

(Adopted May 11, 2001)

**RULE 2009.1 COMPLIANCE PLANS AND FORECAST REPORTS FOR NON
POWER PRODUCING FACILITIES**

(a) Purpose

The purpose of this rule is to ensure timely selection and implementation of compliance methods by non power producing facilities emitting 25 tons or more of NO_x to meet annual allocation levels.

(b) Compliance Plan for Non Power Producing Facilities.

(1) No later than September 1, 2001, the Facility Permit holder of a non power producing facility with 50 tons or more of NO_x emissions for Compliance Year 1999 or 2000, shall submit to the Executive Officer a compliance plan meeting the requirements specified in this rule.

(2) A Facility Permit holder of a non-power producing facility with 50 tons or more of NO_x emissions occurring subsequent to Compliance Year 2000 shall also submit to the Executive Officer a compliance plan that meets the requirements specified in this rule. The compliance plan shall be submitted to the Executive Officer within 90 days after the end of the reconciliation period or within 90 days after the Executive Officer has determined that NO_x emissions reportable under the RECLAIM program were 50 tons or more.

(3) The compliance plan shall demonstrate either:

(A) that the Facility Permit holder complies with the facility's annual NO_x allocation for each compliance year beginning 2001 through 2005. Compliance with the annual NO_x allocation shall be demonstrated using Calendar Year 2000 production levels, emission rates specified in paragraph (b)(4) of this rule, NO_x RTCs holdings, and purchase agreements for RTCs. Compliance can also be demonstrated by process changes or other means other than production curtailment; or

- (B) that all RECLAIM NOx emitting equipment, except equipment subject to Rule 219 – Equipment Not Requiring a Written Permit Pursuant to Regulation II, in the facility has achieved BARCT or will achieve BARCT at the earliest feasible date, but no later than January 1, 2003.
- (4) The compliance plan shall include the following information:
 - (A) A list and description of all RECLAIM NOx emitting equipment, existing NOx control equipment (if any), the associated NOx emission rates as specified in the Facility Permit, and projected NOx emissions based on Calendar Year 2000 production rate. For a NOx major source, emissions that occurred during Calendar Year 2000 and reported pursuant to Rule 2012 shall be used in lieu of the NOx emission rates and the projected NOx emissions.
 - (B) NOx RTCs held by the Facility Permit holder at the time of compliance plan submittal, including purchase agreements.
 - (C) Estimated NOx reductions required to meet NOx allocations, as determined by the difference between NOx RTCs specified in subparagraph (b)(4)(B) and projected NOx emissions specified in subparagraph (b)(4)(A).
 - (D) Description and schedule of additional NOx control technology to be installed during compliance years 2001 through 2005, the associated emission rates, estimated project costs, and projected annual NOx emission reductions based on Calendar Year 2000 production rates to meet the required annual emission reductions pursuant to subparagraph (b)(4)(C), if applicable.
 - (E) Source test data or continuous emissions monitoring data supporting the emission rate for equipment described in subparagraph (b)(4)(A) except for NOx process units that have not opted for a concentration limit pursuant to subparagraph 2012(e)(2)(C). Source test data or continuous monitoring data shall be obtained using the applicable protocols specified in Rule 2012.
 - (F) Manufacturing guarantee or other documents provided by the manufacturer to support the emission rate for equipment specified in subparagraph (b)(4)(D).

(5) Compliance plans approved by the Executive Officer shall be enforceable and shall contain terms and conditions specifying the required annual NO_x emission reductions as estimated in subparagraph (b)(4)(C) and emission limits for each NO_x control equipment and associated implementation schedule, including dates for permit application submittal, equipment installation, and operation of control equipment specified in subparagraph (b)(4)(D). For NO_x control equipment that has been installed and operated in accordance with manufacturer recommendations and information submitted with the approved compliance plan, exceedances(s) of the equipment specific NO_x emission limit(s) due to unanticipated technical problems will not be considered a violation of the approved compliance plan. If multiple control options are included in the approved compliance plan, the earliest applicable operation date of NO_x control equipment necessary to meet the required emission reductions shall apply. The Facility Permit holder may select other control options contained in the approved compliance plan with equivalent or greater NO_x emission reductions provided that the Facility Permit holder submits a written notification to the Executive Officer at least 60 days prior to the earliest applicable compliance date.

(c) Denial of Compliance Plan

The Executive Officer shall not approve the compliance plan unless it can demonstrate compliance with this rule. If the Executive Officer denies a compliance plan, the Facility Permit holder shall, within 30 days, submit to the Executive Officer a revised compliance plan addressing all deficiencies identified by the Executive Officer. Failure to submit an approvable plan by the date specified shall be a violation of this rule.

(d) Modification of Compliance Plan

A Facility Permit holder may submit an application to modify the terms and conditions in an approved compliance plan to replace or delay the implementation of the control technologies listed in the approved compliance plan with one or more of the following alternative compliance methods yielding equivalent emission reductions:

- (1) Purchase agreement for NO_x RTCs;
- (2) Alternative equipment, process, or NO_x control technology;

- (3) Any other control option(s) approved by the Executive Officer; or
- (4) Actual deposit of NO_x RTCs in the RECLAIM facility's allocation account.

If actual deposit of NO_x RTCs is specified, the application to modify the compliance plan may be submitted any time prior to the applicable implementation date specified in the approved compliance plan, otherwise, the application must be submitted at least 60 days prior to the applicable implementation date. An application to modify the compliance plan must contain all information necessary to meet all applicable requirements of this rule. The Facility Permit holder shall be subject to the terms and conditions of the existing compliance plan until the modified plan is approved by the Executive Officer.

(e) Forecasts

No later than December 31, 2001, the Facility Permit holder of a non power producing facility with 25 tons or more, but less than 50 tons, of NO_x emissions for Compliance Year 1999 or 2000, shall submit a forecast report demonstrating how the Facility Permit holder will comply with the facility's annual NO_x allocation for each compliance year beginning 2001 through 2005. The forecast report shall contain information specified in subparagraphs (b)(4)(A) through (b)(4)(F). The forecast report shall be updated annually, beginning May 31, 2002 and November 30, 2002 for Cycle 2 and 1 facilities, respectively, and every year thereafter until 2004 to reflect the best information available to the Facility Permit holder at that time.

(f) Violations

- (1) Failure to submit the compliance plan on or before September 1, 2001, to submit a revised compliance plan within 30 days of receiving a denial, or to submit an annual forecast update at least 30 days prior to the beginning of each compliance year will be a violation of this rule and shall constitute a single, separate violation of this rule for each day until such time as an approvable plan is submitted.

- (2) Failure to comply with the dates set forth in the compliance plan for submission of permit applications, installation of control equipment, operation of control equipment or the purchase of credits will be a violation of this rule, commencing when the stated date is missed and shall constitute a single separate violation of this rule for each day until such time as compliance is achieved.
- (3) Failure to comply with emission limits and annual total NOx emission reductions specified in the approved compliance plan will be a violation of this rule.

(g) Fees

The compliance plan shall be assessed a fee in accordance with Rule 306 – Plan Fees. For the purposes of this rule, the Forecast reports submitted pursuant to subdivision (e) of the rule will be assessed a fee in accordance with Rule 306.

(h) Rule 221 - Plans

Compliance plans required under this rule will not be considered a plan pursuant to Rule 221 - Plan.

(i) Appeals

A Facility Permit holder has the right to appeal the denial of the compliance plan to the Hearing Board in the same manner as a permit denial as specified in Health and Safety Code Section 42302.