

BOARD MEETING DATE: June 4, 2021

AGENDA NO. 33

PROPOSAL: Certification of Nonattainment New Source Review and Clean Fuels for Boilers Compliance Demonstration for 2015 8-Hour Ozone Standard

SYNOPSIS: South Coast Air Basin and Coachella Valley are designated as Extreme and Severe nonattainment areas, respectively, for the 2015 8-hour ozone standard. For these nonattainment areas, U.S. EPA requires submittal of a nonattainment new source review (NSR) plan or plan revision. South Coast AQMD's existing SIP-approved nonattainment NSR program, which covers both the South Coast Air Basin and Coachella Valley and applies to new major stationary sources or major modifications to existing sources, satisfies this requirement. Therefore, no changes to the existing NSR program are needed to comply with the 2015 ozone standard nonattainment NSR requirements. For Extreme ozone nonattainment areas, the Clean Air Act also requires the use of clean fuels or advanced control technologies for electric utility and industrial and commercial boilers that emit more than 25 tons of NO_x per year. This requirement is fulfilled through South Coast AQMD's existing rules which regulate NO_x emissions from existing, new or modified boilers.

COMMITTEE: Stationary Source, May 21, 2021, Reviewed

RECOMMENDED ACTIONS:

Adopt the attached Resolution:

1. Certifying the Nonattainment NSR and Clean Fuels for Boilers Compliance Demonstration for 2015 8-Hour Ozone Standard; and
2. Directing staff to forward the Certification to CARB for approval and subsequent submission to U.S. EPA for inclusion in the SIP.

Wayne Nastri
Executive Officer

Background

In 2015, U.S. EPA strengthened the National Ambient Air Quality Standard (NAAQS or standard) for 8-hour ozone from 75 ppb to 70 ppb. Effective August 3, 2018, the South Coast Air Basin (Basin) and the Coachella Valley are classified as Extreme and Severe nonattainment areas, respectively, for the 2015 8-hour Ozone NAAQS. The federal Clean Air Act (CAA) requires that nonattainment areas submit a nonattainment new source review (NSR) plan or plan revision. Nonattainment NSR is a pre-construction review permit program for new or modified major stationary sources located in a nonattainment area. All nonattainment NSR programs have to require: 1) installation of the lowest achievable emission rate (LAER), 2) emission offsets and 3) opportunity for public involvement.

South Coast AQMD's existing NSR program implements the federal regulatory requirements for NSR and ensures that construction and operation of new, relocated, and modified stationary sources do not interfere with progress towards attainment of the NAAQS. In addition, for Extreme nonattainment areas, the use of clean fuels or advanced control technologies are required for electric utility and industrial and commercial boilers, as set forth in § 182(e)(3) of the CAA (Clean Fuels for Boilers). Specifically, each new, modified, and existing electric utility and industrial and commercial boiler emitting more than 25 tons per year of NO_x must either burn as its primary fuel¹ natural gas, methanol, or ethanol (or a comparably low polluting fuel) or use advance control technology (such as catalytic control technology or other comparably effective control methods) for reduction of NO_x emissions. According to U.S. EPA's 2018 final rule detailing the nonattainment area State Implementation Plan (SIP) implementation requirements for the 2015 ozone NAAQS², the SIP submittal addressing these two requirements must be submitted to U.S. EPA no later than August 3, 2021.

Proposal

Nonattainment NSR

The federal nonattainment NSR requirements for the 2015 ozone standard are addressed by South Coast AQMD's SIP-approved nonattainment NSR program, which is implemented through NSR rules (Regulation XIII), permit requirements (Regulation II), and the NSR requirements under the RECLAIM program (Regulation XX, Rules 2000, 2002 and 2005). South Coast AQMD's NSR rules (Regulation XIII) were first adopted in 1979, significantly amended in 1990, and again amended in 1995. U.S. EPA approved the 1995 amendments of the NSR rules into the SIP in December 1996. In that approval, U.S. EPA concluded that South Coast AQMD's NSR program meets the requirements of the CAA with regard to NSR for nonattainment areas of 1979 1-hour ozone NAAQS.

