

BOARD MEETING DATE: June 3, 2011

AGENDA NO. 25

PROPOSAL: Amend Rule 2005 – New Source Review for RECLAIM

SYNOPSIS: To offset emissions from a new or modified unit, Rule 2005 requires a RECLAIM facility to hold sufficient RECLAIM Trading Credits (RTCs) at the beginning of each year the unit is in operation. These RTC holding requirements may provide a disadvantage to modernization, potentially delaying emission reductions. The current proposal is to eliminate the requirement for existing facilities to hold RTCs in advance of second and subsequent years. All emissions will still be offset by RTCs at the end of the applicable compliance period. This action is to adopt the resolution: 1) Certifying the Notice of Exemption for Proposed Amended Rule 2005; and 2) Amending Rule 2005.

COMMITTEE: Stationary Source, January 21, 2011, Reviewed

RECOMMENDED ACTION:

Adopt the attached resolution:

1. Certifying the Notice of Exemption for Proposed Amended Rule 2005 – New Source Review for RECLAIM; and,
2. Amending Rule 2005 – New Source Review for RECLAIM.

Barry R. Wallerstein, D.Env.
Executive Officer

LT:JC:GQ:KO

Introduction

New Source Review (NSR) requirements for RECLAIM pollutants at RECLAIM facilities are set forth in Rule 2005. One such requirement for existing facilities¹ is that they obtain sufficient RECLAIM Trading Credits (RTCs) to offset their NSR emissions for a year prior to beginning operation. They must also provide sufficient RTCs in advance of each subsequent year to offset that year's operations.

Over time, more and more existing facilities are likely to want to install newer, more modern equipment, which subjects them to NSR requirements even though total emissions continue to decrease. Thus, these facilities must hold RTCs before each operating year, in addition to at the end of each quarter or compliance year, as for other RTC requirements. These RTC holding requirements may provide a disadvantage to modernization, thus delaying emission reductions. The current proposal is to eliminate the requirement for existing facilities to hold RTCs in advance of the second and subsequent years. All emissions will still be required to be offset by RTCs. All new facilities² are still subject to this holding requirement.

The "Governing Board's Helping Hand Initiative for 2009" was introduced by Chairman William Burke and supplemented by other Governing Board members at the January 9, 2009 Board meeting. This initiative was intended to provide a "helping hand" to stakeholders during the economic downturn while the District was working towards its clean air goals. One part of the "Helping Hand Initiative" directed staff to explore limiting the requirement for upfront purchases of RTCs for new equipment to the first year of operation. Staff has worked with U. S. EPA and CARB to arrive at this proposal. In addition, an operator of existing facilities has contacted staff and indicated that the current credit holding requirement under Rule 2005 is presenting an added cost to its plan to modernize equipment at its facilities. This is because equipment replacement is considered a new source under U. S. EPA's NSR program. As a result, this operator is delaying some modernization projects. It is also anticipated that the holding requirement, if continued in its current form, will present a structural problem for the program in the future. As time goes on, existing equipment will have to be eventually replaced with new units simply due to wear and tear. Emissions from all new equipment are subject to this holding requirement, even when it replaces existing, higher-emitting equipment. Programmatically, there may not be adequate RTCs to meet the cumulative hold requirement simply due to the declining emission goal. The proposed amendment is designed to address this concern while maintaining the compliance requirements at the end of a compliance year. This board letter serves as the staff report for Proposed Amended Rule 2005.

¹ An existing facility, as defined in Rule 2000(c)(35), is "any facility that submitted Emission Fee Reports pursuant to Rule 301 – Permit Fees, for 1992 or earlier years, or with valid District Permits to Operate issued prior to October 15, 1993, and continued to be in operation or possess valid District permits on October 15, 1993."

² A new facility, as defined in Rule 2000(c)(51), is "any facility which has received all District Permits to Construct on or after October 15, 1993."

Background

Rule 2005 sets forth requirements for new or modified equipment or processes at RECLAIM facilities. The purpose of the rule is to ensure that the RECLAIM program is equivalent to the federal and state NSR program requirements. Rule 2005 provides three separate requirements to meet the NSR programmatic equivalency: 1. Sources causing emission increases must be equipped with Best Available Control Technology (BACT), 2. Modeling must be used to demonstrate that operation of the source will not result in a significant increase in the air quality concentration of nitrogen dioxide (NO₂) if the facility total emissions exceed its 1994 starting Allocations plus non-tradable credits, and 3. The facility must hold sufficient RTCs to offset emission increases for one year prior to commencement of operation and at the beginning of every compliance year thereafter. These requirements are triggered in cases where a facility incurs an emission increase as defined under Rule 2005(d) – Emission Increase. The evaluation of emission increases under this paragraph is defined on a device-by-device basis. Any time a new NO_x- or SO_x-emitting RECLAIM device is installed, it triggers the credit holding requirements because it does not have any prior emissions, even in cases where the new device is replacing an older, dirtier device.

Among these requirements, the credit holding requirement ensures that the facility has adequate credits to offset emission increases year-by-year. It does not directly require emission decreases. On the other hand, all RECLAIM facilities are required to reconcile their Allocations to their emissions (i.e. hold enough RTCs to cover their emissions) by the end of each quarter and each compliance year pursuant to Rule 2004 – Requirements. Therefore, under RECLAIM, all facilities are required to have credits to offset all RECLAIM emissions regardless if they are subject to the requirements of Rule 2005.

