

BOARD MEETING DATE: July 12, 2019

AGENDA NO. 28

**PROPOSAL:** Determine That Proposed Amendments to Rule 2001 – Applicability Are Exempt from CEQA and Amend Rule 2001

**SYNOPSIS:** On October 5, 2018, the Board adopted amendments to Rule 2001 that incorporated a provision to allow facilities to opt-out of the RECLAIM program. U.S. EPA is recommending that facilities remain in RECLAIM until all the rules associated with the transition to a command-and-control regulatory structure have been adopted and approved into the SIP. To address U.S. EPA's comments, Proposed Amended Rule 2001 will remove the opt-out provision so that facilities cannot exit RECLAIM.

**COMMITTEE:** Stationary Source, May 17, 2019, Reviewed

**RECOMMENDED ACTIONS:**

Adopt the attached Resolution:

1. Determining that the proposed amendments to Rule 2001 – Applicability, are exempt from the requirements of the California Environmental Quality Act; and
2. Amending Rule 2001 – Applicability, as set forth in Attachment F.

Wayne Nastri  
Executive Officer

PMF:SN:MM:KO:MG

---

**Background**

The RECLAIM program was adopted in October 1993 and is a market-based program for facilities with more than four tons per year of NO<sub>x</sub> or SO<sub>x</sub> emissions. During the adoption of the 2016 AQMP, the adopting Resolution directed staff to modify Control Measure CMB-05 to achieve an additional five tons per day of NO<sub>x</sub> emission reductions as soon as feasible but no later than 2025, and to transition the NO<sub>x</sub> RECLAIM program to a command-and-control regulatory structure requiring BARCT as soon as practicable. California State Assembly Bill (AB) 617, which was approved in July 2017, requires an expedited schedule for implementing BARCT at facilities in the state greenhouse gas cap-and-trade program that are also subject to RECLAIM and requires the implementation of BARCT by December 31, 2023.

The RECLAIM program was most recently amended on October 5, 2018 to allow facilities to exit the RECLAIM program by opting out, provided that the facility met certain criteria. Subsequent to this amendment, U.S. EPA recommended keeping facilities in RECLAIM until all the rules related to the transition of facilities to a command-and-control regulatory structure, including command-and-control and New Source Review rules, are approved into the State Implementation Plan (SIP). Based on U.S. EPA's recommendation, Proposed Amended Rule 2001 – Applicability, (PAR 2001) would preclude facilities from exiting the RECLAIM program before rules related to the transition of facilities to a command-and-control regulatory structure have been approved into the SIP.

### **Public Process**

Staff holds monthly RECLAIM working group meetings to discuss the transition of facilities in the RECLAIM program to a command-and-control regulatory structure and to discuss key policy issues. PAR 2001 was discussed at the RECLAIM working group and public consultation meetings held on May 16, 2019.

### **Proposed Amendments**

PAR 2001 would remove the opt-out provisions and include a provision that precludes facilities from exiting the RECLAIM program before the rules relating to the transition are approved into the SIP. The rules related to the transition consist of source-specific, industry-specific, RECLAIM, and New Source Review rules.

### **Key Issues**

Staff has received comments that a disproportionate impact would be imposed on RECLAIM facilities if they are required to comply with RECLAIM requirements in addition to command-and-control requirements until they can exit, violating Health and Safety Code Section 39616.

However, Health and Safety Code Section 39616(c)(7) regarding disproportionate impacts does not apply to any subsequent amendments to the RECLAIM program beyond its adoption. It should be noted that RECLAIM facilities will still have significant advantages inherent in the RECLAIM program compared to facilities that are not in RECLAIM.

### **California Environmental Quality Act**

Pursuant to the California Environmental Quality Act (CEQA) and South Coast AQMD Rule 110, the South Coast AQMD, as lead agency for the proposed project, has reviewed Proposed Amended Rule 2001 pursuant to: 1) CEQA Guidelines Section 15002(k) – General Concepts, the three-step process for deciding which document to prepare for a project subject to CEQA; and 2) CEQA Guidelines Section 15061 Review for Exemption, procedures for determining if a project is exempt from CEQA. Because

the proposed project is comprised of revisions which are administrative and procedural in nature, and would not cause any physical changes that would affect any environmental topic area, South Coast AQMD staff has determined that it can be seen with certainty that there is no possibility that the proposed project may have a significant adverse effect on the environment. Therefore, the proposed project is considered to be exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) – Common Sense Exemption. Additionally, Proposed Amended Rule 2001 is categorically exempt because it is designed to further protect or enhance the environment pursuant to CEQA Guidelines Section 15308 – Action by Regulatory Agencies for Protection of the Environment. Further, South Coast AQMD staff has determined that there is no substantial evidence indicating that any of the exceptions to the categorical exemptions apply to Proposed Amended Rule 2001 pursuant to CEQA Guidelines Section 15300.2 – Exceptions. If the proposed project is approved, the Notice of Exemption will be filed with the county clerks of Los Angeles, Orange, Riverside, and San Bernardino counties.

### **Socioeconomic Analysis**

The proposed amendments to Rule 2001 do not significantly affect air quality or emissions limitations, and do not propose new controls, and therefore a socioeconomic analysis pursuant to California Health and Safety Code Section 40440.8 is not required.

### **Resource Impacts**

Existing staff resources are adequate to implement the proposed amendments.

### **Attachments**

- A. Summary of Proposal
- B. Key Issues and Responses
- C. Rule Development Process
- D. Key Contacts List
- E. Resolution
- F. Proposed Amended Rule 2001
- G. Final Staff Report
- H. Notice of Exemption
- I. Board Meeting Presentation

## ATTACHMENT A

### SUMMARY OF PROPOSAL

#### Proposed Amended Rule 2001 – Applicability

- Removes the opt out provisions and adds a provision to clarify that no RECLAIM facility may exit the program
  - Precludes facilities from exiting RECLAIM before all rules related to the transition of RECLAIM facilities to a command-and-control regulatory structure, including RECLAIM, command-and-control, and New Source Review rules, are approved into the State Implementation Plan

## ATTACHMENT B

### KEY ISSUES AND RESPONSES

#### Proposed Amended Rule 2001 – Applicability

- An industry stakeholder raised the general issue, not applicable to this amendment, that the overlay of command-and-control rules with RECLAIM creates a disproportionate impact on RECLAIM facilities compared to command-and-control facilities, violating Health and Safety Code Section 39616.