¹ For purposes of this subsection, the term "primary fuel" means the fuel which is used 90 percent or more of the operating time. This paragraph shall not apply during any natural gas supply emergency (as defined in title III of the Natural Gas Policy Act of 1978 [15 U.S.C. 3361 et seq.]).

² 83 FR 62998.

In 2017, South Coast AQMD submitted a certification of the nonattainment NSR program demonstrating that South Coast's NSR program met the nonattainment NSR requirements for the 2008 ozone NAAQS, which U.S. EPA subsequently approved in 2018. As specified in U.S. EPA's final implementation rule for the 2015 ozone standard, nonattainment areas must submit "a nonattainment NSR plan or plan revision for the 2015 ozone NAAQS." Staff evaluated the requirements in South Coast AQMD's existing NSR program compared to those in the federal nonattainment NSR regulations. Based on staff's analysis, the existing South Coast AQMD's nonattainment NSR program for the Basin and the Coachella Valley nonattainment areas is at least as stringent as the nonattainment NSR requirements for ozone and its precursors for the 2015 ozone standard. That analysis is included in Attachment B - Certification of Nonattainment NSR and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard.

With respect to the interpollutant trading (IPT) provision of the NSR Program, the 2018 Implementation Rule for the 2015 Ozone Standard³ allows the voluntary use of IPT for emissions offsets. South Coast AQMD Rule 1309 (Emission Reduction Credits) allows the use of IPT for emissions offset contingent upon U.S. EPA's review and approval on a case by case basis. A recent court decision⁴ ruled that the IPT program violates the CAA. This ruling specifies that increases of VOC must be offset by VOC reductions so there can be no trading with NOx reductions. Therefore, the provisions allowing IPT for ozone precursors in U.S. EPA's nonattainment NSR regulations are vacated. As a result of this court decision, U.S. EPA will no longer approve any IPT as part of nonattainment NSR. Because the IPT provision in Rule 1309 would only be used if approved by U.S. EPA, the IPT provision in Rule 1309 satisfies the recent court decision for the 2015 ozone standard. This provision has seldomly been used in South Coast AQMD NSR program, and so as a practical matter, the recent court decision does not impact the program. South Coast AQMD therefore certifies that the IPT provision in Rule 1309 will not be used to issue an NSR permit for a major source of an ozone precursor. South Coast AQMD further commits to remove the IPT provision from Rule 1309 as it relates to ozone and its precursors in a future rule amendment, subject to Board approval.

In light of the above, no changes are necessary to South Coast AQMD's existing nonattainment NSR program to comply with the 2015 ozone standard nonattainment NSR requirements.

Clean Fuels for Boilers

Staff evaluated the requirements in South Coast AQMD existing rules regulating emissions from electric utility and industrial and commercial boilers. Based on staff's analysis, the requirements for Clean Fuels for Boilers are addressed through South Coast AQMD SIP-approved Rule 1146 (Emissions of NOx from Industrial,

³ 83 FR 62998.

⁴ Sierra Club, et al. v. EPA, No. 15-14654 (D.C. Cir. Jan. 29, 2021).

Institutional, and Commercial Boilers, Steam Generators, and Process Heaters), Rule 2002 (Allocations for NO_x and SO_x), Rule 2004 (Requirements for RECLAIM), and Rule 1303 (Requirements for NSR), which requires the use of clean fuel or advanced control technologies from existing, new or modified boilers. The requirements in Rules 1146, 2002, 2004, and 1303 are at least as stringent as those described in section 182(e)(3) of the CAA and no changes are needed to comply with the clean fuels for boilers requirements for the 2015 ozone standard. Details of staff's analysis are included in Attachment B.

In summary, the attached Certification of Nonattainment NSR and Clean Fuels for Boilers Compliance Demonstration fulfills the CAA requirements for the 2015 ozone NAAQS for the Basin and Coachella Valley.

Public Process

A draft Certification of Nonattainment NSR and Clean Fuels of Boilers Compliance Demonstration for 2015 8-hour Ozone Standard was released on April 7, 2021 for public review. No public comments were received as of April 26, 2021. A 30-day notice was published before holding the public hearing on the Nonattainment NSR and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard. The compliance demonstration was presented to the AQMP Advisory Group on May 18, 2021 and to the Stationary Source Committee on May 21, 2021.