Under the current rule, an existing facility is subject to credit holding requirements for both the first year of operation [Rule 2005(c)(2)] and at the beginning of each compliance year thereafter [Rule 2005(f) – Offsets] if it incurs an “emission increase” from the installation of new or modified equipment. An existing facility is also subject to credit holding requirements under subparagraph (c)(4)(B) if the facility emissions exceed the level of its starting Allocations plus non-tradable credits which defines the historical baseline emission level. A new RECLAIM facility is subject to both requirements at the same time whenever it experiences emission increases because a new facility starts out with no starting Allocations. This is true even when it replaces an older device with a newer one. If the new emission level is lower, then the amount of credit required to be held will be lower than the amount required prior to the replacement. Therefore, new facilities are not adversely impacted by replacing existing equipment with less emitting equipment. However, it is not the case for an existing facility. If it replaces older equipment with newer and less polluting equipment, it has to start holding credits to offset those emission increases, even if its facility-wide total

emissions are still lower than both the emissions preceding the replacement and the level of its starting Allocations plus non-tradable credits.

Under RECLAIM, RTCs serve dual purposes – they can be used to satisfy credit holding requirements at the beginning of a compliance year and to reconcile emissions at the end of a quarter and at the end of a compliance year. RECLAIM effects emission reductions by decreasing Allocations (i.e., the amount of available RTCs) year-by-year. As the amount of Allocations decrease, fewer RTCs are available to satisfy holding requirements. In the past, many existing facilities that were subject to this RTC hold requirement have been able to satisfy the requirements with their Allocations. However, these Allocations are being decreased to a point that some of these facilities may have to start purchasing additional RTCs to satisfy the holding requirements.

The amount of RTCs to be held by an existing facility must be at least equal to the increase in the maximum daily potential to emit from new or modified sources. Most of the time, however, facilities do not emit at their maximum permitted level on a daily basis. As a result, an artificially high demand of RTCs is created at the beginning of a compliance year to meet the holding requirements, leaving facilities with excess RTCs at the end of the year that they do not need. As more and more modernizing plans are implemented at existing facilities, the aggregate quantity of RTC holdings required grows even as overall program emissions decline with time.

In addition, the high demand at the beginning of a compliance year causes credit prices to rise. This creates an upfront cost to facilities that is generally not fully recouped because RTC prices generally decrease as the RTCs approach their expiration dates and also as excess RTCs are released at a compliance year's end. The high prices related to RTCs held at the beginning of the year, in turn, may cause existing facilities to delay or even abandon their modernizing plans, thus slowing down actual emission decreases. Eventually, all RECLAIM facilities are negatively impacted by the requirement to hold such offsets at the commencement of each compliance year because of the artificially high RTC demand based on maximum potential to emit and the resultant higher RTC prices.

Under existing rules, a facility subject to the NSR credit holding requirement may apply for conditions that limit quarterly emissions. In those cases, the facility still has to hold enough RTCs for the annual amount at the start of each compliance year, but may sell excess RTCs for a quarter at the end of that quarter. This ability to sell excess RTCs at the end of a quarter instead of the end of the year only minimizes the cost difference but does not address the overall problem of RTC availability.

Proposed Amendments

The proposed amendments seek to change only the credit hold requirement for an existing RECLAIM facility, provided its emission level stays below the level of its starting Allocations plus non-tradable credits. The proposed amendments, if adopted, will require an existing RECLAIM facility to hold adequate RTCs for the first year of operation prior to commencement of operation of a new or modified source, but will not require the facility to hold RTCs at the commencement of subsequent compliance years, provided that the facility emission level remains below its starting Allocations plus non-tradable credits. The offset requirements for new RECLAIM facilities will remain unchanged. A new facility will have to hold adequate RTCs equal to the amount of emission increases at the beginning of each compliance year. Any excess RTCs cannot be sold until the end of the compliance year, or the applicable quarters if the facility has permit conditions to cap its emissions during each quarter, thus allowing sale of unused RTCs at the end of the quarter.

Assuming that the rule amendment is adopted by the AQMD Governing Board as proposed and for planning purposes, staff intends to take the following steps to update RECLAIM Facility Permits for impacted existing facilities. First, all RECLAIM facilities have been sent notices of the pending proposed rule amendment. In addition to informing RECLAIM facilities of the proposal, the notice also states AQMD's intention to update permit conditions that are impacted by rule amendment as adopted by the Board. Such notice was issued at least 30 days prior to the hearing date. RECLAIM Facility Permits are subject to renewal on either January 1 for Cycle 1 facilities or July 1 for Cycle 2 facilities. Upon adoption of the proposed amendments, AQMD will submit the amendments to CARB and U. S. EPA for approval into the California State Implementation Plan (SIP) and commence review of permits for all RECLAIM facilities to determine what, if any, changes are necessary to the permit conditions to reflect the requirements in the proposed amendments. RECLAIM facilities can file an application to request the appropriate changes in their permit conditions. AQMD will not approve such applications until the amendments have been approved into the SIP. For facilities that do not file an application to request the appropriate changes, AQMD will update the permit conditions upon annual renewal of RECLAIM permits once the amendments have been approved into the SIP.

The proposed amendment, if adopted, will alleviate the disincentive to replace older, more polluting equipment with newer, cleaner equipment at existing facilities. The remaining two requirements (i.e., BACT and modeling) will not be changed. All RECLAIM facilities are required to reconcile their Allocations to their emissions (i.e. hold enough RTCs to cover their emissions) by the end of each quarter and each compliance year pursuant to Rule 2004. No change to this requirement is proposed. Existing facilities will continue be subject to the emission reduction goals set under RECLAIM.

Potential Impacts

California Environmental Quality Act (CEQA)

SCAQMD staff has reviewed the proposed project pursuant to CEQA Guidelines §15002 (k)(1), the first step of a three-step process for deciding which document to prepare for a project subject to CEQA. The SCAQMD has determined that it can be seen with certainty that there is no possibility that the proposed project may have any new significant effects on the environment, and is therefore, exempt pursuant to CEQA Guidelines §15061(b)(3) - Review for Exemption (General Rule Exemption). Furthermore, the proposed amendments are categorically exempt because they are considered actions to protect or enhance the environment pursuant to CEQA Guidelines §15308 – Class 8 Categorical Exemption.

