



Regulation XIII – New Source Review

Working Group Meeting
April 27, 2022

Join Zoom Webinar Meeting
<https://scaqmd.zoom.us/j/98344812021>

Webinar Meeting ID: 983 4481 2021
Teleconference Dial-In: 1-669-900-6833

Agenda



Previous Working Group Summary

Status of NSR Issues

Reg XIII Roadmap

Other Reg XIII Concepts Under Consideration

Previous Working Group Meeting Summary

- Provided initial concepts for Minor and Major Source Banks
 - Projections indicate that Major Source Bank would only be solvent temporarily (approximately 15-20 years)
- Stakeholders requested:
 - Changing the ERC generation method to support Open Market
 - A long-term solution for offset availability post-RECLAIM
- Received comment letter expressing concerns with Minor and Major Source Banks
 - Comment letter is posted on Proposed Rules webpage¹

Concepts for Minor and Major Source Banks

- Banks will be managed by South Coast AQMD
- Banks will provide NO_x, SO_x, and PM₁₀ offsets
- Staff will develop new provisions to ensure offsets for the banks meet state and federal requirements
- Future emission reductions will be used to seed the banks
 - Will be directed based on how they were quantified
 - Only reductions with supporting records will be used for the Major Source Bank



Minor Source Bank (MI-ERCs)
Minor Source Bank for minor source projects

Major Source Bank (Ma-ERCs)
Major Source Bank for major source projects

8

1: <http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/regx111/2022-0315-letter-on-south-coast-aqmd-proposed-erc-internal-banks.pdf?sfvrsn=16>

Review of Proposed ERC Generation Method

- Proposed approach for ERC Generation discussed in October 2020 Working Group Meeting¹
 - Staff is proposing to apply BARCT discount (instead of BACT)
 - Discount applied at time of generation and time of use
 - BARCT discount would be based on percent reduction estimated in applicable rule
- Staff is still discussing approach with U.S. EPA and CARB

Surplus Discounting of ERCs for the Open Market

- Currently, to ensure ERCs are surplus, actual emissions are reduced to the amount which would be actual if current BACT were achieved
- BACT discount is applied at time of generation
- Alternative approach is to apply BARCT discount at time of generation and time of use

Details of the BARCT Discount for ERCs

- Implementation of the BARCT discount would be based on the compliance dates in applicable rules
- Staff is proposing that the BARCT discount be based on the percent reduction estimated in the applicable rule
- Rule categories include:
 - A. Title V
 - A. Title V
 - A. Title V
 - Industrial

Proposed Approach for ERC BARCT Discount

- Staff is proposing that the BARCT discount be based on the percent reduction estimated in the applicable rule
- Use of BARCT discount at time of generation and time of use
- Staff is proposing that the BARCT discount be based on the percent reduction estimated in the applicable rule

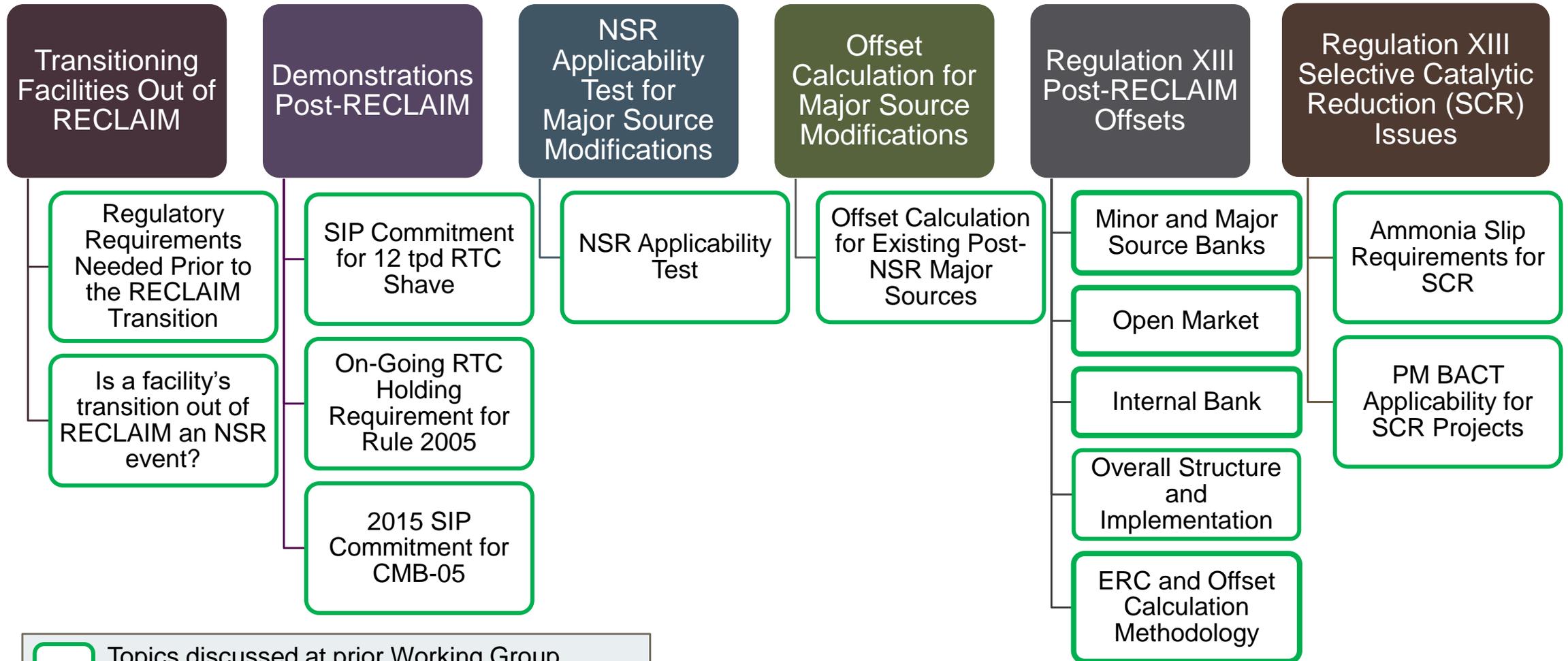
Considerations for BARCT Discounting for Generation of ERCs for the Open Market

