

**August 30, 2016**  
**Draft Rule Language for Working Group Discussion Only**

(i) Facility Shutdowns

- ~~(1)~~ The requirements specified in this subdivision shall be effective [date of adoption] and only apply to the NO<sub>x</sub> RECLAIM facilities listed in Tables 7 and 8 of this rule that had a RECLAIM Allocation as issued pursuant to subdivision (b).
- ~~(2)~~ Any Facility Permit Holder owner or operator of a NO<sub>x</sub> RECLAIM facility that permanently shuts down or surrenders all operating permits for the entire facility shall notify the Executive Officer in writing of this shutdown within 30 days. shall have its adjusted initial NO<sub>x</sub> allocation reduced each compliance year by an amount equivalent to the difference between:
- ~~(3)~~ An owner or operator of a NO<sub>x</sub> RECLAIM facility that shuts down pursuant to paragraph (i)(2), (i)(9), or (i)(10) shall have its NO<sub>x</sub> RTC holdings reduced from all future compliance years by an amount equivalent to the difference between:
- (A) The average of actual NO<sub>x</sub> emissions from equipment that is operated at a level greater than the most stringent applicable BARCT emission factors specified in Rule 2002(f)(1)(L) during the highest 2 of the past 5 compliance years for the facility; and
- (B) The average NO<sub>x</sub> emissions from the same equipment that would have occurred in those same 2 years as if it the equipment was operated at the most stringent applicable BARCT emission factors specified in Rule 2002(f)(1)(L).
- ~~(4)~~ Any offsets provided by the SCAQMD pursuant to Rule 1304 that remain as part of the adjusted initial NO<sub>x</sub> allocation shall also be subtracted for each future compliance year.
- ~~(5)~~ If the reduction of NO<sub>x</sub> RTCs calculated pursuant to paragraph (i)(3) shall not exceed the adjusted initial NO<sub>x</sub> allocation as specified in paragraph (f)(1) for any future compliance year, the facility shall have its NO<sub>x</sub> holdings reduced by an amount equivalent to the adjusted initial NO<sub>x</sub> allocation for that compliance year
- ~~(4)~~ The reduction of NO<sub>x</sub> RTCs pursuant to paragraph (i)(1) shall apply to all future compliance year RTCs.
- ~~(5)~~ If reduction of any NO<sub>x</sub> RTCs calculated that would have been reduced from the adjusted initial allocation pursuant to paragraphs (i)(3) through (i)(5) exceeds the NO<sub>x</sub> RTC holdings, have been sold prior to the reduction, the

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~~owner or operator of the NOx RECLAIM facility~~Facility Permit Holder shall purchase and ~~retire~~surrender to the Executive Officer sufficient RTCs to fulfill the entire reduction requirement.

- ~~(6) The requirements specified in this subdivision shall not apply to facility shutdowns where the RTCs are transferred to another facility under common ownership that conducts the same functions at another facility with the same 6-digit North American Industry Classification System (NAICS) designation.~~
- (7) In addition to a self-reported facility shutdowns, the Executive Officer will ~~determine~~notify the owner or operator of a NOx RECLAIM facility that the facility is under review as potentially shutdown to have shut down if NOx emissions the facility has been non-operational for a period of two consecutive years or longer, based from an on APEP reports shows a substantial decrease in facility-wide emissions. Within 60 days of the notification issue date, the owner or operator shall notify the Executive Officer that the facility is shutdown or submit information to substantiate that the facility is not shutdown based on one the following: ~~A facility is deemed to be non-operational if NOx emissions in any compliance year are less than 10 percent of the maximum annual NOx emissions in the previous 2 compliance years, excluding:~~
- (A) Permanent emission reductions have been implemented at the facility and can be attributed to implementation of an emissions control strategy such as, but not limited to: implementation of pollution control strategies, efficiency improvements, process changes, material substitution, or fuel changes; or~~Cyclical operations in conjunction with facility equipment;~~
  - (B) NOx emission reductions are temporary where temporary NOx emission reductions include, but are not limited to: cyclic operations, economic fluctuations, temporary shutdown of equipment due to equipment maintenance, repair, replacement, permitting, compliance, or availability of feedstocks or fuels;~~Delay in the availability of parts used to repair the shutdown equipment;~~  
or