A Notice of Exemption has been prepared pursuant to CEQA Guidelines §15062 - Notice of Exemption. If approved, the Notice of Exemption will be filed with the county clerks of Los Angeles, Orange, Riverside and San Bernardino counties.

Socioeconomic Assessment

The proposed amendments to Rule 2005 – New Source Review for RECLAIM would remove the requirement for existing facilities to hold RTCs from new or modified equipment at the beginning of the second compliance year and thereafter. Avoiding the need to purchase and hold excess RTCs that are not needed to cover actual emissions at the end of a compliance year could free up funds to modernize existing equipment. Equipment modernization is one essential part to achieving RECLAIM emission goals. Any emission reduction in excess of a facility's emission goal translates to surplus RTCs that can be sold, thus providing further incentive to maximize and to speed up emission reduction projects. Removing the RTC holding requirements beyond the first year for existing RECLAIM facilities would lower the burden on facility operators as well as increase market fluidity.

Overall, the proposed amendments as a whole would not result in any adverse cost or other socioeconomic impacts.

Public Process

A Public Workshop was held on March 3, 2011.

Implementation Plan

The proposed amendments are administrative in nature and remove the requirement for existing facilities to hold RTC's in advance of second and subsequent years to offset emissions from the installation of new or modified units. Existing AQMD resources will be adequate to implement the amended rule.

Draft Findings under California Health and Safety (H&S) Code

California H&S Code §40727 requires that prior to adopting, amending or repealing a rule or regulation, the AQMD Governing Board shall make findings of necessity, authority, clarity, consistency, non-duplication, and reference based on relevant information presented at the public hearing and in the board letter.

Necessity

A need exists to amend Rule 2005 – New Source Review for RECLAIM to clarify the RTC holding requirements for existing facilities. Existing facilities will no longer be required to hold RTCs in advance of second and subsequent years to offset emissions from new or modified pieces of equipment.

Authority

The AQMD Governing Board has authority to amend existing Rule 2005 pursuant to California H&S Code §§ 39002, 39616, 40000, 40001, 40440, 40440.1, and 40702.

Clarity

The proposed amended rule is written or displayed so that its meaning can be easily understood by the persons directly affected by it.

Consistency

The proposed amended rule is in harmony with and not in conflict with or contradictory to, existing statutes, court decisions or state or federal regulations.

Non-Duplication

The proposed amended rule will not impose the same requirements as any existing state or federal regulations. The amendments are necessary and proper to execute the powers and duties granted to, and imposed upon, AQMD.

Reference

By adopting the proposed amended rule, the AQMD Governing Board will be implementing, interpreting and making specific the provisions of the California H&S Code §§ 39002, 39616, 40001, 40440 (a), 40440.1, 40702, and Title 42 U. S. C. Section 7410.

Requirement to Make Findings Pursuant to California Health & Safety Code Section 39616

California H&S Code § 39616(e) requires the AQMD Governing Board to ratify findings that, relative to the subsumed rules and control measures, RECLAIM (1) achieves equivalent or greater emission reductions at equivalent or less cost, (2) has comparable enforcement and monitoring, (3) does not delay attaining California ambient air quality standards, (4) allows the use of emissions reduction from other sources such

as mobile and area sources, and (5) promotes privatization of compliance and electronic availability of data. These findings were originally made in October 2000 and subsequently in May 2001, December 2003, and January 2005. The current proposed amendments to Rule 2005 do not change these findings because the amendments are administrative in nature and have no emissions impacts. The amendments remove the requirement for existing RECLAIM facilities to hold RTCs in advance of second and subsequent years for the purpose of offsetting emissions from a new or modified source.

Comparative Analysis

In order to determine compliance with California H&S Code §§ 40727, 40727.2, a written analysis comparing the proposed amended rule with existing regulations is required. Section 40727.2 analysis is traditionally done for source-specific rule requirements affecting specific types of equipment. Since RECLAIM is essentially a mass cap approach with a declining balance, such analysis is not directly applicable. Moreover, there are no other AQMD source-specific NO_x and SO_x emission-related rules that apply to RECLAIM equipment at RECLAIM facilities.

A comparative analysis, as required by H&S Code §40727.2, is applicable when an amended rule or regulation imposes, or has the potential to impose, a new emissions limit, or other air pollution control requirements. The proposed amendments do not impose new requirements.

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 amendments are not BARCT requirements; therefore, this provision does not apply to the proposed amendment.

Attachments

- A. Summary of Proposal
- B. Rule Development Process
- C. Key Contacts List
- D. Resolution
- E. Proposed Amended Rule
- F. Response to Comments
- G. Notice of Exemption