- BARCT surplus discount will require discounting at time of generation and use, if needed
 - Future value of ERC is uncertain – new regulatory requirements may become effective prior to when the ERC is used
- BACT discount may be greater than a BARCT discount
 - As BARCT rules become more stringent, emission rates for some equipment categories or processes are the same as BACT
- May be an SB288 issue to change surplus discounting from BACT to BARCT
- Staff discussing with U.S. EPA
- Staff is seeking stakeholder input

18

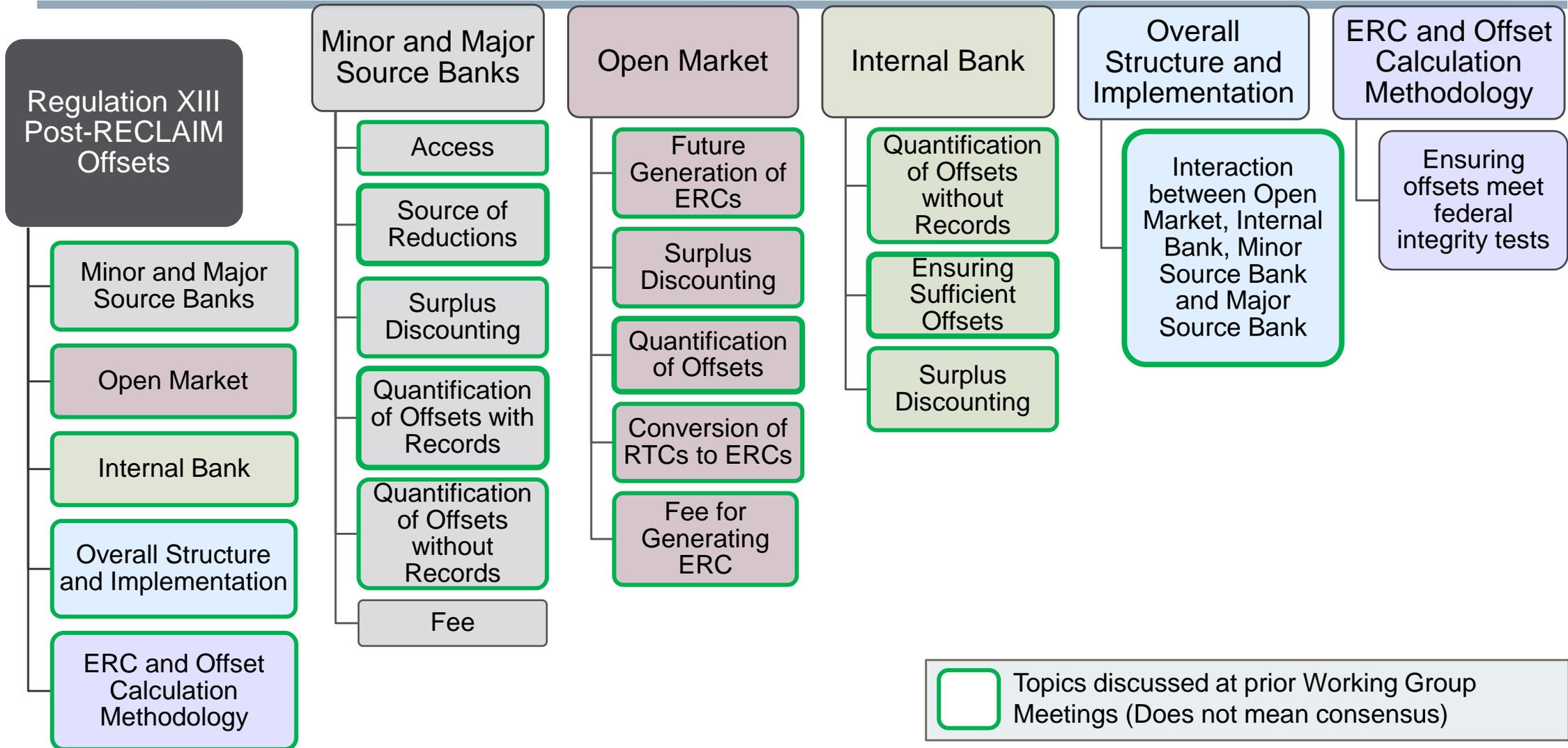
¹ <http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/regx111/draft-final-reg-xiii-10-8-2020-wgm.pdf?sfvrsn=6>

