equipment which will require the installation of BARCT.

The proposed amendments initiate the transition of the NO_x RECLAIM program to a command and control regulatory structure by precluding any new, non-RECLAIM facilities from entering into RECLAIM. In addition, the proposed amendments will address the RTC holdings for facilities that will be exited from RECLAIM or that elect to exit RECLAIM, as well as establishing notification procedures for RECLAIM facilities for their transition.

Public Process

Staff has held monthly working group meetings to discuss the transition of the NO_x RECLAIM program and to discuss numerous key issues and challenges. Staff has also met individually with numerous facility operators and industry groups regarding the transition. At the May 5, 2017 Governing Board meeting, the Governing Board recommended that staff report to the Stationary Source Committee quarterly for updates on the transition. Staff provided updates relating to the transition at the October 20, 2017 Stationary Source Committee meeting.

Affected Facilities

There are currently 267 facilities in the NO_x RECLAIM program. These facilities either elected to enter the program or had NO_x emissions greater than or equal to four tons per year in 1990 or any subsequent year. The proposed amendments would apply to any facility in the NO_x RECLAIM program that will be transitioned. Any facility outside of RECLAIM that exceeds four tons per year of NO_x emissions would no longer be allowed into RECLAIM.

Summary of Proposal

The proposed amendments to Regulation XX (NO_x RECLAIM) will affect Rule 2001 – Applicability and Rule 2002 – Allocations for Oxides of Nitrogen (NO_x) and Oxides of Sulfur (SO_x).

Proposed Amended Rule (PAR) 2001

Rule 2001 specifies inclusion criteria into the RECLAIM program for new and existing facilities, as well as for facilities that elect to enter into the program. The Executive Officer maintains a listing of all RECLAIM facilities. The proposed amendments would include new or existing facilities into the NO_x and SO_x RECLAIM programs up until the date of amendment. Paragraph (b)(4) would state:

“On and after (date of amendment), the Executive Officer will cease to add any facility into RECLAIM which show emissions equal to or greater than four tons per year of a RECLAIM pollutant.”

In addition, paragraph (b)(5) would require the Executive Officer to update the listing of RECLAIM facilities as a result of facilities that are transitioned into command and control:

“The Executive Officer shall update the listing of facilities which are subject to RECLAIM that are transitioned out pursuant to Rule 2002.”

Subdivision (c) addresses amendments to the RECLAIM facility listing. Paragraph (c)(1) would no longer require an amendment to the facility listing for any new facility inclusions. Subparagraphs (c)(1)(C), (c)(1)(D), and (c)(1)(E) specify actions for inclusion of any new facility that would be subject to RECLAIM, any existing facility that would be subject to RECLAIM, and for any existing non-RECLAIM facility that elects to enter the program. Since no more inclusions will be allowed under the proposed amendments, these subparagraphs will be removed.

Subdivision (f) contains provisions for non-RECLAIM facilities that may elect to enter RECLAIM. Since no more inclusions will be allowed under the proposed amendments, these provisions will be removed and replaced with:

“On and after (date of amendment), a non-RECLAIM facility may not elect to enter the RECLAIM program.”

The proposed amendments to Rule 2001 would prevent any further inclusions of non-RECLAIM facilities into both the NO_x and SO_x RECLAIM programs.

Proposed Amended Rule (PAR) 2002

Rule 2002 establishes the methodology for calculating RECLAIM facility allocations and adjustments to RECLAIM Trading Credit (RTC) holdings for NO_x and SO_x. The proposed amendments will contain the notification procedures for facilities that will be transitioned out of RECLAIM and will address the RTC holdings these facilities that will be transitioned out of RECLAIM or that elect to exit RECLAIM. These provisions will

be contained in paragraph (f)(6), which detail how a facility will be notified regarding the transition. First, the Executive Officer will notify a RECLAIM facility that it is under review for transition by way of an initial notification that requests a confirmation of the RECLAIM source equipment at the facility, as well as identification of any NO_x emitting equipment that is not subject to permitting requirements per Rule 219. The RECLAIM facility can respond and provide information to the Executive Officer to confirm that it is ready for the transition to command and control. A facility is ready to transition into command and control if:

- a) All equipment is at BARCT; or
- b) The applicable equipment command and control rules have been adopted and/or amended to reflect current BARCT, while also establishing an implementation schedule for equipment that is not at BARCT; or
- c) A mechanism (e.g., a compliance plan) is in place to address any equipment that is not at BARCT and where there is no applicable command and control rule.

If the notified facility, after responding, is deemed as ready to transition into command and control, it will receive a final determination notification from the Executive Officer that it will be removed from RECLAIM and be subject to command and control regulations. However, if it is determined that a facility is deemed as not ready to exit from RECLAIM, it will remain in RECLAIM until a subsequent notification and determination is made to exit.

“The Executive Officer will notify the owner or operator of a NO_x RECLAIM facility that their facility is under review for being transitioned out of NO_x RECLAIM. Within 60 days of the notification date, the owner or operator shall notify the Executive Officer with identification of all NO_x RECLAIM emission equipment, including Rule 219 exempt equipment. The Executive Officer will review the information submitted and determine if the facility will be transitioned out of the NO_x RECLAIM program. If the facility will be transitioned out of NO_x RECLAIM, then the facility will receive a final determination notification from the Executive Officer. Otherwise, the facility owner or operator will be notified by the Executive Officer that their facility will be transitioned out of NO_x RECLAIM at a later date.”