ATTACHMENT A
SUMMARY OF PROPOSAL

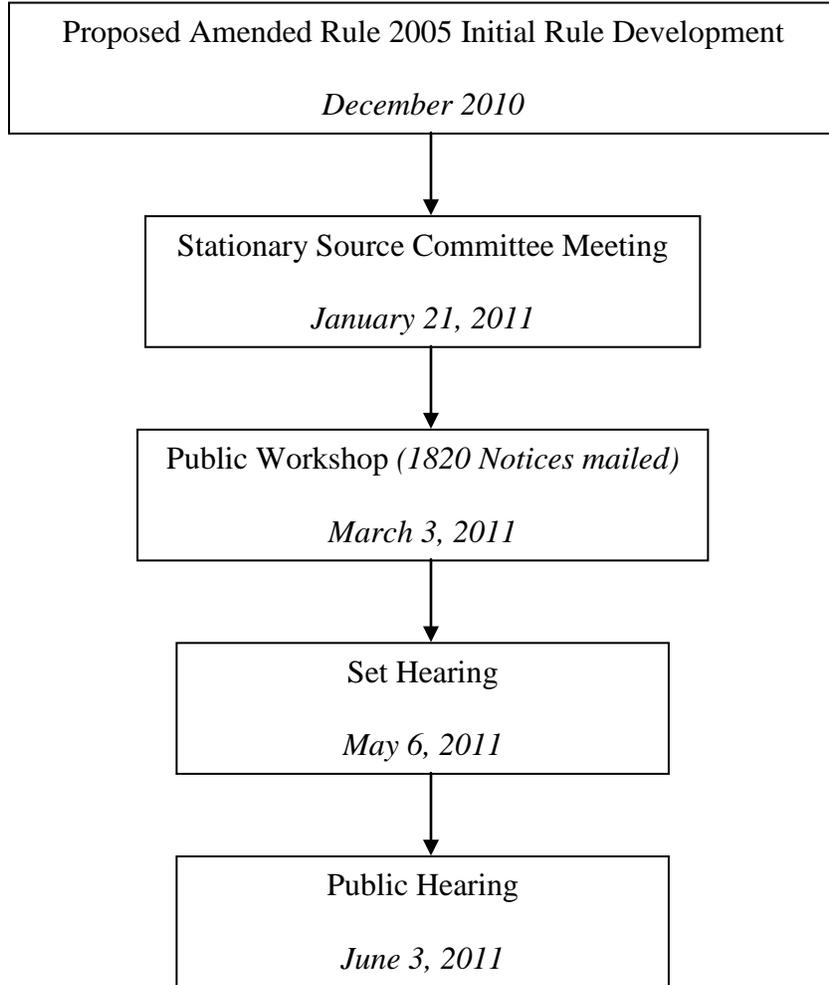
Proposed Amended Rule 2005 – New Source Review for RECLAIM

- Remove the requirement for existing RECLAIM facilities to hold RTCs in advance of second and subsequent years for the operation of a new or modified source. All emissions will still be offset by RTCs at the end of the applicable compliance period.

ATTACHMENT B

RULE DEVELOPMENT PROCESS

Proposed Amended Rule 2005 – New Source Review for RECLAIM



Total time spent in rule development: 6 months

ATTACHMENT C
KEY CONTACTS LIST

Agency Representatives

California Air Resources Board (CARB)
U. S. Environmental Protection Agency (EPA)

Industry Representatives

Los Angeles Department of Water and Power (LADWP)
Southern California Edison
Western States Petroleum Association (WSPA)

Other

Representatives from other companies, brokers, and other interested individuals

ATTACHMENT D

RESOLUTION NO. - _____

A Resolution of the Governing Board of the South Coast Air Quality Management District (AQMD) certifying the Notice of Exemption for Proposed Amended Rule 2005 – New Source Review for RECLAIM.

A Resolution of the AQMD Governing Board amending Rule 2005 – New Source Review for RECLAIM.

WHEREAS, the South Coast Air Quality Management District Governing Board finds and determines that the proposed amendment to Rule 2005 – New Source Review for RECLAIM, is considered a “project” pursuant to the California Environmental Quality Act (CEQA); and

WHEREAS, the South Coast Air Quality Management District staff reviewed the proposed project and because it can be seen with certainty that there is no possibility that the proposed project in question has the potential to have a significant adverse effect on the environment, it was determined that the proposed project is exempt from CEQA pursuant to CEQA Guidelines § 15061(b)(3) – Review for Exemption. Further, the proposed amendments to Rule 2005 are also categorically exempt because they are considered actions to protect or enhance the environment pursuant to CEQA Guidelines § 15308 – Class 8 Categorical Exemption; and

WHEREAS, the AQMD has had its regulatory program certified pursuant to Public Resources Code § 21080.5 and has conducted CEQA review and analysis pursuant to such program (AQMD Rule 110); and

WHEREAS, AQMD staff has prepared a Notice of Exemption (NOE) for Rule 2005, as proposed to be amended, that is completed in compliance with CEQA Guidelines § 15002(k)(1) - Three Step Process, § 15061(b)(3) – Review for Exemption (General Rule Exemption), and CEQA Guidelines § 15308 – Class 8 Categorical Exemption; and

WHEREAS, the AQMD Governing Board voting on Proposed Amended Rule 2005 – New Source Review for RECLAIM, has reviewed and considered the NOE prior to its certification; and

WHEREAS, the AQMD Governing Board has determined that a need exists to amend Rule 2005 – New Source Review for RECLAIM, for the reasons contained in the Board Letter to clarify the RTC holding requirements for existing facilities. Existing facilities will no longer be required to hold RTCs in advance of second and subsequent years to offset emissions from new or modified pieces of equipment; and

WHEREAS, the AQMD Governing Board has authority to amend existing Rule 2005 pursuant to California Health & Safety Code §§ 39002, 39616, 40000, 40001, 40440, 40440.1, and 40702; and

WHEREAS, the AQMD Governing Board has determined that Rule 2005 – New Source Review for RECLAIM, as proposed to be amended, is written or displayed so that its meaning can be easily understood by the persons directly affected by it; and

WHEREAS, the AQMD Governing Board has determined that Rule 2005 – New Source Review for RECLAIM, as proposed to be amended, is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations; and

WHEREAS, the AQMD Governing Board has determined that Rule 2005 – New Source Review for RECLAIM, as proposed to be amended, does not impose the same requirements as any existing state or federal regulation, and the proposed amended rule is necessary and proper to execute the powers and duties granted to, and imposed upon, the AQMD; and

WHEREAS, the AQMD Governing Board, in amending and adopting this regulation, references the following statutes which the District hereby implements, interprets, or makes specific: California Health & Safety Code §§ 39002, 39616, 40001, 40440(a), 40440.1, 40702, and Title 42 U.S.C. § 7410; and