Resource Impacts

The Certification of Nonattainment NSR and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard has nominal additional impact on South Coast AQMD resources for a future rule amendment to address IPT. Staff is committed to prepare any additional adjustments to South Coast AQMD rules, if required by U.S. EPA, subsequent to SIP submittal.

AQMP and Legal Mandates

The Certification of Nonattainment NSR and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard is required by the federal CAA and 40 CFR 51.165. Compliance with nonattainment NSR and clean fuels for boilers requirements for ozone nonattainment areas is part of the SIP (2022 AQMP) being developed to address the attainment of the 2015 ozone standard.

Attachments

- A. Resolution
- B. Certification of Nonattainment NSR and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard
- C. Board Meeting Presentation

ATTACHMENT A

RESOLUTION NO. 21-_____

A Resolution of the Governing Board of the South Coast Air Quality Management District (South Coast AQMD) certifying the Nonattainment New Source Review (NSR) and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard for the South Coast Air Basin (Basin) and the Coachella Valley.

A Resolution of the South Coast AQMD Governing Board directing staff to forward the Certification of Nonattainment NSR and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard to CARB for its approval and subsequent submission to U.S. EPA for inclusion in the State Implementation Plan (SIP).

WHEREAS, in 2015, U.S. EPA strengthened the National Ambient Air Quality Standard (NAAQS or standard) for 8-hour ozone from 75 parts per billion (ppb) to 70 ppb; and

WHEREAS, effective August 3, 2018, the Basin is classified as an Extreme nonattainment area and the Coachella Valley is classified as a Severe nonattainment area with respect to the 2015 8-hour ozone NAAQS (83 FR 25776); and

WHEREAS, the federal Clean Air Act (CAA) requires nonattainment areas to submit a nonattainment NSR plan or plan revision for the 2015 ozone NAAQS; and

WHEREAS, for Extreme nonattainment areas, the use of clean fuels or advanced control technologies are required for electric utility and industrial and commercial boilers emitting more than 25 tons of NO_x per year, as set forth in § 182(e)(3) of the CAA; and

WHEREAS, according to U.S. EPA's 2018 final rule detailing the nonattainment SIP implementation requirements for the 2015 ozone NAAQS (83 FR 62998), the SIP submittal addressing the nonattainment NSR and clean fuels for boilers requirements must be submitted to U.S. EPA no later than August 3, 2021; and

WHEREAS, the South Coast AQMD Governing Board finds it necessary to certify the Nonattainment NSR and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard and submit it to U.S. EPA for inclusion in the SIP; and

WHEREAS, the South Coast AQMD's current SIP-approved nonattainment NSR program (Regulation II – Permits, Regulation XIII – New Source Review, and Regulation XX – Regional Clean Air Incentives Market (RECLAIM)), which covers both the Basin and the Coachella Valley, is at least as stringent as the

requirements at the Code of Federal Regulations Title 40 Section 51.165 (40 CFR 51.165) for ozone and its precursors. Therefore, no changes are necessary to South Coast AQMD's nonattainment NSR program to comply with the 2015 ozone standard nonattainment NSR requirements; and

WHEREAS, the clean fuels for boilers requirements set forth in the CAA are fulfilled through South Coast AQMD's SIP-approved Rule 1146 (Emissions of NOx from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters), Rule 2002 (Allocations for NOx and SOx), Rule 2004 (Requirements for RECLAIM), and Rule 1303 (Requirements for NSR), which regulate NOx emissions from existing, new or modified boilers; and

WHEREAS, the Certification of Nonattainment NSR and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard satisfies the requirements for addressing the 2015 8-hour ozone NAAQS; and

WHEREAS, the draft Certification of Nonattainment NSR and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard was released on April 7, 2021 for public review with comment period ending April 26, 2021; and

WHEREAS, the draft final Certification of Nonattainment NSR and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard was released on May 4, 2021; and

WHEREAS, the public hearing has been properly noticed in accordance with all provisions regarding notice of submittal to the State Implementation Plan in 40 CFR 51.102; and

WHEREAS, the South Coast AQMD Governing Board has held a public hearing to consider Certification of Nonattainment NSR and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard in accordance with all provisions of law; and