*Response:* The statutory language makes clear in section 39616(c), that the Board is only required to make the 39616(c)(1)-(7) findings upon adoption of the rules to implement a market-based incentive program. For that reason, in its Resolution adopting the December 4, 2015 RECLAIM amendments, the Board found that section 39616(c) did not apply to those amendments. In addition, section 39616(e) specifies the only time (within 7 years after adoption) the Board needs to ratify some of those 39616 findings. It does not include making findings with each amendment. Moreover, the statute supports the conclusion that even if ratification were required, the provision regarding “disproportionate impacts” would not be required to be ratified. Noticeably, in section 39616(c)(7), the provision regarding “disproportionate impacts” is not one of the findings listed in the seven-year ratification. Finally, any disproportionate impact compared to sources not in RECLAIM should be looked at on an overall basis, not by evaluating each separate element of the program. Thus, even after Rule 2001 is amended, RECLAIM facilities will still have a significant advantage compared to other facilities because they can use RECLAIM New Source Review provisions, especially the 1-to-1 offset ratio and the ability to use RECLAIM Trading Credits rather than the scarcer Emission Reduction Credits. On an overall basis, RECLAIM facilities are not disproportionately impacted.

**ATTACHMENT C**  
**RULE DEVELOPMENT PROCESS**

**Proposed Amended Rule 2001 – Applicability**



**Three (3) months spent in rule development.**

**Two (2) Working Group Meetings**

**One (1) Public Consultation Meeting**

**One (1) Stationary Source Committee Meeting**

## **ATTACHMENT D**

### **KEY CONTACTS LIST**

Beta Offshore  
Biz Fed  
California Air Resources Board  
California Council for Environmental and Economic Balance (CCEEB)  
California Small Business Alliance  
California Steel Industries  
Chevron  
EarthJustice  
Element Markets, LLC  
Evolution Markets  
Los Angeles Department of Water and Power  
Marathon  
National Resources Defense Council  
NRG, Inc.  
Plains All American  
Phillips 66  
Ramboll  
Regulatory Flexibility Group (RegFlex)  
Sempra Utilities  
Sierra Club  
Southern California Air Quality Alliance (SCAQA)  
Southern California Edison  
The Boeing Company  
Torrance Refining Company  
U.S. Environmental Protection Agency  
Valero  
Western States Petroleum Association (WSPA)  
Yorke Engineering

**ATTACHMENT E**

**RESOLUTION NO. 19-\_\_\_\_**

**A Resolution of the Governing Board of the South Coast Air Quality Management District (South Coast AQMD) determining that the Proposed Amended Rule 2001 – Applicability, is exempt from the requirements of the California Environmental Quality Act (CEQA).**

**A Resolution of the South Coast AQMD Governing Board amending Rule 2001 – Applicability.**

**WHEREAS**, the South Coast AQMD Governing Board finds and determines that the Proposed Amended Rule 2001 is considered a “project” pursuant to CEQA Guidelines Section 15002(k) – General Concepts, the three-step process for deciding which document to prepare for a project subject to CEQA; and

**WHEREAS**, the South Coast AQMD has had its regulatory program certified pursuant to Public Resources Code Section 21080.5 and CEQA Guidelines Section 15251(l) and has conducted a CEQA review pursuant to such program (South Coast AQMD Rule 110); and

**WHEREAS**, the South Coast AQMD Governing Board finds and determines that after conducting a review of the proposed project in accordance with CEQA Guidelines Section 15002(k) – General Concepts, the three-step process for deciding which document to prepare for a project subject to CEQA, and CEQA Guidelines Section 15061 - Review for Exemption, procedures for determining if a project is exempt from CEQA, that Proposed Amended Rule 2001 is exempt from CEQA; and

**WHEREAS**, the South Coast AQMD Governing Board finds and determines that it can be seen with certainty that there is no possibility that the Proposed Amended Rule 2001, which contains changes that are identified as being strictly administrative in nature, may have any significant effects on the environment, and is therefore, exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) – Common Sense Exemption; and

**WHEREAS**, the South Coast AQMD Governing Board finds and determines that the proposed project is also categorically exempt from CEQA pursuant to CEQA Guidelines Section 15308 – Actions by Regulatory Agencies for Protection of the Environment, because the proposed amendments are intended to further protect or enhance the environment; and

**WHEREAS**, the South Coast AQMD Governing Board has considered whether the proposed project may have significant environmental impacts due to unusual circumstances, as set forth in CEQA Guidelines Section 15300.2, and has determined that none exist for Proposed Amended Rule 2001; and

**WHEREAS**, the South Coast AQMD staff has prepared a Notice of Exemption for Proposed Amended Rule 2001, that is completed in compliance with CEQA Guidelines Section 15062 – Notice of Exemption; and

**WHEREAS**, Proposed Amended Rule 2001 and supporting documentation, including but not limited to, the Notice of Exemption and the Final Staff Report, were presented to the South Coast AQMD Governing Board and the South Coast AQMD Governing Board has reviewed and considered this information, as well as has taken and considered staff testimony and public comment prior to approving the project; and

**WHEREAS**, the South Coast AQMD Governing Board finds and determines, taking into consideration the factors in Section (d)(4)(D) of the Governing Board Procedures (codified as Section 30.5(4)(D)(i) of the Administrative Code), that the modifications to Proposed Amended Rule 2001 since the notice of public hearing was published are not so substantial as to significantly affect the meaning of the proposed amended rule within the meaning of Health and Safety Code Section 40726 because: (a) the changes do not impact emission reductions, (b) the changes do not affect the number or type of sources regulated by the rule, (c) the changes are consistent with the information contained in the notice of public hearing, and (d) the consideration of the range of CEQA alternatives is not applicable because Proposed Amended Rule 2001 is exempt from CEQA; and

**WHEREAS**, Proposed Amended Rule 2001 will be submitted for inclusion into the State Implementation Plan; and

**WHEREAS**, the South Coast AQMD staff conducted a Public Consultation Meeting regarding Proposed Amended Rule 2001 on May 16, 2019; and

