SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

Draft Staff Report
Proposed Amendments to Regulation XX – Regional Clean Air Incentives Market (RECLAIM)

Proposed Amended Rules 2001 – Applicability and 2002 – Allocations for Oxides of Nitrogen (NOx) and Oxides of Sulfur (SOx)

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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 NOx and SOx 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 to those achieved with a command-and-control regulatory structure, by the aggregate of facilities in the program. Regulation XX includes a series of rules that specify applicability and procedures for determining NOx and SOx facility emissions allocations, program requirements, as well as monitoring, reporting, and recordkeeping requirements for sources located at RECLAIM facilities. Regulation XX – RECLAIM was recently amended on December 4, 2015 and October 7, 2016. The December 2015 amendment was designed to achieve programmatic NOx RECLAIM trading credit (RTC) reductions of 12 tons per day from compliance years 2016 through 2022 and the October 2016 amendment addressed RTCs from facility shutdowns.

In response to concerns regarding actual emission reductions in the RECLAIM universe under a market-based approach, Control Measure CMB-05 of the 2016 Air Quality Management Plan (AQMP) committed to an assessment of the RECLAIM program in order to achieve further NOx reductions of five tons per day, including actions to sunset the program and ensure future equivalency to command-and-control regulations. During the adoption of the 2016 AQMP, the Resolution directed staff to modify Control Measure CMB-05 to achieve the five tons per day NOx 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) levels as soon as practicable. Staff provided a report on transitioning the NOx RECLAIM program to a command-and-control regulatory structure at the May 5, 2017 Governing Board meeting and provides quarterly updates to the Stationary Source Committee, with the most recent quarterly report provided on July 20, 2018.

On July 26, 2017 California State Assembly Bill (AB) 617 was approved by the Governor, which addresses non-vehicular air pollution (criteria pollutants and toxic air contaminants). It is a companion legislation to AB 398, which was also approved, and extends California's cap-and-trade program for reducing greenhouse gas emissions from stationary sources. Industrial source 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 an expedited schedule by January 1, 2019 to implement BARCT by December 31, 2023. The highest priority would be given to older, higher polluting units that will need to install retrofit controls.

Staff conducted an analysis of the RECLAIM equipment at each facility to determine if there are appropriate and up to date BARCT NOx limits within existing SCAQMD command-and-control rules for all RECLAIM equipment. It was determined that command-and-control rules would need to be adopted or amended to reflect current BARCT and provide implementation timeframes for achieving BARCT compliance limits.

Staff also determined that RECLAIM facilities that either do not have any NOx emissions, report only NOx emissions from equipment that is exempt from permitting (e.g., Rule 219 equipment), or operate RECLAIM equipment that is already meeting BARCT are ready to exit the program and were the first group of facilities to be addressed for the transition to a command-and-control regulatory structure.

Rules 2001 and 2002 were amended January 5, 2018 and commenced the initial steps for the RECLAIM transition. Rule 2001 was amended to cease any future inclusions of facilities into NOx and SOx RECLAIM and Rule 2002 was amended to establish the notification procedures for RECLAIM facilities that will exit the program and also address the RTC holdings for these facilities. Under Rule 2002, more specifically, the Executive Officer would issue a RECLAIM facility an initial determination notification for potential exit if it was identified as ready to exit. Facilities are required to submit NOx equipment information to the Executive Officer after receiving an initial determination notification. After review of the information, if it is determined that the facility is in compliance with current applicable command-and-control BARCT rules, the Executive Officer would issue the facility a final determination notification that the facility will be exiting RECLAIM. However, it has since been determined that there is a need to fully address other issues in non-RECLAIM rules before allowing facilities to exit. Updated BARCT assessments and BARCT implementation schedules are necessary to address in order to continue with a transition to BARCT compliance under command-and-control. Monitoring, reporting and recordkeeping (MRR) requirements also need to be addressed.

Proposed Amended Rules 2001 and 2002 would require that all RECLAIM facility NOx emitting equipment have an applicable command-and-control rule that specifies NOx emission standards that are consistent with updated BARCT before exiting the NOx RECLAIM program. The proposed amendments would also allow facilities to opt-out of RECLAIM before receiving an initial determination notification if they meet specified criteria for exiting. Additionally, the proposed amendments would provide facilities that have been issued initial determination notifications an option to remain in RECLAIM until new source review (NSR) provisions pertaining to the transition to command-and-control are adopted, and would also introduce a temporary provision that does not allow facilities that have exited RECLAIM to access the internal bank for emissions increases. Facilities would also be provided with an option to remain in RECLAIM, even if they have been identified as ready to exit. Unnecessary rule language, due to the sunsetting of

the RECLAIM program, would be removed and existing rule language would be clarified regarding the reporting of NOx RTC prices to the Board.

Public Process

Staff has held monthly working group meetings to discuss the transition of the NOx 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. A public workshop was held on August 9, 2018, with the comment period closing on August 23, 2018.

Affected Facilities

There are currently 259 facilities in the NOx RECLAIM program and 30 facilities in the SOx RECLAIM program. These 30 facilities in the SOx program are also in NOx RECLAIM. These facilities either had NOx emissions greater than or equal to four tons per year in 1990 or any subsequent year or elected to enter the program. The proposed amendments would apply to any facility in the NOx RECLAIM program, including those that have received an initial determination notification.

Summary of Proposal

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

Proposed Amended Rule (PAR) 2001

Rule 2001 specifies inclusion criteria and procedures for new and existing facilities to enter the RECLAIM program and identifies rules that do not apply to RECLAIM sources. As of January 5, 2018, however, no facility is allowed entry into the RECLAIM program for both NOx and SOx. The proposed amendments to Rule 2001 would define the criteria for eligibility to exit RECLAIM by opting-out and provide procedures, for facilities that are eligible, to opt-out of the program before receiving an initial determination notification from the Executive Officer.

Under the proposed amendments, RECLAIM facilities would be provided with a pathway to opt-out of the NOx RECLAIM program if they have not received an initial determination notification for potential exit, but meet the criteria for exiting. As a result of the January 5, 2018 amendments to Rules 2001 and 2002, 37 facilities were issued initial determination notifications because they met the adopted criteria contained in Rule 2002 to exit RECLAIM. The criteria includes the facility having no NOx emitting equipment, or having emissions from equipment that is exempt from permitting (Rule 219 equipment), and/or operating RECLAIM NOx sources that are compliant with current BARCT rules. This latter criteria is being proposed to change to require that all

the facility equipment be subject to an updated BARCT rule before exiting. Some facilities, however, may not have been identified to transition out of RECLAIM because previously non-compliant equipment has either been retrofitted with BARCT, replaced, removed, or previously shutdown equipment has not been removed from the facility permit. In addition, some facilities inadvertently may not have been identified as part of the initial group of facilities that were deemed as ready to exit. These facilities were eligible to exit according to the current criteria, however, did not receive initial determination notifications. These facilities would now have to meet the proposed revised criteria to be eligible to opt-out and exit. The purpose of the opt-out provision is to allow facilities that meet the proposed criteria for exiting to request to exit even if they have not received an initial determination notification.

The proposed opt-out provisions specify new criteria to be identified as eligible to exit RECLAIM and the procedure to opt-out. It should be noted that the new criteria proposed in this rule reflects the criteria proposed that has been revised in PAR 2002. Thus, the criteria for being identified as ready to exit and receive initial and final determination notifications is the same as the criteria required to be eligible to opt-out.

Rule 2001 currently contains opt-out provisions, but are focused solely for electricity generating facilities (EGFs), and were adopted as part of the 2015 Regulation XX amendments. The provisions include an application process based on defined criteria and require a plan submittal for opting out of the RECLAIM program. No RECLAIM EGF applied for an exit from RECLAIM. The opt-out criteria for EGFs that was adopted for the 2015 Regulation XX amendments would not apply today due to the sunsetting of the NOx RECLAIM program. EGF BARCT requirements will be addressed by an industry specific rule and would be allowed to begin the transition process out of NOx RECLAIM, pursuant to the requirements in Rule 2002, once the industry-specific rule is amended (Proposed Amended Rule 1135 – Emissions of Oxides of Nitrogen from Electricity Generating Facilities). The rule language that pertains to the EGF opt-out would be removed and replaced with new opt-out provisions applicable for all RECLAIM facilities.