WHEREAS, the AQMD Governing Board finds that the proposed amendment to Rule 2005 does not significantly affect air quality or emissions limitations, and does not impose new controls, and therefore a socioeconomic analysis pursuant to California Health & Safety Code §§ 40440.8, 40728.5, or 40728.5 is not required; and

WHEREAS, a public hearing has been properly noticed in accordance with the provisions of California Health & Safety Code § 40725; and

WHEREAS, the AQMD Governing Board has held a public hearing in accordance with all the provisions of law; and

WHEREAS, the AQMD specifies the Manager of Rule 2005 – New Source Review for RECLAIM as the custodian of the documents or other materials which constitute the record of proceedings upon which the adoption of this proposed amendment is based, which are located at the South Coast Air Quality Management District, 21865 Copley Drive, Diamond Bar, California; and

WHEREAS, at the conclusion of the public hearing, the AQMD Board may make other amendments to Proposed Amended Rule 2005 which are justified by the evidence presented, or may decline the amendments or adoption; and

NOW, THEREFORE, BE IT RESOLVED, that the South Coast Air Quality Management District Board does hereby certify the Notice of Exemption for Rule 2005, as proposed to be amended, is completed in compliance with CEQA Guidelines § 15002(k)(1) - Three Step Process, § 15061(b)(3) – Review for Exemption (General Rule Exemption), and CEQA Guidelines § 15308 – Class 8 Categorical Exemption. This information was presented to the Governing Board, whose members reviewed, considered, and approved the information therein prior to acting on the proposed amendments.

BE IT FURTHER RESOLVED, that the AQMD Governing Board does hereby amend, pursuant to the authority granted by law, Rule 2005 – New Source Review for RECLAIM, as set forth in the attached and incorporated herein by this reference.

Date: _____

Clerk of the Boards

ATTACHMENT E

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(Adopted October 15, 1993)(Amended December 7, 1995)(Amended May 10, 1996)
(Amended July 12, 1996)(Amended February 14, 1997)(Amended April 9, 1999)
(Amended April 20, 2001)(Amended May 6, 2005)
June 3~~March 4~~, 2011
PAR2005

PROPOSED AMENDED RULE 2005. NEW SOURCE REVIEW FOR RECLAIM

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(a) Purpose

This rule sets forth pre-construction review requirements for new facilities subject to the requirements of the RECLAIM program, for modifications to RECLAIM facilities, and for facilities which increase their allocation to a level greater than their starting Allocation plus non-tradable credits. The purpose of this rule is to ensure that the operation of such facilities does not interfere with progress in attainment of the National Ambient Air Quality Standards, and that future economic growth in the South Coast Air Basin is not unnecessarily restricted.

(b) Requirements for New or Relocated RECLAIM Facilities

- (1) The Executive Officer shall not approve the application for a Facility Permit to authorize construction or installation of a new or relocated facility unless the applicant demonstrates that:
 - (A) Best Available Control Technology will be applied to every emission source located at the facility; and
 - (B) the operation of any emission source located at the new or relocated facility will not cause a violation nor make significantly worse an existing violation of the state or national ambient air quality standard at any receptor location in the District for NO₂ as specified in Appendix A. The applicant shall use the modeling procedures specified in Appendix A.
- (2) The Executive Officer shall not approve the application for a Facility Permit authorizing operation of a new or relocated facility, unless the applicant demonstrates that:
 - (A) the facility holds sufficient RTCs to offset the total facility emissions for the first year of operation, at a 1-to-1 ratio; and
 - (B) the RTCs procured to comply with the requirements of subparagraph (b)(2)(A) were obtained pursuant to the requirements of subdivision (e), and

- (C) the total facility emissions determined to comply with the requirements of subparagraph (b)(2)(A) shall also include ship emissions directly associated with activities at stationary sources subject to this rule as follows:
 - (i) all emissions from ships during the loading and unloading of cargo and while at berth where the cargo is loaded or unloaded; and
 - (ii) non-propulsion ship emissions within coastal waters under District jurisdiction.
- (c) Requirements for Existing RECLAIM Facilities, Modification to New RECLAIM Facilities, Facilities which Undergo a Change of Operator, or Facilities which Increase an Annual Allocation to a Level Greater Than the Facility's Starting Allocation Plus Non-tradable Credits.
 - (1) The Executive Officer shall not approve an application for a Facility Permit Amendment to authorize the installation of a new source or modification of an existing source which results in an emission increase as defined in subdivision (d), unless the applicant demonstrates that:
 - (A) Best Available Control Technology will be applied to the source; and
 - (B) the operation of the source will not result in a significant increase in the air quality concentration for NO₂ as specified in Appendix A. The applicant shall use the modeling procedures specified in Appendix A.
 - (2) The Executive Officer shall not approve an application for a Facility Permit Amendment to authorize operation of the new or modified source which results in an emission increase as defined in subdivision (d), unless the applicant demonstrates that the facility holds sufficient RTCs to offset the annual emission increase for the first year of operation at a 1-to-1 ratio.
 - (3) The Executive Officer shall not approve an application for Change of Operator for a Facility Permit unless the applicant demonstrates that the facility holds sufficient RTCs for the compliance year in which the change of operator permit is issued. Credits must be held in an amount equal to:

- (A) The annual Allocation initially issued to the original Facility Permit holder for existing facility as defined in Rule 2000 for the same compliance year, in which the change of operator permit is issued, multiplied, where applicable, by the Tradable/Usable RTC Adjustment Factor for the same compliance year as listed in Rule 2002(f)(1)(A); or
 - (B) The sum of annual RECLAIM pollutants from all the sources located at the facility. The amount of annual RECLAIM pollutants for each source shall be calculated by the maximum hourly potential to emit, over an operating schedule of 24 hours per day and 365 days per year, or shall be based on a permit condition limiting the source's emission.
- (4) The Executive Officer shall not approve an application to increase an annual Allocation to a level greater than the facility's starting Allocation plus non-tradable credits, unless the applicant demonstrates that:
- (A) each source which creates an emission increase as defined in subdivision (d) will:
 - (i) apply Best Available Control Technology;
 - (ii) not result in a significant increase in the air quality concentration for NO₂ as specified in Appendix A; and
 - (B) the facility holds sufficient RTCs acquired pursuant to subdivision (e) to offset the annual increase in the facility's starting Allocation plus non-tradable credits at a 1-to-1 ratio for a minimum of one year.
- (d) Emission Increase
- An increase in emissions occurs if a source's maximum hourly potential to emit immediately prior to the proposed modification is less than the source's post-modification maximum hourly potential to emit. The amount of emission increase will be determined by comparing pre-modification and post-modification emissions on an annual basis by using: (1) an operating schedule of 24 hours per day, 365 days per year; or (2) a permit condition limiting mass emissions.
- (e) Trading Zones Restrictions
- Any increase in an annual Allocation to a level greater than the facility's starting plus non-tradable Allocations, and all emissions from a new or relocated facility must be fully offset by obtaining RTCs originated in one of the two trading zones

as illustrated in the RECLAIM Trading Zones Map. A facility in Zone 1 may only obtain RTCs from Zone 1. A facility in Zone 2 may obtain RTCs from either Zone 1 or 2, or both.

(f) Offsets

The Facility Permit for a new or modified facility shall require compliance with this subdivision, if applicable.

- (1) Any facility which was required to provide offsets pursuant to paragraphs (b)(2), ~~(c)(2)~~, or subparagraph (c)(4)(B) or any new facility required to provide offsets pursuant to paragraph (c)(2) shall, at the commencement of each compliance year, hold RTCs in an amount equal to the amount of such required offsets. The Facility Permit holder may reduce the amount of offsets required pursuant to this subdivision by accepting a permit condition limiting emissions which shall serve in lieu of the starting Allocation plus non-tradable credits for purposes of paragraph (c)(4).
- (2) Unused RTCs acquired to comply with this subdivision or with paragraphs (b)(2), (c)(2), or subparagraph (c)(4)(B) may be sold only during the reconciliation period for the fourth quarter of the applicable compliance year.
- (3) In lieu of compliance with paragraph (f)(2), the Facility Permit holder may accept a permit condition limiting quarterly emissions from the facility. A facility with quarterly emission limits may sell, at any time after the end of that quarter and prior to the end of the reconciliation period for that compliance year, unused RTCs acquired pursuant to this subdivision at the amount not to exceed the difference between the permitted emission limit for that quarter and the emissions during that quarter as reported to the District in the Quarterly Emission Certification. Any facility with quarterly certified emissions exceeding the quarterly emission limit for any quarter may ~~sell~~ RTCs only during the reconciliation period for the fourth quarter of the applicable compliance year. If there are a total of three exceedances in any five consecutive compliance years, the facility shall permanently comply with paragraph (f)(2) in lieu of (f)(3).

(g) Additional Federal Requirements for Major Stationary Sources

The Executive Officer shall not approve the application for a Facility Permit or an Amendment to a Facility Permit for a new, relocated or modified major stationary source, as defined in the Clean Air Act, 42 U.S.C. Section 7511a(e), unless the applicant:

- (1) certifies that all other major stationary sources in the state which are controlled by the applicant are in compliance or on a schedule for compliance with all applicable federal emission limitations or standards (42 U.S.C. Section 7503(a)(3)); and
- (2) submits an analysis of alternative sites, sizes, production processes and environmental control techniques for the proposed source which demonstrates that the benefits of the proposed source significantly outweigh the environmental and social cost imposed as a result of its location, construction, or modification (42 U.S.C. Section 7503(a)(5));
- (3) Compliance Through California Environmental Quality Act
The requirements of paragraph (g)(2) may be met through compliance with the California Environmental Quality Act in the following manner.
 - (A) if the proposed project is exempt from California Environmental Quality Act analysis pursuant to a statutory or categorical exemption pursuant to Title 14, California Code of Regulations, Sections 15260 to 15329, paragraph (g)(2) shall not apply to that project;
 - (B) if the proposed project qualifies for a negative declaration pursuant to Title 14 California Code of Regulations, Section 15070, or a mitigated negative declaration as defined in Public Resources Code Section 21064.5, paragraph (g)(2) shall not apply to that project; or
 - (C) if the proposed project has been analyzed by an environmental impact report pursuant to Public Resources Code Section 21002.1 and Title 14 California Code of Regulations, Section 15080 et seq., paragraph (g)(2) shall be deemed satisfied.

- (4) Protection of Visibility
 - (A) Conduct a modeling analysis for plume visibility in accordance with the procedures specified in Appendix B if the net emission increase from the new or modified source exceeds 40 tons/year of NO_x; and the location of the source, relative to the closest boundary of a specified Federal Class I area, is within the distance specified in Table 4-1.