Overview of NSR Issues



Topics discussed at prior Working Group Meetings (Does not mean consensus)

Regulation XIII Post-RECLAIM Offsets



Roadmap for Regulation XIII Rule Development

Draft New Source Review rule language is being developed to:

Transition NOx RECLAIM facilities into command-and-control program

Reconcile Regulation XIII with 2002 NSR Reform

Ensure compliance with Protect California Air Act of 2003 (SB 288)

Provide a long-term solution for offset availability post-RECLAIM

Staff is providing a general guide on rule amendments necessary

- Reflects discussions held over past three years
- Further amendments may be necessary beyond those indicated today

Planned Changes to New Source Review¹

Rule	Title	Status
1306	Emission Calculations	Update offsetting calculation methodology; change ERC discounting from BACT to BARCT
1309	Emission Reduction Credits and Short Term Credits	Remove Interpollutant Offsets for ozone precursors
1315	Federal New Source Review Tracking System	Change capacity utilization factor from 80% to 70%
1316	Federal Major Modifications	Incorporate by reference the federal NSR applicability test (Baseline Actual Emissions-to-Projected Actual Emissions); include two-tier NSR Applicability test

¹ Does not include grammatical or stylistic changes (i.e. changing “District” to South Coast AQMD)

Proposed Amendments to Rule 1306

Update Offset Calculation for Major Source Modifications – Paragraph (d)(2)

- Included to reconcile with NSR Reform
- Two-tier offset calculations including Actual Emissions-to-PTE
- Discussed in September 2019

Change ERC Discounting from BACT to BARCT – Subdivision (c)

- Included to address insufficient offsets in Open Market
- Discount applied at time of generation and time of use
- Discussed October 2020

Preliminary Recommendation for Offsetting

- Offsetting recommendation for modification to existing post-NSR major sources:
 - **First Tier:** Allow use of PTE-to-PTE when
 - Actual emissions are at least 80% of the PTE; or
 - Past emission increases were fully offset less than 5 years prior to an application deemed complete
 - **Second Tier:** Require Actual Emissions-to-PTE for all other situations
- No impact on minor sources
 - Modifications for post-NSR minor sources will continue to use PTE-to-PTE to calculate offsets
- Use of a hierarchy to determine the amount of offsets required still pending confirmation from U.S. EPA

Issue 2 – Offsetting

21

Surplus Discounting ERCs

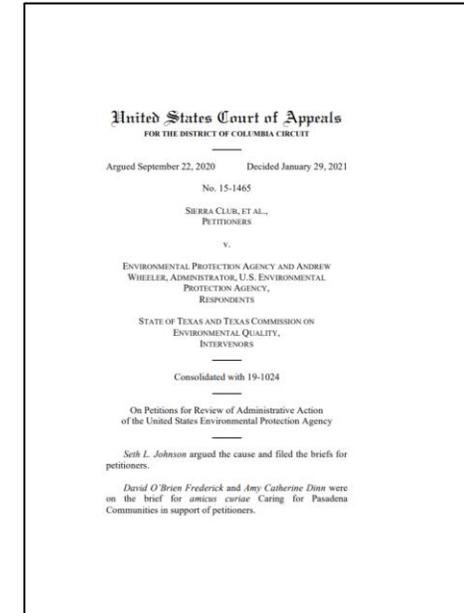
- At the May 2020 Working Group Meeting, staff discussed surplus discounting approach for the Large Source Bank
- Recommended a source-specific BARCT discounting approach
 - South Coast AQMD Internal bank which applies a BARCT surplus discount in aggregate
 - Application of BARCT surplus discount to the same source category that created the offset is more accurate than a surplus discount in aggregate
- Key elements of the Large Source Bank BARCT surplus discount
 - Apply an equipment-specific BARCT discount that accounts for reductions required by applicable federal, state, or local rule or regulation
 - Application of BARCT discount at time of deposit into the Large Source Bank, annually, and when the offset is used, if needed