Under PAR 2001, a facility would notify the Executive Officer with a request to opt-out, provided that eligibility criteria is met, and submit equipment and emission level information. The Executive Officer would conduct an evaluation of the facility's equipment and notify the facility in the form of an initial determination notification if it meets the criteria to be transitioned out of NOx RECLAIM.

Concerning the 37 facilities that have already received initial determinations notifications based on the current criteria for exiting, if the Executive Officer reviews the equipment information, requested from the facility in the initial determination notification, and the facility does not meet the new revised criteria for exiting RECLAIM, the facility may not exit. However, if the facility undergoes modifications in the future that would allow the facility to be eligible to exit, they can request to opt-out. Facilities that received initial

determination notifications and meet the proposed criteria to exit, would not receive a final determination notification to exit RECLAIM until key elements such as NSR and permitting are resolved. However, these facilities may request to opt-out of RECLAIM before these key elements are resolved, upon meeting specific conditions that are explained below.

The provisions to opt-out would be contained in subdivision (g), Exit From RECLAIM. Subdivision (g) currently specifies the provisions for EGFs to opt-out of NOx RECLAIM. Since the commencement of the transition of the RECLAIM program to a command-and-control structure, the opt-out plan applying to EGFs outlined in subdivision (g) is no longer applicable. Existing paragraphs (g)(1) through (g)(4) that pertain to the EGF opt-out plan would be removed and replaced with provisions for any eligible RECLAIM facility that elects to opt-out of the NOx RECLAIM program.

Paragraph (g)(1) would specify the criteria for a facility to be eligible to opt-out of NOx RECLAIM:

> *To exit the NOx RECLAIM program, all the NOx emitting equipment located at the RECLAIM facility, except the equipment specified below, must be subject to a non-RECLAIM rule that regulates NOx emissions that is adopted or amended after (date of amendment).*
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> *(A) Equipment subject to Rule 1470 – Requirements for Stationary Diesel-Fueled Internal Combustion and Other Compression Ignition Engines; and/or*
>
> *(B) Equipment exempt from permitting per Rule 219 – Equipment Not Requiring a Written Permit Pursuant to Regulation II, not including equipment:*
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> *(i) Defined in Rule 1146.2 – Emissions of Oxides of Nitrogen from Large Water Heaters and Small Boilers and Process Heaters; and/or*
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> *(ii) Nitric acid equipment listed in Rule 219 subdivisions (m) and (p).*

Currently, non-RECLAIM, NOx regulating rules are not applicable to RECLAIM facilities because either a rule states an exemption for RECLAIM facilities or Rule 2001(j) exempts RECLAIM facilities from the rules listed in Table 1 of Rule 2001. Command-and-control rules that exempt RECLAIM facilities will undergo amendments throughout the transition process and become applicable to RECLAIM facilities. The rule language for the criteria for eligibility to opt-out states that a RECLAIM facility is eligible to opt-out when all the facility equipment is subject to a non-RECLAIM NOx rule. Once a command-and-control rule is adopted or amended after the date of

amendment of rule 2001, a RECLAIM facility would be subject to the requirements contained in each applicable NOx equipment rule even if it is still in RECLAIM.

Some RECLAIM facilities have equipment that are subject to non-RECLAIM rules that are not scheduled to be amended and may exit if operating only this equipment. Included in this category is equipment that is subject to Rule 1470, which applies to emergency I.C. engines, and equipment that is exempt from permitting per Rule 219, with the exception of equipment that will be subject to Rule 1146.2 (large water heaters, small boilers and process heaters) upon amendment and equipment described in Rule 219 subparagraphs (m)(1)(B) and (p)(4)(H) which pertain to nitric acid operations. Additionally, facilities with a combination of equipment subject to Rule 1470 or Rule 219, with the exceptions previously stated, and other NOx emitting equipment are able to exit when rules pertaining to all other NOx equipment are amended or adopted after date of amendment of Rule 2001 and are applicable to the facility's NOx emitting equipment.

Since the initiation of the RECLAIM transition, source-specific and industry-specific rules have been identified for adoption or amendment that will have BARCT analyses conducted for NOx equipment at RECLAIM facilities. Once the rules become applicable to all NOx emitting equipment at a RECLAIM facility, a facility would be eligible to exit. For the time period during which these rules being are amended, a RECLAIM facility may be subject to a non-RECLAIM rule while remaining in RECLAIM.

Below are some examples of facilities that would be eligible to opt-out:

a) If a facility has Rule 219 equipment and some of that equipment would be subject to current Rule 1146.2 - that facility may not exit until Rule 1146.2 is amended with applicable updated BARCT.

b) If a facility has Rule 1146 equipment and Rule 1146 has been amended with applicable updated BARCT, but the facility also has non-refinery flares – that facility may not exit until a NOx rule is adopted and applies to non-refinery flares.

c) If the facility is subject to two non-RECLAIM rules and one of the non-RECLAIM rules has been amended and the other non-RECLAIM rule has not been amended with applicable updated BARCT, the facility may not exit. However, if the facility shuts down all the equipment subject to the non-amended rule, then the facility would be eligible to exit.

A facility that has equipment where there is no applicable non-RECLAIM rule cannot opt-out until such a rule is adopted that addresses such equipment. The purpose of the above limitations is to ensure that a facility can only exit RECLAIM once all the facility's equipment is subject to a rule that establishes updated BARCT emission limits, BARCT implementation schedules, and MRR requirements for the purpose of the RECLAIM transition. This approach implements command-and-control requirements on the facility as it transitions out of RECLAIM.

To opt-out, facilities are required to notify the Executive Officer with a request to opt-out and submit equipment information specified in subparagraphs (g)(2)(A) and (g)(2)(B). However, facilities that have already received an initial determination notification as a result of the January 2018 amendments, and elect to opt-out would not be required to resubmit equipment information. Paragraph (g)(2) states:

> *The owner or operator of a RECLAIM facility that is eligible to exit the NOx RECLAIM program, pursuant to the requirements of paragraph (g)(1), that elects to exit RECLAIM shall notify the Executive Officer with a request to opt-out. Except for facilities that received an initial determination notification before (date of amendment), the owner or operator of a RECLAIM facility shall include with the opt-out request, the identification of:*
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> *(A) All permitted and unpermitted NOx RECLAIM emission equipment, including applicable control equipment; and*
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> *(B) Permitted NOx emission levels, and if not available, manufacturer guaranteed NOx emission levels.*

Upon review of the submitted information, the Executive Officer would notify the facility that the facility meets the criteria to transition out of RECLAIM and would issue an initial determination notification to initiate the facility's transition to command-and-control. A facility would then be subject to the provisions in PAR 2002 (f)(6) through (f)(10), but would be not be required to resubmit any equipment information required by subparagraphs (f)(6)(A) and (f)(6)(B) because the Executive Officer would have already obtained the facility's equipment information through the opt-out process prior to issuing the initial determination notification. If the Executive Officer denies the request based on the criteria to transition out of NOx RECLAIM, however, the facility would remain in the RECLAIM program. For example, if non-RECLAIM NOx rules have not yet been adopted or amended to be applicable to all facility NOx emitting equipment, the facility would not be allowed to exit. Also, if it is determined that a piece of equipment has no applicable rule limiting its NOx emissions, the facility would not be allowed to exit. The facility would be notified if the request to opt-out is denied. These approval and denial provisions are contained in paragraph (g)(3), which states:

> *If the owner or operator of a RECLAIM facility meets the criteria for exiting the NOx RECLAIM program, specified in paragraph (g)(1) and has satisfied the requirements of paragraph (g)(2), the Executive Officer will issue an initial determination notification and the facility shall be subject to*

> *the provisions of Rule 2002, paragraphs (f)(6) through (f)(10), excluding the requirements in subparagraphs (f)(6)(A) and (f)(6)(B). If the request to opt-out is denied, the facility shall remain in RECLAIM, and the owner or operator will be notified.*

Paragraph (i)(2) and subparagraphs (i)(2)(A) through (i)(2)(O) list various sources that were provided the option of entering RECLAIM in the past. The January 5, 2018 amendments precluded any new facilities from entering RECLAIM and, thus, paragraph (i)(2) and subparagraphs (i)(2)(A) through (i)(2)(O) are no longer required and are deleted.