If a RECLAIM facility receives a final determination notification, then the facility would not be able to sell any future compliance year RTCs, but only the current compliance year RTCs until the facility exits RECLAIM. This provision is contained in subparagraph (f)(6)(A):

“The owner or operator of a NO_x RECLAIM facility that has received a final determination notification from the Executive Officer that it will be transitioned out of the RECLAIM program shall not sell any future compliance year RTCs and may only sell current compliance year RTCs until the facility is transitioned out of the RECLAIM program.”

SCAQMD staff is soliciting comments for freezing future infinite year block (IYB) RTC trades at the time of the initial notification to prevent a potential over-supply of RTCs remaining in the NO_x RECLAIM market. This would not apply to the first group of facilities that will receive the initial notifications, but to subsequent groups of facilities that will receive the initial notifications after the amendments to Rules 2001 and 2002. If future compliance year RTC holdings are frozen and not able to be sold, and it is determined that the facility is deemed as not ready to transition out of the NO_x RECLAIM program, then the future compliance year RTC holdings freeze would be lifted until the facility receives a subsequent initial notification.

The proposed amendments will establish the procedures for all facilities that will exit the RECLAIM program and transition from a programmatic to a command and control regulatory structure.

Emission Reductions and Cost Effectiveness

The proposed amendments do not result in any significant effect on air quality and do not result in any emissions limitation. As a result, a cost effectiveness analysis is not required.

AQMP and Legal Mandates

The California Health and Safety Code requires the SCAQMD to adopt an Air Quality Management Plan to meet state and federal ambient air quality standards and adopt rules and regulations that carry out the objectives of the AQMP. This proposed amendment of Regulation XX (Proposed Amended Rules 2001 and 2002) initiates the transition of the RECLAIM program to a command and control regulatory structure in order to achieve the commitments of Control Measure CMB-05 of the Final 2016 AQMP.

California Environmental Quality Act (CEQA) Analysis

Pursuant to the California Environmental Quality Act (CEQA) and SCAQMD Rule 110, the SCAQMD, as lead agency for the proposed project, will be reviewing PAR 2001 and 2002 and will determine if PAR 2001 and 2002 will result in any potential adverse environmental impacts. Appropriate CEQA documentation for the proposed project will be prepared based on the analysis.

Socioeconomic Analysis

A socioeconomic assessment will be conducted and released for public review and comment at least 30 days prior to the SCAQMD Governing Board Hearing of PARs 2001 and 2002 of Regulation XX (NO_x RECLAIM), which are anticipated to be heard on January 5, 2018.

Draft Findings Under California Health & Safety Code Section 40727

California Health & Safety Code §40727 requires that the Board make findings of necessity, authority, clarity, consistency, non-duplication, and reference based on relevant information presented at the public hearing and in the staff report. In order to determine compliance with Sections 40727 and 40727.2, a written analysis is required comparing the proposed rule with existing regulations.

The draft findings are as follows:

Necessity: PARs 2001 and 2002 are necessary to facilitate the transitioning of RECLAIM to command and control by not allowing any facilities from entering the program and to establish the mechanism for notifying and exiting RECLAIM facilities from the program.

Authority: The SCAQMD obtains its authority to adopt, amend, or repeal rules and regulations from California Health and Safety Code Sections 39002, 40000, 40001, 40440, 40702, 40725 through 40728, and 41508.

Clarity: PARs 2001 and 2002 have been written or displayed so that its meaning can be easily understood by the persons affected by the rule.

Consistency: PARs 2001 and 2002 are in harmony with, and not in conflict with or contradictory to, existing federal or state statutes, court decisions or federal regulations.

Non-Duplication: PARs 2001 and 2002 do not impose the same requirement as any existing state or federal regulation, and is necessary and proper to execute the powers and duties granted to, and imposed upon the SCAQMD.

Reference: In amending these rules, the following statutes which the SCAQMD hereby implements, interprets or makes specific are referenced: Health and Safety Code sections 39002, 40001, 40702, 40440(a), and 40725 through 40728.5.

Comparative Analysis

H&S Code §40727.2 (g) is applicable because the proposed amended rules or regulations impose, or have the potential to impose, a new emissions limit or standard, or other air pollution control requirements. As a result, a comparative analysis is not required.

Incremental Cost Effectiveness

California H&S Code § 40920.6 requires an incremental cost effectiveness analysis for BARCT rules or emission reduction strategies when there is more than one control option which would achieve the emission reduction objective of the proposed amendments, relative to ozone, CO, SO_x, NO_x, and their precursors. The proposed amendment does

not include new BARCT requirements; therefore this provision does not apply to the proposed amendment.

Conclusions and Recommendations

The proposed amendments are needed to facilitate the transitioning of RECLAIM to command and control by not allowing any facilities from entering the program and to establish the mechanism for notifying and exiting RECLAIM facilities from the program.