**WHEREAS**, Health and Safety Code Section 40727 requires that prior to adopting, amending or repealing a rule or regulation, the South Coast AQMD Governing Board shall 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; and

**WHEREAS**, the South Coast AQMD Governing Board has determined that Proposed Amended Rule 2001 is needed to transition facilities in the RECLAIM program to a command-and-control regulatory structure, as directed by Control Measure CMB-05 of the Final 2016 Air Quality Management Plan, only after all until rules associated with the transition are approved into the State Implementation Plan as directed by U.S. EPA; and

**WHEREAS**, the South Coast AQMD Governing Board obtains its authority to adopt, amend or repeal rules and regulations from Sections 39002, 40000, 40001, 40440, 40702, 40725 through 40728, and 41508 of the Health and Safety Code; and

**WHEREAS**, the South Coast AQMD Governing Board has determined that Proposed Amended Rule 2001 is written or displayed so that the meaning can be easily understood by the persons directly affected by it; and

**WHEREAS**, the South Coast AQMD Governing Board has determined that Proposed Amended Rule 2001 is in harmony with and not in conflict with or contradictory to, existing statutes, court decisions or state or federal regulations; and

**WHEREAS**, the South Coast AQMD Governing Board has determined that Proposed Amended Rule 2001 will not impose the same requirements as any existing state or federal regulations. The amendments are necessary and proper to execute the powers and duties granted to, and imposed upon, South Coast AQMD; and

**WHEREAS**, the South Coast AQMD Governing Board, in amending Rule 2001, references the following statutes which the South Coast AQMD hereby implements, interprets, or makes specific: Health and Safety Code Sections 39002, 40001, 40702, 40440(a), 40725 through 40728.5, and AB617; and

**WHEREAS**, the South Coast AQMD Governing Board finds that Proposed Amended Rule 2001 falls within one or more of the categories specified in Health and Safety Code Section 40727.2(g) and, therefore, comply with Health and Safety Code Section 40727.2(a); and

**WHEREAS**, the South Coast AQMD Governing Board finds that there is a problem that Proposed Amended Rule 2001 will alleviate and that the rule will promote the attainment or maintenance of state or federal ambient air quality standards; and

**WHEREAS**, the South Coast AQMD Governing Board finds that Proposed Amended Rule 2001 does not significantly affect air quality or emissions limitations, and therefore a socioeconomic impact assessment, pursuant to California Health and Safety Code Sections 40440.8, 40728.5, or 40920.6 is not required; and

**WHEREAS**, the South Coast AQMD specifies the Planning and Rules Manager of Rule 2001 as the custodian of the documents or other materials which constitute the record of proceedings upon which the adoption of these proposed amendments is based, which are located at the South Coast Air Quality Management District, 21865 Copley Drive, Diamond Bar, California; and

**WHEREAS**, a public hearing has been properly noticed in accordance with the provisions of Health and Safety Code Section 40725; and

**WHEREAS**, the South Coast AQMD Governing Board has held a public hearing in accordance with all provisions of law; and

**NOW, THEREFORE, BE IT RESOLVED**, that the South Coast AQMD Governing Board does hereby determine, pursuant to the authority granted by law, that Proposed Amended Rule 2001 is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) – Activities Covered by General Rule and CEQA Guidelines Section 15308 – Actions by Regulatory Agencies for Protection of the Environment. No exception to the application of a categorical exemption set forth in CEQA Guidelines Section 15300.2, including the “unusual circumstances” exception, applies to Proposed Amended Rule 2001. This information was presented to the South Coast AQMD Governing Board, whose members reviewed, considered and approved the information therein prior to acting on Proposed Amended Rule 2001; and

**BE IT FURTHER RESOLVED**, that the South Coast AQMD Governing Board does hereby adopt, pursuant to the authority granted by law, Proposed Amended Rule 2001 as set forth in the attached, and incorporated herein by reference.

DATE: \_\_\_\_\_

\_\_\_\_\_  
CLERK OF THE BOARDS

## ATTACHMENT F

(Adopted October 15, 1993)(Amended December 7, 1995)  
(Amended February 14, 1997)(Amended May 11, 2001)(Amended January 7, 2005)  
(Amended May 6, 2005)(Amended December 4, 2015)(Amended January 5, 2018)  
(Amended October 5, 2018)(PAR 2001 July 12, 2019)

### **PROPOSED AMENDED RULE 2001.            APPLICABILITY**

(a) Purpose

This rule specifies criteria for inclusion in RECLAIM for new and existing facilities and also establishes a final date for any facility inclusions. It also ~~specifies requirements for sources electing to opt out of RECLAIM~~ and identifies provisions in current District rules and regulations that do not apply to RECLAIM sources.

(b) Criteria for Inclusion in RECLAIM

The Executive Officer will maintain a listing of facilities which are subject to RECLAIM. The Executive Officer will include facilities up until January 5, 2018, unless otherwise exempted pursuant to subdivision (i), if emissions fee data for 1990 or any subsequent year filed pursuant to Rule 301 - Permit Fees, shows four or more tons per year of NO<sub>x</sub> or SO<sub>x</sub> emissions where:

(1) NO<sub>x</sub> emissions do not include emissions from:

- (A) any NO<sub>x</sub> source which was exempt from permit pursuant to Rule - 219 Equipment Not Requiring A Written Permit Pursuant to Regulation II;
- (B) any NO<sub>x</sub> process unit which was rental equipment with a valid District Permit to Operate issued to a party other than the facility;
- (C) on-site, off-road mobile sources; or
- (D) ships as specified in Rule 2000(c)(62)(C) and (D).