Table 4-1

<i>Federal Class I Area</i>	<i>Distance (km)</i>
Agua Tibia	28
Cucamonga	28
Joshua Tree	29
San Gabriel	29
San Gorgonio	32
San Jacinto	28

- (B) In relation to a permit application subject to the modeling analysis required by subparagraph (g)(4)(A), the Executive Officer shall:
 - (i) deem a permit application complete only when the applicant has complied with the requisite modeling analysis for plume visibility pursuant to subparagraph (g)(4)(A);
 - (ii) notify and provide a copy of the complete permit application file to the applicable Federal Land Manager(s) within 30 calendar days after the application has been deemed complete and at least 60 days prior to final action on the permit application;

- (iii) consider written comments, relative to visibility impacts from the new or modified source, from the responsible Federal Land Manager(s), including any regional haze modeling performed by the Federal Land Manager(s), received within 30 days of the date of notification when determining the terms and conditions of the permit;
 - (iv) consider the Federal Land Manager(s) findings with respect to the geographic extent, intensity, duration, frequency and time of any identified visibility impairment of an affected Federal Class I area, including how these factors correlate with times of visitor use of the Federal Class I area, and the frequency and timing of natural conditions that reduce visibility; and,
 - (v) explain its decision or give notice as to where to obtain this explanation if the Executive Officer finds that the Federal Land Manager(s) analysis does not demonstrate that a new or modified source may have an adverse impact on visibility in an affected Federal Class I area.
- (C) If a project has an adverse impact on visibility in an affected Federal Class I area, the Executive Officer may consider the cost of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, the useful life of the source, and all other relevant factors in determining whether to issue or deny the Permit to Construct or Permit to Operate.
- (h) Public Notice
The applicant shall provide public notice, if required, pursuant to Rule 212 - Standards for Approving Permits.
- (i) Rule 1401
All new or modified sources shall comply with the requirements of Rule 1401 - New Source Review of Carcinogenic Air Contaminants, if applicable.
- (j) Compliance with State and Federal New Source Review Requirements
The Executive Officer will report to the District Governing Board regarding the effectiveness of Rule 2005 in meeting the state and federal New Source Review requirements for the preceding year. The Executive Officer may impose permit

conditions to monitor and ensure compliance with such requirements. This report shall be incorporated in the Annual Program Audit Report prepared pursuant to Rule 2015(b)(1).

(k) Exemptions

- (1) Functionally identical source replacements are exempt from the requirements of subparagraph (c)(1)(B) of this rule.
- (2) Physical modifications that consist of the installation of equipment where the modification will not increase the emissions rate of any RECLAIM pollutant, and will not cause an increase in emissions above the facility's current year Allocation, shall be exempt from the requirements of paragraph (c)(2).
- (3) Increases in hours of operation or throughput for equipment or processes permitted prior to October 15, 1993 that the applicant demonstrates would not violate any permit conditions in effect on October 15, 1993 which were imposed in order to limit emissions to implement New Source Review offset requirements, shall be exempt from the requirements of this rule.
- (4) Increase to RECLAIM emission concentration limits or emission rates not associated with Best Available Control Technology permit conditions provided that the increase is not a result of any modification to equipment shall be exempt from the requirements of this rule.
- (5) The requirements under subparagraphs (b)(1)(B) and (c)(1)(B), and clause (c)(4)(A)(ii) shall not apply to equipment used exclusively on a standby basis for non-utility electrical power generation or any other equipment used on a standby basis in case of emergency, provided the source does not operate more than 200 hours per year as evidenced by an engine-hour meter or equivalent method and is listed as emergency equipment in the Facility Permit.

APPENDIX A

The following sets forth the procedure for complying with the air quality modeling requirements. An applicant must either (1) provide an analysis approved by the Executive Officer or designee, or (2) show by using the Screening Analysis below, that a significant change (increase) in air quality concentration will not occur at any receptor location for which the state or national ambient air quality standard for NO₂ is exceeded.

Table A-1 of the screening analysis is subject to change by the Executive Officer, based on improved modeling data.

SCREENING ANALYSIS

Compare the emissions from the equipment you are applying for to those in Table A-1. If the emissions are less than the allowable emissions, no further analysis is required. If the emissions are greater than the allowable emissions, a more detailed air quality modeling analysis is required.

Table A-1
Allowable Emissions
for Noncombustion Sources and for
Combustion Sources less than 40 Million BTUs per hour

Heat Input Capacity (million BTUs/hr)	NOx (lbs/hr)
Noncombustion Source	0.068
2	0.20
5	0.31
10	0.47
20	0.86
30	1.26
40	1.31

Table A-2
Most Stringent Ambient Air Quality Standard and
Allowable Change in Concentration
For Each Air Contaminant/Averaging Time Combination

Air Contaminant	Averaging Time	Most Stringent Air Quality Standard		Significant Change in Air Quality Concentration	
		pphm	ug/m ³	pphm	ug/m ³
Nitrogen Dioxide	1-hour	25	500	1	20
	Annual	5.3	100	0.05	1

APPENDIX B

MODELING ANALYSIS FOR VISIBILITY

- (a) The modeling analysis performed by the applicant shall consider:
 - (1) the net emission increase from the new or modified source; and
 - (2) the location of the source and its distance to the closest boundary of specified Federal Class I area(s).
- (b) Level 1 and 2 screening analysis for adverse plume impact pursuant to paragraph (g)(4) of this rule for modeling analysis of plume visibility shall consider the following applicable screening background visual ranges:

Federal Class I Area	Screening Background Visual Range (km)
Agua Tibia	171
Cucamonga	171
Joshua Tree	180
San Gabriel	175
San Gorgonio	192
San Jacinto	171

For level 1 and 2 screening analysis, no adverse plume impact on visibility results when the total color contrast value (Delta-E) is 2.0 or less and the plume contrast value (C) is 0.05 or less. If these values are exceeded, the Executive Officer shall require additional modeling. For level 3 analysis the appropriate background visual range, in consultation with the Executive Officer, shall be used. The Executive Officer may determine that there is no adverse visibility impact based on substantial evidence provided by the project applicant.