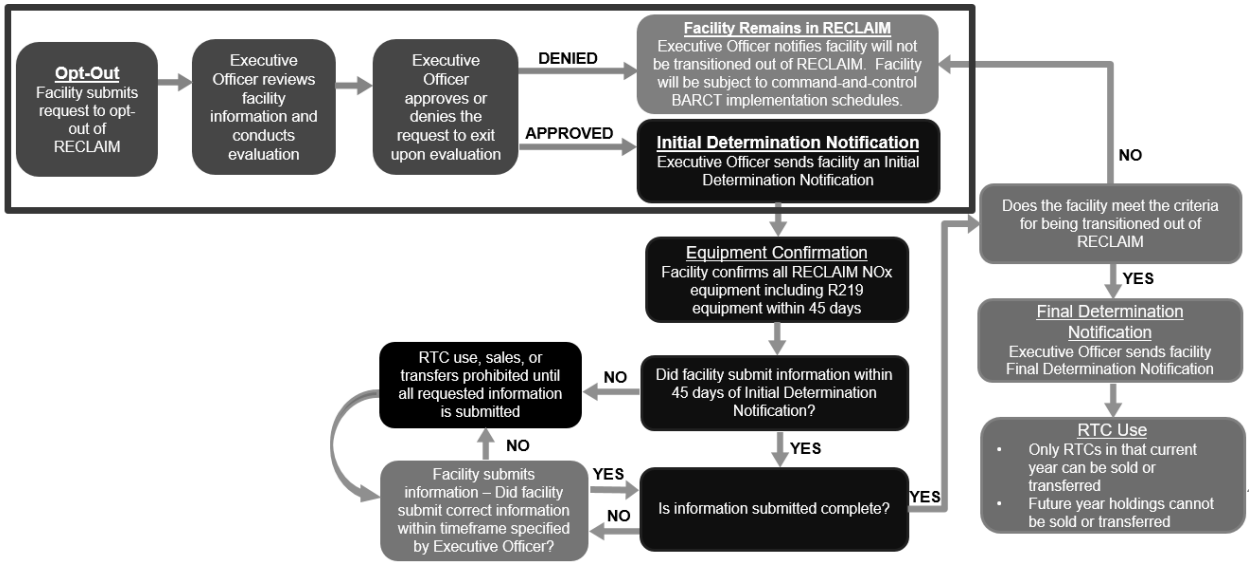
Subdivision (j) will be amended to require RECLAIM facilities to comply with the NOx emission requirements contained in the rules listed in Table 1, once an applicable rule is amendment or adopted after date of amendment of PAR 2001 Table 1 previously contained only rules that were not applicable to RECLAIM facilities that pertained to NOx emissions. The table has been updated to include NOx rules that are scheduled to be amended and would apply to RECLAIM facilities upon amendment. Language was added to subdivision (j) to reiterate that RECLAIM facilities will comply with the rules contained in Table 1 upon amendment after the date of amendment of PAR 2001.

> *"…NOx RECLAIM facilities are required to comply with all NOx provisions in rules contained in Table 1 that are adopted or amended on or after (date of amendment)."*

It should be noted that even if a facility is still in RECLAIM, it would be required to comply with the NOx requirements of each rule that is adopted or amended after the date of amendment of PAR 2001 if it operates equipment covered by these rules.

The proposed amendments to Rule 2001 would provide a pathway for facilities to exit RECLAIM by establishing provisions to opt-out. These provisions would only apply to facilities that meet certain criteria, which are described above, and have non-RECLAIM NOx rules applicable to the facility's equipment that have been adopted or amended. Figure 1 provides an overview of the opt-out process within the context of the current notification requirements contained in Rule 2002.

Figure 1: Overview of Opt-Out Process



Proposed Amended Rule (PAR) 2002

Rule 2002 establishes the methodology for calculating RECLAIM facility allocations and adjustments to RECLAIM Trading Credit (RTC) holdings for NOx and SOx and contains the notification procedures for facilities that will be transitioned out of RECLAIM as well as addresses the RTC holdings for these facilities that will be transitioned out of RECLAIM. Stakeholders expressed concerns about transitioning facilities out of RECLAIM while some transition issues are unresolved, such as New Source Review and permitting. The proposed amended rule would revise the criteria for being considered eligible to exit RECLAIM and allow facilities to remain in RECLAIM for a limited time upon receiving an initial determination notification. Eligibility to exit would result in being issued initial and final determination notifications. Facilities that elect to remain in RECLAIM for a limited time would still be subject to non-RECLAIM NOx rules and their associated BARCT implementation schedules once those rules become applicable to the RECLAIM facilities' equipment. NOx rules will be applicable to RECLAIM facilities upon adoption or amendment of these source specific or industry specific rules. Consequently, facilities may be in RECLAIM while still being subject to non-RECLAIM source-specific or industry-specific rules.

Paragraph (f)(6) clarifies existing requirements for a RECLAIM facility's equipment information submittal. Upon receiving an initial determination notification, the facility would be required to submit within 45 days the identification of all permitted and unpermitted equipment, including any applicable pollution control equipment, in addition to permitted NOx emission levels for this equipment. Some equipment may not have a permitted emission level; in this case, the facility would be required to submit any manufacturer guaranteed emission levels for the equipment. Paragraph (f)(7) contains

existing provisions regarding the Executive Officer's receipt and review of the submittal of a RECLAIM facility's equipment information.

Paragraph (f)(8) contains the revised criteria for facilities to receive a final determination notification and exit the NOx RECLAIM program. The amended criteria are identical to the criteria for a facility to be eligible to opt-out under PAR 2001(g)(1). PAR 2002 will establish the basis for which the Executive Officer issues a final determination notification. This is also the criteria for determining which facilities will be issued an initial determination notification. This criteria revises the current criteria. The proposed provisions would only allow a RECLAIM facility to exit if an applicable non-RECLAIM NOx rule has been amended and has undergone a BARCT analysis to reflect current BARCT. An applicable non-RECLAIM NOx rule is one that defines a NOx emission limit for equipment that pertains to RECLAIM facility NOx emitting equipment. Facilities with no NOx emitting equipment would be able to exit as well as facilities with only equipment subject to Rule 1470 (which applies to emergency I.C. engines) and/or equipment exempt from permitting per Rule 219, with the exception of equipment that is applicable to Rule 1146.2 and equipment described in Rule 219 (m)(1)(B) and (p)(4)(H) pertaining to nitric acid operations. Rule 1146.2 is scheduled to be amended to reflect BARCT at a future time, and since it pertains to RECLAIM equipment, a facility with this type of equipment cannot exit until Rule 1146.2 is amended.

The 37 facilities that have already received initial determination notifications based on the original criteria for exiting will have to meet the new revised criteria to be eligible to exit. The facilities that meet the new revised criteria and have submitted their equipment information are anticipated to receive final determination notification after Regulation XIII is amended and key elements pertaining to the transition are resolved. However, facilities that do not meet the new revised criteria will be notified pursuant to paragraph (f)(9), and will not receive a final determination notification and will remain in RECLAIM until identified by the Executive Officer as ready to exit in the form of an initial determination notification based on the revised criteria.

The revised criteria to receive a final determination notification to exit RECLAIM is stated in paragraph (f)(8):

> *The Executive Officer will provide a final determination notification that the facility will be transitioned out of the NOx RECLAIM program if all the NOx emitting equipment located at the RECLAIM facility, except the equipment specified below, is subject to a non-RECLAIM rule that regulates NOx emissions that is adopted or amended after (date of amendment).*
>
> *(A) Equipment subject to Rule 1470 – Requirements for Stationary Diesel-Fueled Internal Combustion and Other Compression Ignition Engines; and/or*

(B) Equipment exempt from permitting per Rule 219 – Equipment Not Requiring a Written Permit Pursuant to Regulation II, not including equipment:

(i) Defined in Rule 1146.2 – Emissions of Oxides of Nitrogen from Large Water Heaters and Small Boilers and Process Heaters.