WHEREAS, the South Coast AQMD specifies the manager of the Certification of Nonattainment NSR and Clean Fuels for Boilers Compliance Demonstration as the custodian of the documents or other materials which constitute the record of proceedings upon which the approval is based, which is located at South Coast AQMD, 21865 Copley Drive, Diamond Bar, CA 91765; and

NOW, THEREFORE, BE IT RESOLVED, that the South Coast AQMD Governing Board finds that the Certification of Nonattainment NSR and Clean Fuels for Boilers Compliance Demonstration fulfills the CAA requirements for the 2015 8-hour Ozone Standard for the Basin and the Coachella Valley; and

BE IT FURTHER RESOLVED, that the South Coast AQMD Governing Board certifies that South Coast AQMD will not use the interpollutant trading provision in Rule 1309(h) to issue an NSR permit for a major source of an ozone precursor; and

BE IT FURTHER RESOLVED, that the South Coast AQMD Governing Board commits to amend Rule 1309 in a future rulemaking to remove the interpollutant trading provision as it relates to ozone and its precursors; and

BE IT FURTHER RESOLVED, that the Executive Officer is hereby directed to forward a copy of this Resolution and the Certification of Nonattainment NSR and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard to CARB for its approval and subsequent submittal to U.S. EPA for inclusion in the SIP.

DATE: _____

Clerk of the Boards

ATTACHMENT B

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

Draft Final Certification of Nonattainment New Source Review and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard

MAY 2021

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**SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
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EXECUTIVE OFFICER:
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Background

In 2015, U.S. EPA strengthened the National Ambient Air Quality Standard (NAAQS or standard) for 8-hour ozone from 75 parts per billion (ppb) to 70 ppb. Effective August 3, 2018, the South Coast Air Basin (Basin) is classified as an Extreme nonattainment area and the Coachella Valley is classified as a Severe-15 nonattainment area for the 2015 ozone standard (83 Federal Register (FR) 25776). The Clean Air Act (CAA) requires that nonattainment areas submit a nonattainment new source review (NSR) plan or plan revision. Nonattainment NSR is a pre-construction review permit program for new or modified sources located in a nonattainment area. The requirements for nonattainment NSR for the ozone NAAQS are included in Code of Federal Regulations (CFR) § 51.165. In summary, all nonattainment NSR programs have to require (1) installation of the lowest achievable emission rate (LAER), (2) emission offsets and (3) opportunity for public involvement. In addition, for Extreme nonattainment areas, the use of clean fuels or advanced control technologies are required for electric utility and industrial and commercial boilers emitting more than 25 tons per year of NO_x, as set forth in § 182(e)(3) of the CAA (the requirement is herein referred as Clean Fuels for Boilers). According to the U.S. EPA's 2018 final rule detailing the nonattainment area State Implementation Plan (SIP) implementation requirements for the 2015 ozone NAAQS (83 FR 62998), the SIP submittal addressing these two requirements must be submitted to the U.S. EPA no later than August 3, 2021.

This document is developed to certify that South Coast AQMD's existing SIP-approved rules and regulations meet the requirements for nonattainment NSR and clean fuels for boilers. This document consists of two demonstrations: (1) Nonattainment NSR Compliance Demonstration for the South Coast Air Basin and the Coachella Valley and (2) Clean Fuels for Boilers Compliance Demonstration for the South Coast Air Basin.

Nonattainment New Source Review Compliance Demonstration

Nonattainment NSR SIP Provisions

South Coast AQMD's existing NSR program implements the federal statutory and regulatory requirements for NSR and ensures that construction and operation of new, relocated, and modified stationary sources do not interfere with progress towards attainment of the national ambient air quality standards. South Coast AQMD's NSR rules (Regulation XIII) were first adopted in 1979, significantly amended in 1990, and again amended in 1995 and subsequent years. The U.S. EPA approved the 1995 amendments of the NSR rules in the SIP in December 1996 (61 FR 64291). The U.S. EPA's approval concluded that the South Coast AQMD's NSR program met the requirements of the CAA with regard to NSR for nonattainment areas of NAAQS. In 2017, South Coast AQMD submitted a certification of the nonattainment NSR program demonstrating that the NSR regulations met the nonattainment NSR requirements for the 2008 ozone NAAQS. The U.S. EPA subsequently approved this certification in 2018 (83 FR 64026).