- (c) When more detailed modeling is required to determine the project’s visibility impact or when an air quality model specified in the Guidelines below is deemed inappropriate by the Executive Officer for a specific source-receptor application, the model may be modified or another model substituted with prior written approval by the Executive Officer, in consultation with the federal Environmental Protection Agency and the Federal Land Managers.
- (d) The modeling analysis for plume visibility required pursuant to paragraph (g)(4) of this rule shall comply with the most recent version of:

- (1) “Guideline on Air Quality Model (Revised)” (1986), supplement A (1987), supplement B (1993) and supplement C (1994), EPA-450/2-78-027R, US EPA, Office of Air Quality Planning and Standards Research Triangle Park, NC 27711; and
- (2) “Workbook for Plume Visual Impact Screening and Analysis (Revised),” EPA-454/R-92-023, US EPA, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711;
- (3) “User’s Manual for the Plume Visibility Model (PLUVUE II) (Revised),” EPA-454/B-92-008, US EPA, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711 (for Level-3 Visibility Analysis)

ATTACHMENT F

Response to Comments

The following includes responses to comments received at the PAR 2005 Public Workshop on March 3, 2011 and during the public comment period.

Comment: If the second and subsequent year RTC holding requirements are being removed for existing RECLAIM facilities, why not remove the same requirements for new RECLAIM facilities?

Response: The original Rule 2005 requirement was due to EPA's concern over the permanency of emission reductions used to offset emission increases. EPA intended to ensure that emission offsets under RECLAIM meet the federal permanency requirement set forth in the Emission Offset Interpretation Ruling, 40 CFR Section 51, Appendix S. On this basis, AQMD staff proposed in the initial RECLAIM rulemaking that the permanency requirement would be met by supplying one year's worth of RTCs, since the RECLAIM facilities operate on an annual basis and must reduce their total emissions annually. On this basis, new RECLAIM facilities must continue to provide one year's worth of RTCs prior to the actual operation and every year thereafter.¹

¹ Reference: RECLAIM Appendix II-Y, Response to Comments (Comments received from June 26, 1993 through July 23, 1993, New Source Review for RECLAIM, Pg. 18, Comment No.2)

ATTACHMENT G



South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4182
(909) 396-2000 • <http://www.aqmd.gov>

SUBJECT: NOTICE OF EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

PROJECT TITLE: PROPOSED AMENDED RULE 2005 – NEW SOURCE REVIEW FOR RECLAIM

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the South Coast Air Quality Management District (SCAQMD) is the Lead Agency and has prepared a Notice of Exemption for the project identified above.

The SCAQMD has reviewed the proposed project pursuant to CEQA Guidelines §15002 (k)(1), the first step of a three-step process for deciding which document to prepare for a project subject to CEQA. The SCAQMD has determined that that it can be seen with certainty that there is no possibility that the proposed project may have any new significant effects on the environment, and is therefore, exempt pursuant to CEQA Guidelines §15061(b)(3) - Review for Exemption (General Rule Exemption). Furthermore, the proposed amendments are categorically exempt because they are considered actions to protect or enhance the environment pursuant to CEQA Guidelines §15308 – Class 8 Categorical Exemption

A Notice of Exemption has been prepared pursuant to CEQA Guidelines §15062 - Notice of Exemption. If approved, the Notice of Exemption will be filed with the county clerks of Los Angeles, Orange, Riverside and San Bernardino counties.

Any questions regarding this Notice of Exemption should be sent to Barbara Radlein (c/o Planning, Rule Development and Area Sources) at the above address. Ms. Radlein can also be reached at (909) 396-2716. Mr. Kevin Orellana is also available at (909) 396-3492 to answer any questions regarding the proposed amended rule.

Date: April 8, 2011

Signature: Steve Smith

Steve Smith, Ph.D.
Program Supervisor
Planning, Rule Development & Area
Sources

Reference: California Code of Regulations, Title 14

NOTICE OF EXEMPTION

To: County Clerks
Counties of Los Angeles, Orange,
Riverside and San Bernardino

From: South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

Project Title:

Proposed Amended Rule 2005 – New Source Review For RECLAIM

Project Location:

South Coast Air Quality Management District: the four-county South Coast Air Basin (Orange County and the non-desert portions of Los Angeles, Riverside, and San Bernardino counties) and the Riverside County portion of the Mojave Desert Air Basin.

Description of Nature, Purpose, and Beneficiaries of Project:

The proposed amendments to Rule 2005 – New Source Review For RECLAIM, will change the RECLAIM Trading Credit (RTC) hold requirement for an existing RECLAIM facility, provided its emission level stays below the level of its starting Allocations plus non-tradable credits. The proposed amendment, if adopted, will require an existing RECLAIM facility to hold adequate RTCs for the first year of operation prior to commencement of operation of a new or modified source, but will not require the facility to hold RTCs at the commencement of subsequent compliance years, provided that the facility emission level remains below its starting Allocations plus non-tradable credits. The offset requirements for new RECLAIM facilities will remain unchanged.

Public Agency Approving Project:

South Coast Air Quality Management District

Agency Carrying Out Project:

South Coast Air Quality Management District

Exempt Status:

Three-Step Process: CEQA Guidelines §15002(k)(1)

General Rule Exemption: CEQA Guidelines §15061(b)(3)

Class 8 Categorical Exemption: CEQA Guidelines §15308

Reasons why project is exempt:

The project was reviewed and staff has determined that it can be seen with certainty that there is no possibility that the proposed project may have any new significant effects on the environment, and is therefore, exempt pursuant to CEQA Guidelines §15061(b)(3) - Review for Exemption (General Rule Exemption). Furthermore, the proposed amendments are categorically exempt because they are considered actions to protect or enhance the environment pursuant to CEQA Guidelines §15308 – Class 8 Categorical Exemption.

Certification Date:

SCAQMD Governing Board Hearing: June 3, 2011, 9:00 a.m.; SCAQMD Headquarters

CEQA Contact Person: Ms. Barbara Radlein

Phone Number: (909) 396-2716

Rule Contact Person: Mr. Kevin Orellana

Phone Number: (909) 396-3492

Date Received for Filing: _____

Signature: _____ *(Signed Upon Certification)*

Steve Smith, Ph.D., Program Supervisor
Planning, Rule Development & Area
Sources