(2) SO<sub>x</sub> emissions do not include emissions from:

- (A) any SO<sub>x</sub> source which was exempt from permit pursuant to Rule - 219 Equipment Not Requiring A Written Permit Pursuant to Regulation II; or
- (B) any SO<sub>x</sub> source that burned natural gas exclusively, unless the emissions are at a facility that elected to enter the program pursuant to subparagraph (i)(2)(A); or
- (C) any SO<sub>x</sub> process unit which was rental equipment with a valid District Permit to Operate issued to a party other than the facility;

- (D) on-site, off-road mobile sources; or
  - (E) ships as specified in Rule 2000(c)(62)(C) and (D).
  - (3) The Executive Officer will not include a facility in RECLAIM if a permit holder requests exclusion no later than January 1, 1996 and demonstrates prior to October 15, 1993 through the addition of control equipment, the possession of a valid Permit to Construct for such control equipment, or a Permit to Operate condition that the emissions fee data received pursuant to Rule 301, which shows emissions equal to or greater than four tons per year of a RECLAIM pollutant, is not representative of future emissions.
- (c) Amendments to RECLAIM Facility Listing
- (1) The Executive Officer will amend the RECLAIM facility listing to add, delete, change designation of any facility or make any other necessary corrections upon any of the following actions:
    - (A) Approval by the Executive Officer pursuant to Rule 2007 - Trading Requirements, of the permanent transfer or relinquishment of all RTCs applicable to a facility.
    - (B) Approval by the Executive Officer of a change of Facility Permit holder (owner or operator) or change of facility name.
    - (C) Upon the transition of a facility out of RECLAIM, pursuant to Rule 2002.
  - (2) The actions specified in this subdivision shall be effective only upon amendment of the Facility Listing.
- (d) Cycles
- (1) The Executive Officer will assign RECLAIM facilities to one of two compliance cycles by computer-generated random assignment which, to the extent possible, ensures an even distribution of RTCs. The Facility Listing will distinguish between Cycle 1 facilities, which will have a compliance year of January 1 to December 31 of each year, and Cycle 2 facilities, with a compliance year of July 1 to June 30 of each year.
  - (2) The issue and expiration dates of the RTCs allocated to a facility shall coincide with the beginning and ending dates of the facility's compliance year.
  - (3) Within 30 days of October 15, 1993, facilities assigned to Cycle 2 may petition the Executive Office or the Hearing Board to change their cycle

designation. Facilities assigned to Cycle 1 may not petition the Executive Officer or Hearing Board to change their cycle designation. Facilities entering the RECLAIM program after October 15, 1993 will be assigned to the cycle with the greatest amount of time remaining in the compliance year.

(e) High Employment/Low Emissions (HILO) Facility Designation

A new facility may, after January 1, 1997 apply to the District for classification as a HILO Facility. The Executive Officer will approve the HILO designation upon the determination that the emission rate for NO<sub>x</sub>, SO<sub>x</sub>, ROC, and PM<sub>10</sub> is less than or equal to one-half (1/2) of any target specified in the AQMP for emissions per full-time manufacturing employee by industry class in the year 2010.

(f) Entry Election

On and after January 5, 2018, a non-RECLAIM facility may not elect to enter the RECLAIM program.

(g) Exit from RECLAIM

(1) ~~On and after [date of amendment], no RECLAIM facility may exit the RECLAIM program. To exit the NO<sub>x</sub> RECLAIM program, all the NO<sub>x</sub> emitting equipment located at the RECLAIM facility, except the equipment specified below, must be subject to a non-RECLAIM rule that regulates NO<sub>x</sub> emissions that is adopted or amended after October 5, 2018.~~

~~(A) Equipment subject to Rule 1470—Requirements for Stationary Diesel-Fueled Internal Combustion and Other Compression Ignition Engines; and~~

~~(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; and~~

~~(ii) Listed in Rule 219 subdivisions (m) and (p) that pertains to nitric acid.~~

~~(2) The owner or operator of a RECLAIM facility that is eligible to exit the NO<sub>x</sub> 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 October 5, 2018, facilities shall include with the opt out request, the identification of:~~

- ~~(A) All permitted and unpermitted NO<sub>x</sub> RECLAIM emission equipment, including applicable control equipment; and~~
- ~~(B) Permitted NO<sub>x</sub> emission levels, and if not available, manufacturer guaranteed NO<sub>x</sub> emission levels.~~

~~(3) If the owner or operator of a RECLAIM facility meets the criteria for exiting the NO<sub>x</sub> 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)(8) through (f)(11). If the request to opt out is denied, the facility shall remain in RECLAIM, and the owner or operator will be notified.~~

(h) Non-RECLAIM Facility Generation of RTCs

Non-RECLAIM facilities may not obtain RTCs due to a shutdown or curtailment of operations which occurs after October 15, 1993. ERCs generated by non-RECLAIM facilities may not be converted to RTCs if the ERCs are based on a shutdown or curtailment of operations after October 15, 1993.

(i) Exemptions

(1) The following sources, including those that are part of or located on a Department of Defense facility, shall not be included in RECLAIM and are prohibited from electing to enter RECLAIM:

- (A) dry cleaners;
- (B) fire fighting facilities;
- (C) construction and operation of landfill gas control, processing or landfill gas energy recovery facilities;
- (D) facilities which have converted all sources to operate on electric power prior to October 15, 1993;
- (E) police facilities;
- (F) public transit;
- (G) restaurants;
- (H) potable water delivery operations;

- (I) facilities located in the Riverside County portions of the Salton Sea and Mojave Desert Air Basins, except for a facility that has elected to enter the RECLAIM program pursuant to subparagraph (i)(2)(M); and
  - (J) facilities that have permanently ceased operations of all sources before January 1, 1994.
  - ~~(K) The facility was removed from RECLAIM pursuant to paragraph (g)(3).~~
- (j) **Rule Applicability**
- Facilities operating under the provisions of the RECLAIM program shall be required to comply concurrently with all provisions of District rules and regulations, except those provisions applicable to NO<sub>x</sub> emissions under the rules listed in Table 1 adopted or amended prior to October 5, 2018, and those provisions applicable respectively to SO<sub>x</sub> emissions of the listed District rules in Table 2 which have initial implementation dates in 1994. In addition, NO<sub>x</sub> RECLAIM facilities are required to comply with all NO<sub>x</sub> provisions in rules contained in Table 1 that are adopted or amended on or after October 5, 2018. The Facility Permit holder shall comply with all other provisions of the rules listed in Tables 1 and 2 relating to any other pollutant.