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- (C) ~~The owner or operator of a NOx RECLAIM facility has an approved Planned Non-Operational Plan pursuant to paragraph (i)(10). Equipment that must be placed in a reserve status until remaining operations at the facility are recommissioned requiring the reinstatement of this equipment; or~~
- (D) ~~Emission reductions due to implementation of add-on NOx emission controls.~~
- (8) ~~In accordance to paragraph (i)(7),~~ The Executive Officer will review information submitted under paragraph (i)(7) and notify the owner or operator Facility Permit Holder within 60 days with a preliminary determination that the ~~ir~~ facility has or has not been deemed as shutdown. If Executive Officer determines that the NOx RECLAIM facility is deemed shutdown, the owner or operator of the NOx RECLAIM facility shall be subject to the requirements specified in paragraphs (i)(3) through (i)(6). No information submitted after the due date shall be considered unless such information is requested by the Executive Officer in a separate notification with a later submittal date. The owner or operator of the NOx RECLAIM facility may file an appeal to the Hearing Board for the determination.~~The Facility Permit Holder shall submit within 30 days of the preliminary determination a plan application and provide information to demonstrate the preliminary determination did not adequately consider any of the factors listed under Subparagraphs (i)(7)(A) through (D). The Executive Officer shall evaluate the plan application and provide a final determination within 60 days of plan submittal.~~
- (9) ~~The facility shall be deemed shut down if the Executive Officer fails to notify the Facility Permit Holder of changes to the preliminary determination within 60 days of the preliminary determination or of the plan submittal date, whichever is later. In such a case, the Facility Permit Holder may file an appeal to the Hearing Board.~~
- (10) ~~Within 30 days of the preliminary determination of the facility shutdown as specified in paragraph (i)(7),~~ the ~~The~~ owner or operator of the NOx RECLAIM facility ~~Facility Permit Holder~~ may submit a Planned Non-Operational (PNO) Plan ~~plan a~~ Application to request ~~planned non-~~ status for a non-operational time period greater than two consecutive years and ~~of~~ no longer than 5 years for equipment within the facility. The Executive Officer ~~shall will:~~

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- (A) ~~e~~Consider the criteria in subparagraphs (i)(6) and (i)(7)(B) for approving the plan. All of the referenced criteria shall require company records to support the claim that a PNO status of no longer than 5 years is necessary and meets the criteria of this paragraph.
- (B) ~~Executive Officer Approval or disapproval for their~~ PNO Plan Application shall be obtained within 180 days~~6 months~~ of receiving a complete PNO ~~Plan~~ Application.
- (i) ~~If the PNO Plan Application is disapproved and otherwise,~~ the facility ~~shall be~~is deemed shutdown by the Executive Officer and the owner or operator of the NOx RECLAIM facility shall be ~~and~~ subject to the requirements specified in paragraphs (i)(13), (i)(2), (i)(3), (i)(4), and through (i)(56).
- (ii) ~~If the PNO Plan is approved, granted,~~ the owner or operator may sell current compliance year RTCs. Future year NOx RTCs shall become non-tradable for the duration of the PNO status.
- (iii) Executive Officer denial of a PNO plan application may be appealed to the Hearing Board.
- ~~(11)~~ If a facility has been deemed shutdown pursuant to paragraphs (i)(2), (i)(8), 10) or (i)(9), the adjusted initial allocation NOx RTC holdings shall be reduced pursuant to paragraphs (i)(13), (i)(2), (i)(3), (i)(4), and through (i)(56).
- (11) The Executive Officer will notify the owner or operator of the NOx RECLAIM facility on the amount of reduction in NOx RTC holdings that was determined pursuant to paragraphs (i)(3) through (i)(6). Reduction of RTC holdings shall be applied to RTCs for all compliance years following this notification.
- (12) The owner or operator of a NOx RECLAIM facility that has notified the Executive Officer of a facility shutdown pursuant to paragraph (i)(2) or has received notification from Executive Officer is under review as potentially shutdown pursuant to paragraph (i)(7), shall not sell any future compliance year RTCs and may only sell current compliance year RTCs until the reduction of NOx RTCs is applied pursuant to paragraph (i)(3) through (i)(6). These requirements in this subdivision shall not apply to facilities without an initial allocation.
- (13) Any NOx RECLAIM facility under the same ownership as of September 22, 2015 shall submit a written declaration within 30 days after [date of

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adoption] identifying the facilities under the same ownership and a demonstration of how the facilities identified are under the same ownership.

(A) If the Executive Officer deems the facilities under same ownership, any facility under the same ownership that shuts down, may transfer NOx RTCs to any facility under the same ownership provided all holdings transferred are deemed non-tradable. The NOx RECLAIM facility that is shutdown is not subject to paragraphs (i)(3) through (i)(7).

(B) If the Executive Officer deems that facilities are not under same ownership or if facilities are deemed under same ownership but elect not to utilize this provision, the owner or operator of the NOx RECLAIM facility shall be subject to paragraphs (i)(3) through (i)(7).