14

Proposed Amendments to Rule 1309

Remove
Interpollutant
Offsets for
Ozone
Precursors –
Subdivision (h)

- Recent court ruling vacated use of interpollutant offsets for ozone precursors
- U.S. Court of Appeals decision January 29, 2021¹



¹ [https://www.cadc.uscourts.gov/internet/opinions.nsf/E1C93F2FFC207CD78525866C00535661/\\$file/15-1465.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/E1C93F2FFC207CD78525866C00535661/$file/15-1465.pdf)

Proposed Amendments to Rule 1315

Change
Capacity
Utilization Factor
from 80% to
70% - Clause
(c)(3)(B)(i)

- U.S. EPA requested reevaluation of percentage of the PTE used to quantify emissions when records not available
- U.S. EPA recommending use of 70% based on localized capacity utilization
- Discussed in January 2021

Capacity Utilization Summary

- Staff did not find a better source for Capacity Utilization data other than the Federal Reserve and U.S. Census
- Federal Reserve data and U.S. Census survey data are relatively similar
 - Based on the most recent 3-year average, Federal Reserve is about 3% higher
 - Federal Reserve data incorporates U.S. Census data and is a more complete look at Capacity Utilization
- Weighting by GDP, orphan shutdowns, and emissions Capacity Utilization estimates ranged from 73.9% to 79.4%
 - Longer averaging periods resulted in Capacity Utilization estimates ranging from 70.0% to 76.2% during 2010 to 2019
- U.S. EPA is recommending use of conservative Capacity Utilization rate of 70% when no records are available for the Internal Bank and Large Source Bank for non-Major Sources

Proposed Amendments to Rule 1316

Incorporate by Reference the Federal NSR Applicability Test – Subdivision (a)

- Utilize federal policy for determination of significant increase using Federal Applicability Test
- Provisions incorporated by reference with minor revisions
- Discussed in August 2020

Update NSR Applicability—New Subdivision

- Included to reconcile with NSR Reform
- Two-tier applicability test for Major Source modifications
- Discussed in August 2020

Step 1: Determine if the Facility is a Federal Major Polluting Facility

• Purpose is to determine if the facility is a Major Polluting Facility under the federal definition

• If facility emissions are less than the Major Polluting Facility Thresholds, the permitting action is not applicable to NSR

• Federal Major Polluting Facility is pollutant specific*

Discussion Topics

- Federal Thresholds for Defining a Major Polluting Facility
- Emission Sources Included in Facility Emissions
- Federal Exclusions for Major Modifications

* Note this is different than implementation of Regulation XIII where if a facility is a major polluting facility for one pollutant they are a major polluting facility for all pollutants.

19

Summary of the Proposed NSR Applicability Test for Major Source Modifications

• First applicability test retains the method of current Regulation XIII

• The Federal Applicability Test is a 3-step test that uses the NSR Reform calculation method and federal thresholds

- Netting not allowed for NOx and VOC, but is allowed for other NSR pollutants

• Most provisions can be incorporated by reference, with minor revisions as discussed

• A guidance document will be needed to streamline implementation

50

Other Reg XIII Concepts Under Consideration

Further discussion necessary to determine if certain concepts go forward

Creation of Minor and Major Source Banks

Removal of Underutilized Provisions (STERCs)

Inclusion of Food Waste Diversion as Essential Public Service

Details and proposed rule language will be discussed in future working group meetings

Other Changes Under Consideration

Rule	Title	Status
1302	Definitions	Include food waste diversion in Essential Public Service; remove STERCs
1303	Requirements	Remove STERCs
1309	Emission Reductions Credits and Short Term Credits	Remove STERCs
1315.1 (new)	New Source Review Tracking System for Minor and Major Source Banks	Inclusion of Minor and Major Source banks

Ongoing Efforts and Next Steps



Continue Working Group Meetings



Continue rulemaking activities



Continue work with U.S. EPA, CARB, and stakeholders to resolve NSR issues

Contacts – RECLAIM & New Source Review

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To receive e-mail notifications for Regulation XX or Regulation XIII, sign up at: www.aqmd.gov/sign-up
To view proposed rules and supporting documentation, visit the South Coast AQMD Proposed Rules webpage at:
<http://www.aqmd.gov/home/rules-compliance/rules/scaqmd-rule-book/proposed-rules>