(ii) Nitric acid equipment listed in Rule 219 subdivisions (m) and (p).

The proposed revised criteria to exit is also the basis for being identified as ready to exit that results in an issuance of an initial determination notification. Paragraph (f)(9) contains existing provisions in the event that the Executive Officer determines that the facility does not meet the criteria to exit. These facilities will be notified by the Executive Officer that they will not exit RECLAIM. The requirements for facilities that receive a final determination notification to exit RECLAIM are addressed in subparagraphs (f)(10)(A) and (f)(10)(B). The provision in subparagraph (f)(10)(A) was part of the January 5, 2018 amendments addressing the facility's RTCs.

The subject of New Source Review (NSR) has been discussed at several RECLAIM working group meetings. There are inherent differences between the RECLAIM and non-RECLAIM NSR programs and transitioning RECLAIM facilities to command-and-control will require additional discussion and analysis, input from U.S. EPA, and amendments to Regulation XIII – New Source Review. The non-RECLAIM NSR program, which is covered by Regulation XIII rules, requires emission reduction credits (ERCs) for offsets whereas RECLAIM requires RTCs for offsets. Currently, the market for NOx ERCs is scarce and while the SCAQMD has its own internal bank of NOx ERCs, there is an unanswered question as of how and whether that reserve may be accessed. Rule 1315 – Federal New Source Review Tracking System, which governs the disbursement of the District's offsets, contains cumulative emission increase thresholds for any emissions increases, which if exceeded, may result in a permit moratorium. As a result, transitioning RECLAIM facilities to a command-and-control regulatory structure without amendments to Regulation XIII would not be appropriate at this time. Moreover, Rule 1306 – Emission Calculations would calculate emission increases of exiting RECLAIM facilities based on actual to potential emissions, thereby further exacerbating the need for offsets. Even among the first 37 facilities identified that may be eligible to exit, any impacts from potential emissions increases are unknown and if significant enough, can approach or surpass the cumulative emissions increase thresholds of Rule 1315. Stakeholders have also expressed their concerns regarding the uncertainty of transitioning out of RECLAIM before the NSR issues are addressed. Any future amendment in Regulation XIII that affects the emission calculation methodology and the use of the District internal bank must be approvable by U.S. EPA. Until these NSR issues are resolved, PAR 2002 is proposing to not allow any RECLAIM facility that exits

the NOx RECLAIM program access to the SCAQMD internal offset bank until new provisions governing emission calculations and offsets for former RECLAIM facility emission sources are adopted in Regulation XIII. This means that even if an exiting RECLAIM facility that has a potential to emit (PTE) of less than 4 tons per year and would be eligible for NOx emissions offsets, it would not be allowed to obtain these offsets, but would have to provide emission reduction credits (ERCs) to offset any emissions increases for new or modified sources. The reason for this is that currently the internal bank is limited in how many offsets it may provide, and a permit moratorium may result if that limitation is exceeded. For that precise reason, any exiting RECLAIM facility would not have access to credits from the priority reserve. Subparagraph (f)(10)(B) is a new provision for facilities exiting RECLAIM and does not allow any exited facility to qualify for the NOx offset exemption in Rule 1304 – Exemptions or access to the priority reserve (Rule 1309.1 – Priority Reserve). The purpose of this provision is only temporary to accommodate only those facilities that would like to exit under these requirements, until these NSR issues are resolved and a permanent solution is adopted in Regulation XIII.

> *The owner or operator of any RECLAIM facility that receives a final determination notification from the Executive Officer pursuant to paragraph (f)(10):*
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> *(A) Shall not sell or transfer any future compliance year RTCs as of the date specified in the final determination notification and may only sell or transfer that current compliance year's RTCs until the facility is transitioned out of the RECLAIM program; and*
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> *(B) Shall provide Emission Reduction Credits to offset any emissions increases, calculated pursuant to Rule 1306 – Emission Calculations, notwithstanding the exemptions contained in Rule 1304 – Exemptions and the requirements contained in Rule 1309.1 – Priority Reserve, until New Source Review provisions governing emission calculations and offsets for former RECLAIM sources are amended after (date of amendment).*

To address concerns from stakeholders about exiting RECLAIM before NSR issues are resolved, facilities can request to remain in RECLAIM if they have already been issued an initial determination notification. As a result of remaining in RECLAIM, these facilities would rely on RTCs for NSR purposes, which do not have a limitation.

The option to remain in RECLAIM is applicable to all RECLAIM facilities, including the 37 facilities that have already received an initial determination notification. If any of the 37 facilities meet the new criteria to exit, but elect to stay in RECLAIM, they must submit a request to remain in RECLAIM to the Executive Officer. If any of the 37 facilities that have already received initial determination notifications, do not meet the new criteria to exit, they do not have to submit a request to remain in RECLAIM and will be notified by the Executive Officer that they do not meet the criteria to exit and will remain in RECLAIM, per the provisions of paragraph (f)(9).

All facilities that receive initial determination notifications would be required to provide current NOx emitting equipment information in addition to a written request to remain in RECLAIM. This equipment information is required as part of the development of an inventory for Rule 1146.2 equipment at RECLAIM facilities for future rule development. The provisions for the option to remain in RECLAIM for a limited time would be contained in new proposed paragraph (f)(11). A RECLAIM facility may remain in RECLAIM after it has been issued an initial determination notification if the owner or operator submits a request to the Executive Officer within 45 days from the issuance date of the initial determination notification. The request must include any equipment information that is required pursuant to paragraph (f)(6). Facilities that have received initial determination notifications as a result of the January 2018 amendments to Rule 2002 that elect to remain in RECLAIM would submit a request to remain in RECLAIM to the Executive Officer within 45 days from the date of amendment of Rule 2002, but would not be required to submit equipment information. These facilities that have received an initial determination notification prior to the date of amendment of Rule 2002 and elect to remain in RECLAIM are not required to submit equipment information. Clauses (f)(11)(A)(i) through (f)(11)(A)(iii) specify the provisions for facilities that elect to remain in RECLAIM, once approved by the Executive Officer, and state:

> *An owner of operator of a RECLAIM facility that receives an initial determination notification that elects to remain in RECLAIM, shall submit a request to the Executive Officer to remain in RECLAIM and any equipment information required pursuant to paragraph (f)(6) within 45 days of the initial determination notification date or, for facilities that have received an initial determination notification before (date of amendment), within 45 days from (date of amendment).*
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> *(A) Upon written approval by the Executive Officer, the facility shall:*
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> *(i) Remain in RECLAIM until a final determination notification is issued to the facility that it must exit by a date no later than December 31, 2023;*
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> *(ii) Submit any updated information within 30 days of the issuance date of the final determination notification; and*

(iii) Comply with all requirements of any applicable non-RECLAIM rule adopted or amended after (date of amendment).

Per the requirements of AB 617, final implementation of BARCT must be achieved no later than December 31, 2023. However, the concurrent rulemaking schedules for the non-RECLAIM rules may be completed well before that date, as well as the addressing of NSR and permitting issues. If the end of the NOx RECLAIM program is some time before the end of 2023, these facilities that have elected to remain in RECLAIM would go through the process for exiting. It is anticipated that a facility's exit will be mandatory once NSR is amended for former RECLAIM facilities and command-and-control rules are in place for all of a facility's NOx emitting equipment. Facilities will not be subject to non-RECLAIM NSR until the facility is exited from RECLAIM.