Table 1

RULES NOT APPLICABLE TO RECLAIM FACILITIES FOR  
REQUIREMENTS PERTAINING TO NO<sub>x</sub> EMISSIONS IF RULE WAS  
ADOPTED OR AMENDED PRIOR TO OCTOBER 5, 2018

RULE	DESCRIPTION
218	Stack Monitoring
429	Start-up & Shutdown Exemption Provisions for NO <sub>x</sub>
430	Breakdown Provision
474	Fuel Burning Equipment - NO <sub>x</sub>
476	Steam Generating Equipment
1109	Emissions of Oxides of Nitrogen from Boilers and Process Heaters in Petroleum Refineries
1110	Emissions from Stationary Internal Combustion Engines (Demonstration)
1110.1	Emissions from Stationary Internal Combustion Engines
1110.2	Emissions from Gaseous and Liquid-Fueled Engines
1112	Emissions of Oxides of Nitrogen from Cement Kilns
1117	Emissions of Oxides of Nitrogen from Glass Melting Furnaces
1134	Emissions of Oxides of Nitrogen from Stationary Gas Turbines
1135	Emissions of Oxides of Nitrogen from Electricity Generating Facilities
1146	Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters
1146.1	Emissions of Oxides of Nitrogen from Small Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters
1146.2	Emissions of Oxides of Nitrogen from Large Water Heaters and Small Boilers and Process Heaters
1147	NO <sub>x</sub> Reductions from Miscellaneous Sources
1153.1	Emissions of Oxides of Nitrogen from Commercial Food Ovens
1159	Nitric Acid Units - Oxides of Nitrogen
Reg. XIII	New Source Review

Table 2

EXISTING RULES  
NOT APPLICABLE TO RECLAIM FACILITIES FOR  
REQUIREMENTS PERTAINING TO SO<sub>x</sub> EMISSIONS

RULE	DESCRIPTION
53	Sulfur Compounds - Concentration - L.A. County
53	Sulfur Compounds - Concentration - Orange County
53	Sulfur Compounds - Concentration - Riverside County
53	Sulfur Compounds - Concentration - San Bernardino County
53A	Specific Contaminants - San Bernardino County
218	Stack Monitoring
430	Breakdown Provisions
407	Liquid and Gaseous Air Contaminants
431.1	Sulfur Content of Gaseous Fuels
431.2	Sulfur Content of Liquid Fuels
431.3	Sulfur Content of Fossil Fuels
468	Sulfur Recovery Units
469	Sulfuric Acid Units
1101	Secondary Lead Smelters/Sulfur Oxides
1105	Fluid Catalytic Cracking Units SO <sub>x</sub>
1119	Petroleum Coke Calcining Operations - Oxides of Sulfur
Reg. XIII	New Source Review

# ATTACHMENT G

## SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

---

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

### **Proposed Amended Rule 2001 – Applicability**

**July 12, 2019**

#### **Deputy Executive Officer**

Planning, Rule Development, and Area Sources  
Philip M. Fine, Ph.D.

#### **Assistant Deputy Executive Officer**

Planning, Rule Development, and Area Sources  
Susan Nakamura

#### **Planning and Rules Manager**

Planning, Rule Development, and Area Sources  
Michael Morris

---

Author: Melissa Gamoning – Assistant Air Quality Specialist

Reviewed by: Kevin Orellana – Program Supervisor  
William Wong – Principal Deputy District Counsel  
Barbara Baird – Chief Deputy Counsel  
Karin Manwaring – Senior Deputy District Counsel  
Danny Luong, P.E. – Senior A.Q. Engineering Manager

**SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT  
GOVERNING BOARD**

Chairman: DR. WILLIAM A. BURKE  
Speaker of the Assembly Appointee

Vice Chairman: BEN BENOIT  
Council Member, Wildomar  
Cities of Riverside County

**MEMBERS:**

LISA BARTLETT  
Supervisor, Fifth District  
County of Orange

JOE BUSCAINO  
Council Member, 15<sup>th</sup> District  
City of Los Angeles Representative

MICHAEL A. CACCIOTTI  
Council Member, South Pasadena  
Cities of Los Angeles County/Eastern Region

VANESSA DELGADO  
Senate Rules Committee Appointee

JANICE HAHN  
Supervisor, Fourth District  
County of Los Angeles

LARRY MCCALLON  
Mayor Pro Tem, Highland  
Cities of San Bernardino County

JUDITH MITCHELL  
Mayor, Rolling Hills Estates  
Cities of Los Angeles County/Western Region

V. MANUEL PEREZ  
Supervisor, Fourth District  
County of Riverside

DWIGHT ROBINSON  
Council Member, Lake Forest  
Cities of Orange County

JANICE RUTHERFORD  
Supervisor, Second District  
County of San Bernardino

VACANT  
Governor's Appointee

**EXECUTIVE OFFICER:**

WAYNE NASTRI

## **Background**

The South Coast Air Quality Management District (South Coast AQMD) Governing Board adopted the Regional Clean Air Incentives Market (RECLAIM) program in October 1993. The purpose of RECLAIM is to reduce NO<sub>x</sub> and SO<sub>x</sub> 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 was also designed to provide, in aggregate, equivalent emission reductions to those achieved through a command-and-control regulatory program.

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 NO<sub>x</sub> 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 NO<sub>x</sub> 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.

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 sources, such as 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 Best Available Retrofit Control Technology (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.

## **Regulatory Background**

Rule 2001 was adopted as part of Regulation XX – RECLAIM on October 15, 1993. Rule 2001 contains the applicability provisions for the RECLAIM program, including the criteria and requirements for entering the program. Rule 2001 specified that facilities on the Initial Facility Listing or that have been admitted to RECLAIM could not opt out of the program. On January 5, 2018, Rule 2001 was amended to cease any future inclusions of facilities into NO<sub>x</sub> and SO<sub>x</sub> RECLAIM.

The October 5, 2018 amendment to Rule 2001 established procedures for facilities to opt out of RECLAIM before receiving an initial determination notification, provided the equipment at the facility met the new criteria. Facilities could submit a request to opt out of the program along with required equipment information. Facilities that satisfy the requirements to opt out would receive an initial determination notification and become

subject to Rule 2002. Rule 2002 contains procedures for obtaining a final determination notification upon receiving an initial determination notification.

