



VIA ELECTRONIC MAIL

August 26, 2016

Mr. Gary Quinn, P.E.
Planning, Rule Development and Area Sources
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

SUBJECT: Tesoro Comments on NOx RECLAIM Shutdown Credits

Dear Mr. Quinn:

Tesoro Refining & Marketing Company LLC operates the Los Angeles Refinery, and has four NOx RECLAIM facilities that can be impacted by any change to the RECLAIM program. We are submitting comments today on the issue of permanently removing RECLAIM Trading Credits (RTCs) associated with facility shutdowns from the RECLAIM credit market.

- 1) Several entities, including Tesoro, have commented that any rule amendments regarding treatment of RECLAIM Trading Credits (RTCs) from shutdown facilities should recognize the unique situation of facilities under common ownership. The current draft of proposed amendments to Rule 2002 does attempt to address this issue, but is unnecessarily restrictive and would exclude many facilities under common ownership from using shutdown credits from a sister facility as a compliance mechanism. As a result of stakeholder feedback, SCAQMD has requested suggestions for a different approach, and in particular definitions for “integrated operations” and “common control”.

Tesoro has the following recommendations:

- Modify 2002(i)(6) to read as follows: “the requirements specified in this subdivision shall not apply to facility shutdowns where RTCs are transferred to another facility **with integrated operations and/or under common control**”.
- Add a definition for “**Integrated operations**”, with the following description: “Integrated Operations means RECLAIM facilities owned or operated by the same company and whose operations are interconnected or dependent on each other. Contiguous location is not necessary to demonstrate integrated operations.”
- Add an explanation of “**common control**” to the staff report. Excerpts from an USEPA letter (vintage 1995, and referenced by USEPA in other communications), provided by weblink and as an attachment to this letter, would be useful in this regard. While the letter provides guidance on whether a new facility locating on the site of an existing major source should be considered as a single entity or two separate ones, concepts in the letter regarding common control are still germane without the need for facilities to be co-located.

<https://www.epa.gov/sites/production/files/2015-08/documents/control.pdf>

For example:

“EPA’s permit regulations do not provide a definition for control. Therefore, we rely on the common definition. Webster’s Dictionary defines control as ‘to exercise restraining or directing influence over,’ ‘to have power over,’ ‘power of authority to guide or manage,’ and ‘the regulation of economic activity.’ Obviously, common ownership constitutes common control. However, common ownership is not the only evidence of control”.

- 2) As mentioned in our previous comment letter on this subject (June 29, 2016), Tesoro requests that staff analyze the potential implications of how shutdown credits being discounted or even potentially totally confiscated will affect the entire RECLAIM program. Such an analysis would fulfill the Governing Board’s directive issued on December 4, 2015, and should be available at a minimum as part of the set hearing package. A more preferable approach would be to include such an analysis within the context of the 2016 AQMP, which contains a control measure for NOx RECLAIM. That control measure casts a broad net in looking at not only a potential BARCT shave, but other options ranging all the way to transitioning out of the RECLAIM program completely. It would be entirely justified to include shutdown credits in this wide-ranging review of the RECLAIM program, rather than review and act on it in isolation. Tesoro requests that the shutdown credit issue be incorporated into the larger review of the RECLAIM program.

Tesoro is glad to further discuss these comments and recommendations with you and your colleagues.

Sincerely,

Susan Stark

Susan Stark
Senior Manager, Regulatory Issues

cc: Mr. Wayne Nastri, SCAQMD Acting Executive Officer
Dr. Phil Fine, SCAQMD Deputy Executive Officer