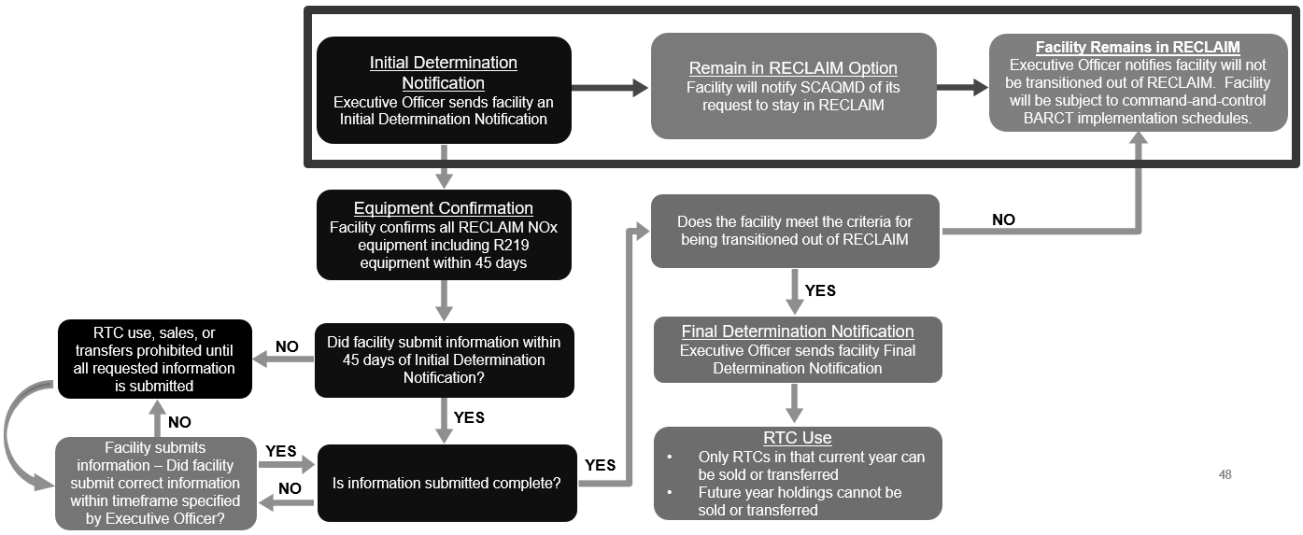
Due to the removal of the previous opt-out provisions applicable to RECLAIM electricity generating facilities in Rule 2001, a definition of an electricity generating facility (EGF) would now be contained in Rule 2002(f)(4).

For the purpose of this rule an electricity generating facility (EGF) is defined as a NOx RECLAIM facility that generates electricity for distribution in the state or local grid system, excluding cogeneration facilities.

Rule 2002 has a provision in subparagraph (f)(1)(I) that requires the Executive Officer to report to the Governing Board if infinite year block NOx RTC (IYB) prices fall below $200,000 per ton based on a 12-month rolling average. This was adopted during the 2015 amendments to the RECLAIM program. PAR 2002 would remove the provisions in subparagraph (f)(1)(I). As of September 2017, the IYB 12-month rolling average RTC price fell below $200,000 and has continued to decline, due to the transition of the RECLAIM program to a command-and-control regulatory structure. The requirement to report the price status of IYBs was determined to be no longer necessary. References to subparagraph (f)(1)(I) regarding IYBs would be removed from subparagraphs (f)(1)(E) and (f)(1)(J). Subparagraph (f)(1)(E) would have rule language removed that pertains to the IYB price calculation. A clarification of the procedure for reporting to the Board when the discrete-year RTC price exceeds the rolling average thresholds has been made in subparagraphs (f)(1)(H) and (f)(1)(I). These are existing requirements that simply clarify the 2-step process of notifying the Board when there is a threshold exceedance along with an evaluation of the RECLAIM program, and reporting back to the Board within 90 days.

The proposed amendments would revise the criteria for a facility to receive initial and final determination notifications in order to exit the program and also provide facilities with the option to remain in RECLAIM upon receiving an initial determination notification, as some of the major elements relating to the transition are further developed and resolved. PAR 2002 would also add a provision that precludes any exited facility from obtaining offsets from the SCAQMD internal bank for emissions increases for a limited time. Figure 2 provides an overview of the procedures for opting to remain in RECLAIM within the context of the current notification requirements contained in Rule 2002.

Figure 2: Overview of Process to Remain in RECLAIM



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) continues with the ongoing efforts to 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)

PARs 2001 and 2002 are considered a "project" as defined by the California Environmental Quality Act (CEQA) and the SCAQMD is the designated lead agency. Pursuant to CEQA Guidelines Sections 15252, 15162(b), 15070 and 15251(l) (codified in SCAQMD Rule 110), the SCAQMD has prepared a Subsequent Environmental Assessment (SEA) for PARs 2001 and 2002 which relies on the following CEQA documents: 1) December 2015 Final Program Environmental Assessment (PEA) for Proposed Amended Regulation XX – Regional Clean Air Incentives Market (referred to herein as the December 2015 Final PEA for NOx RECLAIM); 2) the October 2016 Addendum to the December 2015 Final PEA for NOx RECLAIM; and 3) the March 2017 Final Program Environmental Impact Report (EIR) for the 2016 Air Quality Management Plan (AQMP) (referred to herein as the March 2017 Final Program EIR for the 2016 AQMP.

SCAQMD staff has determined that PARs 2001 and 2002 contain new information of substantial importance which was not known and could not have been known at the time: 1) the December 2015 Final PEA and the October 2016 Addendum to the Final PEA were certified for the December 2015 and October 2016 amendments, respectively, to NOx RECLAIM; and 2) the March 2017 Final Program EIR was certified for the adoption of the 2016 AQMP. PARs 2001 and 2002 are not expected to create new significant effects that were not discussed in the previously certified December 2015 Final PEA, the October 2016 Addendum to the Final PEA, and the March 2017 Final Program EIR for the 2016 AQMP.

Because BARCT is statutorily defined to be based on "environmental, energy, and economic impacts," the analysis of PARs 2001 and 2002 indicates that it would be speculative to assume what new BARCT will be, since most new BARCT assessments have not yet been conducted. Thus, the analysis in the Draft SEA only references potential impacts for new BARCT where the assessments have been completed. Any potential environmental impacts associated with complying with future rules where the BARCT assessments have not been completed or where future rules have not yet been adopted are not reasonably foreseeable at this time. As such, the Draft SEA concluded that these impacts are too speculative for evaluation per CEQA Guidelines Section 15145.

Because PARs 2001 and 2002 were not expected to have statewide, regional, or areawide significance, a CEQA scoping meeting was not required and thus, was not held for the proposed project pursuant to Public Resources Code Section 21083.9(a)(2). Further, since no significant adverse impacts were identified, an alternatives analysis and mitigation measures were not required (CEQA Guidelines Section 15252(a)(2)(B)). The Draft SEA was released for a 35-day public review and comment period from August 3, 2018 to September 7, 2018. All comments received during the public comment period on the analysis presented in the Draft SEA will be responded to and included in an appendix

to the Final SEA, upon completion. The Final SEA will be included as an attachment to the Governing Board package.

The aforementioned CEQA documents upon which the Draft SEA relies and their records of approval are available upon request by visiting the Public Information Center at SCAQMD Headquarters located at 21865 Copley Drive, Diamond Bar, CA 91765, by contacting Fabian Wesson, Public Advisor by phone at (909) 396-2039 or by email at PICrequests@aqmd.gov.

The December 2015 Final PEA for NOx RECLAIM, the October 2016 Addendum to the December 2015 Final PEA for NOx RECLAIM, and the March 2017 Final Program EIR for the 2016 AQMP, upon which the Draft SEA for PARs 2001 and 2002 relies, are available from the SCAQMD's website at:

December 2015 Final PEA for NOx RECLAIM:
http://www.aqmd.gov/home/library/documents-support-material/lead-agency-scaqmd-projects/scaqmd-projects---year-2015

October 2016 Addendum to the December 2015 Final PEA for NOx RECLAIM:
http://www.aqmd.gov/docs/default-source/ceqa/documents/aqmd-projects/2016/regxxfinaladdendum2016.pdf

March 2017 Final Program EIR for the 2016 AQMP:
http://www.aqmd.gov/home/research/documents-reports/lead-agency-scaqmd-projects/scaqmd-projects---year-2017

Prior to making a decision on the adoption of PARs 2001 and 2002, the SCAQMD Governing Board must review and certify the Final SEA, including responses to comments, as providing adequate information on the potential adverse environmental impacts that may occur as a result of adopting PARs 2001 and 2002.