### ***United States Environmental Protection Agency Comments***

Staff has been discussing with the United States Environmental Protection Agency (U.S. EPA) all elements of transitioning RECLAIM sources to a command-and-control regulatory structure to ensure that the rules relating to the transition will be approved into the State Implementation Plan (SIP). In recent discussions, U.S. EPA expressed concern over facilities exiting RECLAIM before all command-and-control and New Source Review (NSR) requirements are adopted to clearly demonstrate equivalency to the replaced program. U.S. EPA has recommended keeping facilities in RECLAIM until all the rules that are associated with the transition have been adopted and approved into the SIP.

In consideration of U.S. EPA's recommendation, staff is proposing that the opt out provisions in Rule 2001 be removed and that facilities be precluded from exiting the RECLAIM program. Until facilities are required to exit RECLAIM, they will continue to be subject to all RECLAIM requirements including Rule 2005 – New Source Review for RECLAIM, for permitting of new or modified NO<sub>x</sub> sources that undergo emission increases. In addition, these facilities will also be required to comply with all the requirements in adopted and amended command-and-control rules that apply to RECLAIM facilities, including the implementation schedules and NO<sub>x</sub> limitations. Staff will continue to work with U.S. EPA on NSR for former RECLAIM facilities as well as on all the relevant command-and-control rules for the RECLAIM transition.

### **Public Process**

Staff holds monthly working group meetings to discuss the transition of the NO<sub>x</sub> RECLAIM program and to discuss numerous key issues and challenges. The proposed amendments were discussed at the RECLAIM working group meetings. A public consultation meeting was held on May 16, 2019, with the comment period closing on May 31, 2019. PAR 2001 was presented to the Stationary Source Committee on May 17, 2019.

### **Affected Facilities**

The proposed amendments would apply to all facilities in the NO<sub>x</sub> RECLAIM program, including facilities that have received initial determination notifications that they are under review for being transitioned out of RECLAIM, and facilities that have submitted an opt out request to exit the RECLAIM program. However, the two facilities that have already exited the RECLAIM program will not be affected. Currently, there are 254 facilities in NO<sub>x</sub> RECLAIM that will not be able to exit the program at this time.

## Summary of Proposal

The proposed amendments to Regulation XX will affect Rule 2001 – Applicability.

### **Proposed Amended Rule (PAR) 2001**

As a result of discussions with U.S. EPA, it is their recommendation that facilities remain in RECLAIM while NSR issues are resolved and amendments to NSR and RECLAIM requirements, along with all the pertinent command-and-control rules, are adopted and submitted into the SIP. Additionally, stakeholders have expressed concern about facilities exiting from RECLAIM and the potential impact exiting facilities could have on the supply and cost of RTCs. To address the concerns raised, PAR 2001 would no longer allow facilities to exit RECLAIM until all rules relating to the transition are approved into the SIP.

Staff is currently working on proposed rulemaking to address NSR for former RECLAIM facilities, as well as concurrent command-and-control source-specific and industry-specific rules.

Paragraph (g)(1) currently states the criteria for exiting RECLAIM, per the opt out provisions. These opt out provisions would be removed and replaced with:

*“On and after [date of amendment], no RECLAIM facility may exit the RECLAIM program.”*

Paragraphs (g)(2) and (g)(3), which contain the procedures to opt out, will also be removed. Paragraph (i)(1) contains provisions for excluding certain types of facilities from entering RECLAIM. Among those, are facilities that were removed from RECLAIM due to opting out of the program, under subparagraph (i)(1)(K). Since the opt out provisions are proposed to be removed, this subparagraph would no longer be necessary and is also proposed to be removed.

Facilities that have received an initial determination notification based on the current criteria to exit the RECLAIM program, along with those that have submitted an opt out request, will be notified that they will remain in RECLAIM pursuant to Rule 2002(f)(9). Nevertheless, initial determination notifications will continue to be issued and facilities will still be required to submit the requested equipment information within 45 days pursuant to Rule 2002(f)(6) to prepare for their eventual exit.

Although facilities would not be eligible to exit RECLAIM, a RECLAIM Facility Permit holder of a facility that does not have any NO<sub>x</sub> or SO<sub>x</sub> emitting sources can modify its permit to not require submittal of Quarterly Certification of Emissions (QCER) and Annual Permit Emission Program (APEP) reports. Pursuant to Rule 2004 paragraph (b)(6), the Facility Permit holder must demonstrate that there are no NO<sub>x</sub> or SO<sub>x</sub> sources located at the facility and submit an application to have the facility permit amended to ensure that there are no NO<sub>x</sub> or SO<sub>x</sub> emissions from the facility at all times. This existing provision provides temporary relief from reporting requirements for those facilities that have no NO<sub>x</sub> or SO<sub>x</sub> emissions during this interim period before exiting.

Once an NSR program for former RECLAIM facilities is developed and SIP-approved, amendments to Regulation XX – RECLAIM are adopted and SIP-approved, and all the necessary command-and-control rules relating to the transition are adopted, amended, and SIP-approved, Rule 2001 will be amended to allow all RECLAIM facilities to exit the program.

## **Key Issues**

Comments were received at the May 16, 2019 public consultation meeting and the May 17, 2019 Stationary Source Committee meeting. An industry stakeholder commented that the overlay of command-and-control with RECLAIM creates a disproportionate impact on RECLAIM facilities over command-and-control facilities, violating Health and Safety Code Section 39616. While that comment is not applicable to the current proposed amendment to Rule 2001, South Coast AQMD nevertheless provides the following response to that concern.

As the statutory language makes clear in section 39616(c), the district board is only required to make the 39616(c)(1)-(7) findings upon the adoption of the rules to implement the market-based incentive program. For that reason, in its resolution adopting the December 4, 2015 RECLAIM amendments, the Board found that section 39616(c) did not apply to those amendments. In addition, section 39616(e) specifies the only time (within 7 years after adoption) in which the district board needs to ratify some of those 39616 findings. It does not include making findings with each amendment. Moreover, the statute supports the conclusion that even if ratification were required, the provision regarding “disproportionate impacts” would not be required to be ratified. Noticeably, the section 39616(c)(7), the provision regarding “disproportionate impacts”, is not one of the findings listed in the seven-year ratification. Finally, any disproportionate impact compared to sources not in RECLAIM should be looked at on an overall basis, not by evaluating each separate element of the program. Thus, even after Rule 2001 is amended, RECLAIM facilities will still enjoy a significant advantage over other facilities in their ability to use RECLAIM NSR provisions, especially the 1 to 1 offset ratio and the ability to use RTCs rather than the scarcer ERCs. On an overall basis, RECLAIM facilities are not disproportionately impacted.

