March 15, 2018

Mr. Wayne Nastri
Executive Officer
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

Dear Mr. Nastri,

These comments are presented to the South Coast Air Quality Management District ("SCAQMD" or "District") on behalf of BizFed members who own and operate facilities that comprise most of the Regional Clean Air Incentives Market ("RECLAIM") program.

In adopting the 2016 Final Air Quality Management Plan ("AQMP"), the Governing Board issued the following directive concerning the RECLAIM program:

"BE IT FURTHER RESOLVED, that the SCAQMD Governing Board does hereby direct staff to modify the 2016 AQMP NOx RECLAIM measure (CMB-05) to achieve the five (5) tons per day NOx emission reduction commitment as soon as feasible, and no later than 2025, and to transition the RECLAIM program to a command and control regulatory structure requiring BARCT level controls as soon as practicable, and to request staff to return in 60 days to report feasible target dates for sunsetting the RECLAIM program."

As part of this effort, the District is proposing significant amendments to Regulation XX (RECLAIM) and Regulation XI with the goal of transitioning from a market-based design under RECLAIM to a command-and-control design (collectively the "RECLAIM transition").

The RECLAIM Transition is a “Project” under the California Environmental Quality Act ("CEQA"), requiring the evaluation of potential adverse environmental impacts. Further, as with prior amendments to the Regulation XX program, we believe the overall group of rulemakings need to be collectively considered under CEQA.

For this reason, we believe the District needs to prepare a program-level environmental assessment that considers the entire RECLAIM Transition project. We acknowledge that the Governing Board already considered a limited RECLAIM rulemaking in January; however, any additional rules to advance the RECLAIM Transition project should not be adopted and facilities should not be removed from RECLAIM until the District has completed a program-level CEQA assessment. We are concerned that a fragmented approach to the RECLAIM Transition rulemaking would constitute a piecemealing of the project.

1 At this time, RECLAIM Transition project would include proposed amendments to Regulation XX rules, as well as Proposed Amended Rule (PAR) 301, PAR 1109 and/or Proposed Rule (PR) 1109.1, PAR 1110.2, PAR 1118.1, PAR 1134, PAR 1135, PAR 1146, 1146.1, and 1146.2, and PAR 1147, 1147.1, and 1147.2.
Furthermore, the District needs to give strong and appropriate consideration to the socioeconomic impacts of policies and rulemaking under different SCAQMD Governing Board resolutions (1989, 1994) and as required by state legislation (H&SC Sections 40440.8(a) and (b)). Given that the RECLAIM Transition project, including all related Regulation XI rulemakings, stems from the same 2016 AQMP policy directive, the District’s socioeconomic analysis should similarly consider the entire RECLAIM Transition project and should not be piecemealed across rule-level assessments. Such a program-level socioeconomic assessment would provide the Governing Board members with information needed for rulemakings that together “will significantly affect air quality or emissions limitations” (H&SC Sections 40440.8(a) and (b)). Piecemealing will not provide this information, and will also limit the Governing Board’s ability to actively consider the socioeconomic impacts of regulations pursuant H&SC Section 40728.5.

In summary, we recommend that the District conduct a program-level CEQA assessment and a socioeconomic assessment that considers the environmental and socioeconomic effects of the overall RECLAIM Transition project, including all associated Regulation XI rulemakings. This should be completed to support related Governing Board rule adoptions prior to the District transitioning individual RECLAIM facilities out of the program.

Thank you for considering our coalition’s comments on this matter. Our members look forward to a continuing dialogue with the District on this important matter.

Sincerely,

Hilary Norton  
BizFed Chair  
Fixing Angelenos  
Stuck in Traffic (F.A.S.T)

David Fleming  
BizFed Founding Chair

Tracy Hernandez  
BizFed Founding CEO  
Impower, Inc.