Socioeconomic Analysis

As part of the transitioning of RECLAIM facilities to a command-and-control regulatory structure, the SCAQMD is proposing to amend Regulation XX, which includes Proposed Amended Rules (PAR) 2001 and 2002.

The proposed amendments to Rule 2001 would provide a procedure for facilities to exit RECLAIM by establishing provisions to opt-out. These provisions would only apply to facilities that meet certain criteria. The proposed amendments to Rule 2002 revise the criteria to be considered eligible to exit RECLAIM and to be issued an initial

determination notification. PAR 2002 will also allow facilities to remain in RECLAIM for a limited time upon receiving an initial determination notification so that they may address New Source Review issues while still in RECLAIM. As a result, PAR 2002 also adds a provision that precludes former RECLAIM facilities from obtaining offsets from the SCAQMD internal bank for emissions increases before Regulation XIII - New Source Review is amended to address emission increases for the exiting RECLAIM facilities. In addition, PAR 2002 will remove a provision requiring reporting of infinite year block (IYB) NOx RTC prices.

PAR 2001 and PAR 2002 are administrative in nature and do not impose new or more stringent emission limits or standards, and therefore do not directly result in additional economic costs to RECLAIM facilities. However, as subsequent command-and-control rules are amended to address future BARCT limits, facilities will likely incur potentially significant economic costs, as these facilities must comply with these new BARCT requirements.

Given the uncertainty regarding new BARCT requirements for subsequent command and control rules affecting transitioning RECLAIM facilities, it is speculative to estimate the economic costs associated with these future rules. Currently, the only proposed amended rules affecting facilities transitioning out of RECLAIM that includes BARCT requirements and projected economic impacts are PAR 1146 - Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters; PAR 1146. 1 – Emissions of Oxides of Nitrogen from Small Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters; and PAR 1146.2 – Emissions of Oxides of Nitrogen from Large Water Heaters and Small Boilers and Process Heaters (collectively referred to as the PAR 1146 Series).

The PAR 1146 Series will be the first set of rules to be amended to initiate the transition of equipment from the NOx RECLAIM program to a command-and-control regulatory structure to achieve BARCT. Among the 259 facilities currently in the NOx RECLAIM program, approximately 104 RECLAIM facilities with at least one boiler or heater (a total of 252 permitted units) will be affected by the PAR 1146 Series. Under PAR 1146, both Selective Catalytic Reduction Systems (SCR) and Ultra Low NOx Burners (ULNB) were determined as new BARCT technology, whereas under PAR 1146.1 and PAR 1146.2, only ULNB was assumed to achieve the new BARCT emission standards.
A Draft Socioeconomic Impact Assessment was conducted for the PAR 1146 Series and released to the public on May 2, 2018. As more command-and-control rules are adopted/amended to accommodate additional groups of facilities exiting the RECLAIM program, the total economic costs to all facilities exiting RECLAIM (and macroeconomic impacts to the South Coast Air Basin) will become clearer. At this point in the RECLAIM transition, however, it would be speculative to assume what the new BARCT

requirements and projected economic impacts will be, as most BARCT assessments have not yet been conducted.

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 establishing provisions for opting out of RECLAIM upon meeting certain criteria and to allow facilities to continue to remain in RECLAIM for a limited time as other transitional issued are resolved.

Authority: The SCAQMD obtains its authority to adopt, amend, or repeal rules and regulations from California Health and Safety Code Sections 39002, 39616, 40000, 40001, 40440, 40702, 40725 through 40728, and 41508.

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

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 are 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 do not impose a new or more stringent emissions limit or standard, or other air pollution control monitoring, reporting or recordkeeping 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, SOx, NOx, 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

PARs 2001 and 2002 will facilitate the transition of RECLAIM facilities to a command-and-control regulatory structure and ensure compliance with NOx limiting command-and-control rules upon exiting. This would be accomplished by establishing the criteria that allows facilities to exit NOx RECLAIM and providing a pathway for facilities to exit RECLAIM if they meet the criteria but have not yet been identified as ready to exit. The criteria requires that all RECLAIM facility NOx equipment is subject to a NOx rule that reflects current BARCT before exiting. The proposed option to remain allows facilities to remain in RECLAIM for a limited time while NSR and other key transition elements are resolved. As command-and-control rules are amended to apply to additional groups of facilities that will exit the RECLAIM program, subsequent amendments to Rules 2001 and 2002 may be required. The proposed amendments are necessary to continue efforts to transition facilities in the RECLAIM program to a command-and-control regulatory structure to achieve compliance with AB 617 requirements and 2016 AQMP commitments.

ATTACHMENT A

PAR 2001 AND PAR 2002 PUBLIC COMMENTS AND RESPONSES

The Public Workshop for the Proposed Amended Rules 2001 and 2002 was held on August 9, 2018. Comment letters received are responded to below.

Agency/Company	Date	Comment Letter Number
Los Angeles Department of Water & Power (LADWP)	7/30/18	1
Burbank Water and Power (BWP)	8/10/18	2

Comment Letter #1 (LADWP)

Los Angeles Department of Water & Power

CUSTOMERS FIRST

July 30, 2018

Mr. Kevin Orellana
Planning, Rule Development and Area Sources
South Coast Air Quality
Management District
21865 Copley Drive
Diamond Bar, CA 91765

Dear Mr. Orellana:

Subject: Proposed Amended Rules 2001 – Applicability and 2002 – Allocation for Oxides of Nitrogen and Oxides of Sulfur (SOx)

The Los Angeles Department of Water Power (LADWP) appreciates the opportunity to provide comments on Proposed Amended Rules (PAR) 2001 and 2002. LADWP remains committed to working with the South Coast Air Quality Management District (SCAQMD) to transition electric generating facilities (EGFs) from the current RECLAIM program to Rule 1135 in an efficient and effective manner. LADWP strongly believes that SCAQMD should strive to complete that transition in a manner that will achieve the air quality goals of the Clean Air Act (CAA), while taking into account energy and economic impacts – including the minimization of any potential adverse impacts on the electric power grid and the economy. To that end, LADWP respectfully submits the following comments on the July 20, 2018 versions of PARs 2001 and 2002. 1-1

PAR 2001(j) – Rule Applicability

PAR 2001(j) currently identifies in Table 1 those Oxides of Nitrogen (NOx) regulatory requirements that do not apply to NOx RECLAIM facilities. In the case of EGFs, these requirements include the NOx emissions limitations established in Rule 1135 and the New Source Review (NSR) permitting requirements under Regulation XIII. In PAR 2001, SCAQMD is proposing to add a new transitional provision requiring NOx RECLAIM facilities "to comply with all NOx provisions in rules contained in Table I that are adopted or amended on or after (date of amendment)." The draft staff report further states that even if a facility remains in the RECLAIM program after the amendment date of applicable rules (such as newly revised Rule 1135), the facility "would be required to comply with the NOx requirements of each rule that is amended if it operates equipment covered by several of these rules." LADWP generally agrees with this approach and recommends that SCAQMD add clarifying language that the RECLAIM facility's obligation to exit is not tied to when the landing rule is adopted but tied to the Best Available Retrofit Control Technology (BARCT) 1-2

111 N. Hope Street, Los Angeles, California 90012-2607 Mailing Address: PO Box 51111, Los Angeles, CA 90051-5700
Telephone (213) 367-4211 ladwp.com

compliance deadline of the landing rule. In particular, the clarifying language should explicitly confirm that affected facilities could remain in the RECLAIM program until at least some reasonable period of time after the date that the facilities must comply with the newly established NOx BARCT limitation.