## ***Emission Reductions and Cost Effectiveness***

The proposed amendments do not result in any significant effect on air quality and do not result in any emission limitations. As a result, a cost-effectiveness analysis is not required.

### ***AQMP and Legal Mandates***

The California Health and Safety Code requires the South Coast AQMD 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 Rule 2001) continues the effort towards the transition of facilities from 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)***

South Coast AQMD staff has reviewed the proposed project pursuant to CEQA Guidelines Section 15002(k) – General Concepts, the three-step process for deciding which document to prepare for a project subject to CEQA and CEQA Guidelines Section 15061 – Review for Exemption, procedures for determining if a project is exempt from CEQA and has determined that Proposed Amended Rule 2001 is exempt from CEQA pursuant to CEQA Guidelines Section 15061 (b)(3) – Common Sense Exemption. Additionally, Proposed Amended Rule 2001 is categorically exempt because it is designed to further protect or enhance the environment pursuant to CEQA Guidelines Section 15308 – Action by Regulatory Agencies for Protection of the Environment. Further, South Coast AQMD staff has determined that there is no substantial evidence indicating that any of the exceptions to the categorical exemptions apply to Proposed Amended Rule 2001 pursuant to CEQA Guidelines Section 15300.2 – Exceptions. A Notice of Exemption will be prepared pursuant to CEQA Guidelines Section 15062 - Notice of Exemption, and if the project is approved, the Notice of Exemption will be filed with the county clerks of Los Angeles, Orange, Riverside and San Bernardino counties.

### ***Socioeconomic Analysis***

The proposed amendments to Rule 2001 do not significantly affect air quality or emission limitations, and do not impose new controls, and therefore a socioeconomic analysis pursuant to California Health and Safety Code Section 40440.8 is not required.

### ***Draft Findings Under California Health & Safety Code Section 40727***

California Health & Safety Code Section 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:** PAR 2001 is necessary to prohibit facilities from transitioning out of RECLAIM until rules associated with the transition are approved into the State Implementation Plan by removing provisions for opting out of RECLAIM and adding a provision to preclude facilities from exiting RECLAIM.

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

**Clarity:** PAR 2001 has been written or displayed so that its meaning can be easily understood by the persons affected by the rule.

**Consistency:** PAR 2001 is in harmony with, and not in conflict with or contradictory to, existing federal or state statutes, court decisions or federal regulations.

**Non-Duplication:** PAR 2001 does not impose the same requirement as any existing state or federal regulation, and is necessary and proper to execute the powers and duties granted to, and imposed upon the South Coast AQMD.

**Reference:** In amending this rule, the following statutes which the South Coast AQMD hereby implements, interprets or makes specific are referenced: Health and Safety Code Sections 39002, 40001, 40702, 40440, 40725 through 40728.5, and AB 617.

### ***Comparative Analysis***

H&S Code Section 40727.2 (g) is not applicable because the proposed amended rule or regulation does 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 Section 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, SO<sub>x</sub>, NO<sub>x</sub>, 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***

The proposed amendment is needed to address the transition of RECLAIM sources to command-and-control based on U.S. EPA recommendations. The amendments will no longer allow facilities to opt out of the RECLAIM program and will keep facilities in RECLAIM until all the rules associated with the transition have been adopted and approved into the State Implementation Plan, at which time, facilities will be allowed to exit.

ATTACHMENT H



# South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178  
(909) 396-2000 • www.aqmd.gov

**SUBJECT: NOTICE OF EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**PROJECT TITLE: PROPOSED AMENDMENT TO REGULATION XX – REGIONAL CLEAN AIR INCENTIVES MARKET (RECLAIM): PROPOSED AMENDED RULE 2001 – APPLICABILITY**

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the South Coast Air Quality Management District (South Coast AQMD) is the Lead Agency and has prepared a Notice of Exemption for the project identified above.

The proposed project to amend Regulation XX – Regional Clean Air Incentives Market (RECLAIM) is comprised of Proposed Amended Rule 2001 – Applicability. Proposed Amended Rule 2001 would remove the opt-out provision and prevent facilities from exiting the RECLAIM program until all rules that need to be updated in accordance with the transition to a command-and-control regulatory structure are adopted and approved into the State Implementation Plan. South Coast AQMD staff has reviewed the proposed project pursuant to: 1) CEQA Guidelines Section 15002(k) – General Concepts, the three-step process for deciding which document to prepare for a project subject to CEQA; and 2) CEQA Guidelines Section 15061 - Review for Exemption, procedures for determining if a project is exempt from CEQA.

Because the proposed project is comprised of revisions which are administrative and procedural in nature, and would not cause any physical changes that would affect any environmental topic area, South Coast AQMD staff has determined that it can be seen with certainty that there is no possibility that the proposed project may have a significant adverse effect on the environment. Therefore, the proposed project is considered to be exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) – Common Sense Exemption. Additionally, Proposed Amended Rule 2001 is categorically exempt because it is designed to further protect or enhance the environment pursuant to CEQA Guidelines Section 15308 – Action by Regulatory Agencies for Protection of the Environment. Further, South Coast AQMD staff has determined that there is no substantial evidence indicating that any of the exceptions to the categorical exemptions apply to Proposed Amended Rule 2001 pursuant to CEQA Guidelines Section 15300.2 – Exceptions. Therefore, the proposed project is exempt from CEQA. A Notice of Exemption will be prepared pursuant to CEQA Guidelines Section 15062 – Notice of Exemption. If the project is approved, the Notice of Exemption will be filed with the county clerks of Los Angeles, Orange, Riverside, and San Bernardino counties.

Any questions regarding this Notice of Exemption should be sent to Darren Ha (c/o Planning, Rule Development and Area Sources) at the above address. Mr. Ha can also be reached at (909) 396-2548. Ms. Melissa Gamoning is also available at (909) 396-3115 to answer any questions regarding the proposed amended rule.

**Date:** May 30, 2019

**Signature:**  \_\_\_\_\_

Barbara Radlein  
Program Supervisor, CEQA  
Planning, Rule Development, and Area Sources

**NOTICE OF EXEMPTION FROM THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

---

<b>To:</b> County Clerks Counties of Los Angeles, Orange, Riverside and San Bernardino	<b>From:</b> South Coast Air Quality Management District 21865 Copley Drive Diamond Bar, CA 91765
--	---

---

**Project Title:** Proposed Amendment to Regulation XX – Regional Clean Air Incentives Market (RECLAIM): Proposed Amended Rule 2001 – Applicability

---

**Project Location:** The South Coast AQMD has jurisdiction over the four-county South Coast Air Basin (all of Orange County and the non-desert portions of Los Angeles, Riverside and San Bernardino counties), and the Riverside County portions of the Salton Sea Air Basin (SSAB) and Mojave Desert Air Basin (MDAB). The SCAQMD’s jurisdiction includes the federal nonattainment area known as the Coachella Valley Planning Area, which is a sub-region of Riverside County and the SSAB.

---

**Description of Nature, Purpose, and Beneficiaries of Project:** The proposed project to amend Regulation XX – Regional Clean Air Incentives Market (RECLAIM) is comprised of Proposed Amended Rule 2001 – Applicability. Proposed Amended Rule 2001 would remove the opt-out provision and prevent facilities from exiting the RECLAIM program until all rules that need to be updated in accordance with the transition to a command-and-control regulatory structure are adopted and approved into the State Implementation Plan.

---

<b>Public Agency Approving Project:</b> South Coast Air Quality Management District	<b>Agency Carrying Out Project:</b> South Coast Air Quality Management District
--	--

---

**Exempt Status:**

CEQA Guidelines Section 15061(b)(3) – Common Sense Exemption  
CEQA Guidelines Section 15308 – Actions By Regulatory Agencies For Protection Of The Environment

---

**Reasons why project is exempt:** South Coast AQMD staff has reviewed the proposed amendments to Rule 2001: 1) CEQA Guidelines Section 15002(k) – General Concepts, the three-step process for deciding which document to prepare for a project subject to CEQA; and 2) CEQA Guidelines Section 15061 - Review for Exemption, procedures for determining if a project is exempt from CEQA. Because the proposed project is comprised of revisions which are administrative and procedural in nature, and would not cause any physical changes that would affect any environmental topic area, South Coast AQMD staff has determined that it can be seen with certainty that there is no possibility that the proposed project may have a significant adverse effect on the environment. Therefore, the proposed project is considered to be exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) – Common Sense Exemption. Additionally, Proposed Amended Rule 2001 is categorically exempt because it is designed to further protect or enhance the environment pursuant to CEQA Guidelines Section 15308 – Action by Regulatory Agencies for Protection of the Environment. Further, South Coast AQMD staff has determined that there is no substantial evidence indicating that any of the exceptions to the categorical exemptions apply to Proposed Amended Rule 2001 pursuant to CEQA Guidelines Section 15300.2 – Exceptions.

---

**Date When Project Will Be Considered for Approval (subject to change):**

South Coast AQMD Governing Board Hearing: July 12, 2019; South Coast AQMD Headquarters

---

<b>CEQA Contact Person:</b> Mr. Darren Ha	<b>Phone Number:</b> (909) 396-2548	<b>Email:</b> <a href="mailto:dha@aqmd.gov">dha@aqmd.gov</a>	<b>Fax:</b> (909) 396-3982
--	--	---	-------------------------------

---

<b>Rule Contact Person:</b> Ms. Melissa Gamoning	<b>Phone Number:</b> (909) 396-3115	<b>Email:</b> <a href="mailto:mgamoning@aqmd.gov">mgamoning@aqmd.gov</a>	<b>Fax:</b> (909) 396-3324
---	--	---	-------------------------------

---

<b>Date Received for Filing:</b> _____	<b>Signature:</b> _____ <i>(Signed Upon Board Approval)</i> Barbara Radlein Program Supervisor, CEQA Planning, Rule Development, and Area Sources
--	---

# PROPOSED AMENDMENTS TO RULE 2001

REGULATION XX (RECLAIM)  
GOVERNING BOARD MEETING  
JULY 12, 2019

# Rule 2001 – Regulatory Background

- Adoption Resolution for the Final 2016 AQMP (CMB-05) commits to transitioning RECLAIM facilities to command-and-control as early as practicable
- October 2018 amendments established criteria for facilities to exit and added an opt-out provision
  - Facilities could submit a request to exit the RECLAIM program
  - Facilities would receive an initial determination notification and begin the process for exiting if they met the established criteria

# Discussions with Stakeholders and U.S. EPA

- U.S. EPA has recommended that all facilities remain in RECLAIM until all rules pertaining to the transition are approved into the State Implementation Plan (SIP)
  - RECLAIM rules
  - Command-and-control rules
  - New Source Review (NSR) rules
- Stakeholders have also raised concerns about impacts on the RECLAIM market from exiting facilities
  - Removal of RECLAIM Trading Credits (RTCs)

# Proposed Amendments to Rule 2001

- Removes the opt-out provisions and clarifies that no facility may exit RECLAIM
- While in RECLAIM, facilities will be subject to:
  - Declining programmatic cap and requirements to reconcile emissions with RTCs
  - Adopted command-and-control rules
  - RECLAIM New Source Review
- Future amendments to Rule 2001 are necessary to allow facilities to exit RECLAIM after all rules relating to the transition are SIP-approved

# Key Issue

- Overlay of command-and-control rules with RECLAIM creates a disproportionate impact
  - Health and Safety Code Section 39616(c) requires disproportionate impact finding only upon adoption of rules to implement RECLAIM
  - RECLAIM facilities still have advantage of using RECLAIM New Source Review provisions

# Recommendations

- Adopt the Resolution
  - Determining that PAR 2001 is exempt from the requirements of CEQA
  - Amending Rule 2001