The applicability provision of PAR 2001(j) should also be closely coordinated with the RECLAIM exit rules in PAR 2002. For example, PAR 2002(f)(11) requires all RECLAIM facilities to exit by a date no later than December 31, 2023. This absolute deadline is potentially in conflict with the applicability rules of PAR 2002(j), which do not allow an affected facility to exit RECLAIM until after the NOx BARCT compliance deadlines of the landing rules. As SCAQMD recognizes, AB 617 allows for the implementation of the new BARCT limitations until as late as December 31, 2023. Given that some affected RECLAIM facilities may need to take the entire compliance period allowed under AB 617, it is impracticable to require these facilities to exit RECLAIM on the same date that they will be required to achieve compliance with their newly established BARCT limits. To address this situation, LADWP recommends SCAQMD review PAR 2001(f)(11) to require all facilities to exit RECLAIM by no later than July 1, 2024, which is six months after the latest BARCT compliance deadline under AB 617. 1-2

Extension of the final RECLAIM exit date to July 2024 should not pose risks to air quality or the environment. Each facility that remains in RECLAIM would continue to meet the command-and-control NOx limits as required per the facility's landing rule. It is reasonable to expect that such facility would continue to comply with RECLAIM's monitoring, reporting and recordkeeping requirements as the facility would have RECLAIM Trading Credits (RTCs) in its facility accounts to reconcile its NOx mass emissions on a quarterly and annual basis.

LADWP urges SCAQMD to include clarifying language in Regulation XIII and/or PAR 2001 that explains the timing with respect to applicability of Regulation XIII. Although NSR is not a regulatory control program (e.g. command-and-control landing rule) but a pre-construction permitting program, it is included in Table I amongst other NOx emission reduction rules. PAR 2001(j)(2) states that NOx RECLAIM facilities are required to comply with the NOx provisions in rules contained Table I that are adopted or amended on or after (date of adoption). In particular, this provision introduces a potential problem with the timing of applicability of Regulation XIII – NSR. Since a RECLAIM facility that has not yet exited the program would continue to hold RTCs, it would be appropriate that the facility remain subject to Rule 2005, the RECLAIM NSR rule, not Regulation XIII as listed in Table I. LADWP recommends the following clarifying language to the description associated with Reg. XIII: NSR (after a NOx RECLAIM facility exits). 1-3

Facilities Under Common Ownership – Exit from RECLAIM

SCAQMD should allow RECLAIM facilities under common ownership to exit the RECLAIM program in a coordinated fashion to account for the facilities' operational requirements. For the reasons discussed below, this flexibility in the exit rules is especially important in the case of EGFs, such as LADWP, that operate their EGFs as part of an integrated electric utility system. 1-4

Mr. Kevin Orellana
Page 3
July 30, 2018

LADWP is planning on retrofitting a significant amount of its generating units with selective catalytic reduction (SCR) technology to meet PAR 1135's proposed NOx limits. LADWP will have to complete SCR retrofit installations within a relatively short period of time in coordination with its plans to shut down and possibly replace other existing generating units subject to the once-through-cooling requirements under Section 316(b) of the Clean Water Act. As a result, LADWP will need to complete these SCR installations during facility outages in a staggered manner over a multi-year period to avoid adversely impacting reliability of the electricity system. As a result of this staggering of the SCR retrofit installations, a BARCT compliance date of December 31, 2023 will very likely be necessary for LADWP's affected facilities. 1-4

Second, another factor weighing strongly in favor of a flexible RECLAIM exit deadline is the revisions to key conditions and requirements of the facility permits. In the case of LADWP's electric utility system, it owns and operates four RECLAIM facilities that have Title V facility permits. These permits contain many permit conditions that currently are tied to RECLAIM rules. The uncertainty with respect to the timing of when the amended permits are effective is another factor to consider in facilities' exit from RECLAIM. 1-5

Third, LADWP operates its EGFs in an integrated, system-wide manner that requires load shifting among its Los Angeles basin facilities. Specifically, this load shifting could result in substantial swings in generation among LADWP's Los Angeles basin EGFs due to a wide range of changing circumstances, many of which could be unforeseen and unavoidable. For example, LADWP could experience a forced outage of an EGF, unforeseen loss of transmission which requires shifting of generation to relieve loading on remaining transmission circuits or other electric power system emergency. 1-6

Although a LADWP EGF may meet Rule 1135's NOx limits and be ready to exit the RECLAIM program well before the December 31, 2023 exit deadline, that EGFs's exit may result in compliance challenges for the other LADWP facilities still remaining within the RECLAIM program. A significant reduction in LADWP's system-wide RTC holdings due to the exit of one or more facilities from RECLAIM would result in less RTCs available to transfer from one facility to another in response to significant shifting of generation among LADWP's Los Angeles basin EGFs. SCAQMD should consider the operational issues associated with facilities under common ownership in setting the deadlines for exiting the RECLAIM program. In particular, SCAQMD's rules should establish a mandatory RECLAIM exit date of no earlier than July 1, 2024 and allow facilities under common control of one owner or operator to exit collectively as an integrated system rather than on a piecemeal basis.

SCAQMD Executive Officer Determination that a Facility's Submission is Complete

PAR 2002(f)(7) authorizes the Executive Officer to determine if the facility will be transitioned out the NOx RECLAIM program based on whether a facility's submission of permitted and unpermitted NOx RECLAIM emission equipment and permitted NOx emission levels are complete. Furthermore, PAR 2002(f)(7)(B) states that failure to submit the required information to SCAQMD in a timely manner "will result in the prohibition on all RTC uses, sales, or transfers by the facility until all requested information is submitted." LADWP believes that the prohibition on all RTC uses is unnecessarily punitive and would 1-7

result in a facility's inability to comply with the RTC holding requirements of the RECLAIM regulation. To address this problem, LADWP recommends the following amendments in underline/strikeout format: 1-7

> Failure to submit the requested information within 45 days of the initial determination notification date or failure to timely revise an incomplete submission, as indicated by the Executive Officer, will result in the prohibition on all RTC ~~uses,~~ sales~~, or transfers~~ by the facility until all requested information is submitted.

Restrictions Placed on Existing Facilities

PAR 2002(f)(10) imposes stringent requirements on the owner or operator of a RECLAIM facility that receives a final determination to exit the RECLAIM program. First, paragraph (f)(10)(A) prohibits all sales and transfers of "any future compliance year RTCs as of the date specified in the final determination notification." This restriction could be a problem for LADWP and other electric utilities that may need to exit their EGFs collectively as an integrated system rather than on a piecemeal basis as described above. To address this problem, LADWP recommends that this restriction on the sale or transfer of future compliance year RTCs will apply to only those future years when the EGFs no longer have RTC compliance obligations under the RECLAIM program. 1-8

Second, paragraph (f)(10)(B) prohibits the procurement of Emission Reduction Credits (ERCs) under Rule 1304 to offset any emission increases until NSR provisions governing emission calculations and offsets for former RECLAIM sources are amended after (date of adoption). This proposed language appears to require a RECLAIM facility that has not yet exited NOx RECLAIM to provide ERCs for emission increases which appears to conflict with SCAQMD's intent. The draft report appears to state that the intent PAR 2001 (which is linked to PAR 2002(f)) is to require RECLAIM facilities *that have exited* the NOx RECLAIM program to provide ERCs to cover emission increases (but only from the open market until SCAQMD amended Regulation XIII). To clarify when the NSR requirement applies, LADWP recommends the following amendment to PAR 2002(f)(10): 1-9

> The owner or operator of any RECLAIM facility that receives a final determination from the Executive Officer pursuant to paragraph (f)(8) and has subsequently exited NOx RECLAIM:

Municipal or Public Electric Utility Definition

PAR 2002(f)(4) defines an "Electricity Generating Facility" as "a facility that generates electrical power and is owned or operated by or under contract to sell power to California Independent System Operator Corporation, a municipal or public electric utility, or an electric utility on Santa Catalina Island, with the exception of landfills, petroleum refineries, publicly treatment works, and cogeneration facilities." This approach of differentiating between the segments of the electric generating sector is potentially confusing. It seems to conflict with SCAQMD's stated intent to establish only one regulation that applies to all affected EGFs. For these reasons, LADWP recommends that SCAQMD establish one set of applicability criteria for determining whether a facility is subject to the PAR 1135 1-10

requirements. We suggest SCAQMD consider using the following language for the definition of "Electric Generating Facility:"

> ELECTRIC GENERATING FACILITY (EGF) means a facility with electric power generating unit(s) that generates electricity for distribution in the State or local grid system, regardless of whether it also generates electricity for its own use or for use pursuant to a contract, with the exception of landfills, petroleum refineries, publicly owned treatment works, and cogeneration facilities.

1-10

If SCAQMD decides to retain the current definition of EGF, LADWP has concerns that the definition of "Municipal or Public Electric Utility" is not defined. As an alternative, in lieu of introducing a new definition for "Municipal or Public Electric Utility" LADWP recommends clarifying the definition of EGF as shown below in underline/strikeout format:

> ELECTRIC GENERATING FACILITY means a facility that generates electrical power and is owned or operated by or under contract to sell power to California Independent System Operator Corporation, ~~municipal or public electric utility,~~ a local publicly owned electric utility (as defined in the California Public Utilities Code Section 224.3), or an electric utility on Santa Catalina Island with the exception of landfills, petroleum refineries, publicly owned treatment works, and cogeneration facilities.

If you have any questions or would like additional information, please contact me at (213) 367-0403 or Ms. Jodean Giese at (213) 367-0409.

Sincerely,

Mark J. Sedlacek

MARK J. SEDLACEK
Director of Environmental Affairs

JG:ns
c: Ms. Susan Nakamura, SCAQMD
Mr. Gary Quinn, SCAQMD
Mr. Tracy Goss, SCAQMD
Mr. Michael Morris, SCAQMD
Ms. Uyen-Uyen Vo, SCAQMD

Responses to Comment Letter #1 (LADWP):

Response to Comment 1-1:

SCAQMD staff appreciates your comments and participation throughout the rulemaking for the transition of RECLAIM to a command-and-control regulatory structure.

Response to Comment 1-2:

The date a facility is required to exit RECLAIM will be stated by the Executive Officer in the final determination notification. A facility is eligible to exit RECLAIM once the landing rules for all the facility's equipment have been amended or adopted. However, after a facility receives an initial determination notification, the facility may elect to remain in RECLAIM for a limited time. The facility will be subject to the implementation schedule and emission limits in the applicable landing rule regardless if the RECLAIM facility is in RECLAIM or exits. Facilities that receive an initial determination notification may remain in RECLAIM or follow procedures to exit. It is anticipated that all facilities will be exited by December 31, 2023, as it is also anticipated that the RECLAIM program will be sunsetted by this time.

Response to Comment 1-3:

A facility that remains in RECLAIM after Regulation XIII is amended will continue to be subject to Rule 2005 until the facility has exited RECLAIM. However, it should be noted that facilities that are eligible to exit will be issued a final determination notification once Regulation XIII is amended. The draft staff report has been updated to clarify this process.

Response to Comment 1-4:

Staff acknowledges the complexity of retrofitting multiple units without causing a disturbance in the electricity system. Provisions that allow a facility to elect to stay in RECLAIM after an initial determination notification is received will allow a facility that is under common ownership stay in RECLAIM. Staff will work with facilities throughout the transition process to address any unique concerns as facilities transition out of RECLAIM.

Response to Comment 1-5:

Staff is working on establishing permitting requirements and procedures for all facilities that will be exiting RECLAIM. These matters will be discussed at the ongoing RECLAIM working group meetings.

Response to Comment 1-6:

Industry-specific facilities that fall under common ownership will be eligible to exit concurrently, at the time when the industry-specific rule is amended. As stated in the response to comment 1-4, staff acknowledges the importance of addressing concerns for facilities under common ownership, and will work with facilities throughout this process.

Response to Comment 1-7:

Staff's intent for this rule language is to ensure that the Executive Officer receives the information needed to continue with the transition without delay. The provision is not intended to inconvenience facilities unnecessarily. The process for obtaining facility equipment information is interactive and staff will work with all RECLAIM facilities to ensure timely submission equipment information.

Response to Comment 1-8:

See response to comment 1-6.

Response to Comment 1-9:

The NSR provision in PAR 2002 states that it applies to former RECLAIM facilities. Clarification is offered in the staff report and states that the NSR provision in PAR 2002 applies to exited facilities, which upon exiting RECLAIM the facility becomes a former RECLAIM facility. Once a RECLAIM facility receives a final determination notification, it will exit RECLAIM at the end of the current compliance period.

Response to Comment 1-10:

Staff acknowledges the potential for confusion. The draft rule language will carry over the language that was previously contained in Rule 2001 for describing EGFs. More specific definitions will be contained in Rule 1135 – Electricity Generating Facilities, upon amendment.

Comment Letter #2 (BWP)

August 10, 2018

VIA ELECTRONIC MAIL
(pfine@aqmd.gov)

Mr. Philip M. Fine, Ph.D.
Deputy Executive Officer
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

SUBJECT: Comment Letter – Proposed Amended Rules 2001 – Applicability and 2002 – Allocations for Oxides of Nitrogen (NOx) and Oxides of Sulfur (SOx)

Dear Mr. Fine,

Burbank Water and Power (BWP) is pleased to provide comments on the proposed amendments to Regulation XX – Regional Clean Air Incentives Market (RECLAIM). The proposed amendments are of significant interest and concern to many facilities, including BWP.

The current language for Proposed Amended Rule 2002 (PAR 2002) does not allow facilities that exit the NOx RECLAIM program access to the South Coast Air Quality Management District (District) internal offset bank until new provisions governing emission calculations and offsets for former RECLAIM facility emission sources are adopted in Regulation XIII. The District included a provision in PAR 2002 that allows facilities to remain in the RECLAIM program, and therefore, continue to follow RECLAIM New Source Review (NSR) provisions until a permanent solution is adopted in Regulation XIII. Facilities that remain in RECLAIM under this provision will also be subject to non-RECLAIM source-specific or industry specific rules. 2-1

While BWP is appreciative of the District's efforts to expeditiously move forward with the transition from RECLAIM to Command and Control, BWP feels that being subject to both RECLAIM and non-RECLAIM rules is an unnecessary and confusing burden. BWP strongly feels that the NSR issues should be analyzed and addressed prior to moving forward with any of the rule amendments. This will ensure that facilities are subject to one set of rules and will have a clear understanding of the path moving forward to allow for prudent planning.

Burbank Water and Power
164 West Magnolia Boulevard, P.O. Box 631, Burbank CA 91503-0631

BWP looks forward to your response. Please feel free to contact Claudia Reyes, Senior Environmental Engineer, at (818) 238-3510 if you have any questions, or would like to discuss further. 2-1

Sincerely,

Frank Messineo

Frank Messineo
Power Production Manager – BWP Power Supply Division

cc: Claudia Reyes (via electronic mail)
Sean Kigerl (via electronic mail)
Dr. Krishna Nand (via electronic mail)

Responses to Comment Letter #2 (BWP):

SCAQMD staff appreciates your comments and participation throughout the rulemaking for the transition of RECLAIM to a command-and-control regulatory structure and recognize industry concern regarding PARs 2001 and 2002.

Staff acknowledges that rulemaking regarding the transition has many complexities. However, staff has found it necessary to continue with the approach of amending command-and-control NOx rules concurrently with addressing NSR issues. The reason for this approach is to avoid delay in adopting implementation schedules for BARCT to give facilities adequate time to comply with command-and-control NOx emission limits. Resolving NSR is a significant issue as it requires involvement and approval from U.S. EPA. In the interim, facilities have two options. A facility that receives an initial determination notification can remain in RECLAIM and if there are emission increases that would trigger a New Source Review event, the facility would comply with RECLAIM NSR. Staff is committed to not exit facilities until the NSR issues are resolved. If however, a facility is exited before NSR issues are resolved if they had an emissions increase that would trigger a New Source Review event, the facility would need to purchase offsets in the open market.