As specified in the U.S. EPA's final implementation rule for the 2015 ozone standard (83 FR 62998), nonattainment areas must submit "a nonattainment NSR plan or plan revision for the 2015 ozone NAAQS." The South Coast AQMD is certifying that the existing South Coast AQMD's nonattainment NSR program, covering the South Coast Air Basin and the Coachella Valley nonattainment areas, is at least as stringent as the requirements at 40 CFR 51.165 for ozone and its precursors, as amended by the final rule titled *Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements* (83 FR 62998). The certification includes an analysis of the South Coast AQMD's NSR rules (Regulation XIII), Permit requirements (Regulation II), and the NSR requirements under the South Coast AQMD's RECLAIM (REgional CLean Air Incentives Market) program (Regulation XX).

Table 1 is a checklist of ozone nonattainment NSR plan requirements and the corresponding South Coast AQMD's NSR rules that satisfy these requirements with respect to the 2015 ozone NAAQS.

Table 1
2015 Ozone NAAQS Nonattainment NSR SIP Requirements

40 CFR 51.165 Checklist		Compliance Demonstration South Coast AQMD Regulations II, XIII, and XX¹
1.	(a)(1)(iv)(A)(1)(i)-(iv) and (2): Major source thresholds for ozone – VOC and NOx	Rule 1302(p), and Rule 2000(c)(45)
2.	(a)(1)(iv)(A)(3): Change constitutes a major source by itself	Rule 1302(s), Rule 1303(a)(1) & (b)(2), Rule 2000(c)(48), and Rule 2005 (b) & (c)
3.	(a)(1)(v)(E): Significant net emissions increase of NOx is significant for ozone	Rule 1302(s), (u) & (aa), Rule 1303(a)(1) & (b)(2), and Rule 2005
4.	(a)(1)(v)(F): Any emissions change of VOC in Extreme area triggers NNSR	Rule 1302(o), (u) & (aa), and Rule 1303(a)(1) & (b)(2)
5.	(a)(1)(x)(A)-(C) and (E): Significant emissions rates for VOC and NOx as ozone precursors	Rule 1302(o), Rule 1303(a)(1), Rule 2000(c)(44), and Rule 2005
6.	(a)(3)(ii)(C)(1)-(2): Provisions for emissions reduction credits	Rule 1309, Rule 2002, and 2016 AQMP Appendix III
7.	(a)(8): Requirements for VOC apply to NOx as ozone precursors	1302(u) & (aa), and Rule 1303
8.	(a)(9)(ii)-(iv)²: Offset ratios for VOC and NOx for ozone nonattainment areas	Rule 1303(b)(2)(A), Rule 1315, and Rule 2005(b), (c), & (f)
9.	(i): Public participation requirements	Rule 212(g)

¹ The references in this table refer to SIP-approved versions of the rules, which can be found at the following U.S. EPA's webpage. <https://www.epa.gov/sips-ca/epa-approved-south-coast-air-district-regulations-california-sip>.

² Please note that subparagraphs (a)(9)(i)-(iii) were changed to (a)(9)(ii)-(iv) when the U.S. EPA added new subparagraph (a)(9)(i) under the 2008 PM2.5 Implementation Rule.

As outlined in Table 1, the requirements at 40 CFR 51.165 for ozone and its precursors are addressed in the South Coast AQMD's NSR (Regulation XIII, Regulation XX and Regulation II) program.

The section below describes the provisions that demonstrate how the South Coast AQMD's existing NSR program satisfies the requirements with respect to the 2015 ozone NAAQS.

1. 40 CFR 51.165 (a)(1)(iv)(A)(I)(i)-(iv) and (2) provide the definitions of "major stationary source" for ozone. In any extreme ozone nonattainment area, a stationary source that emits, or has the potential to emit, 10 tons per year of VOC or NO_x is considered a major stationary source. For severe ozone nonattainment areas, the thresholds are set at 25 tons per year of VOC or NO_x.

South Coast AQMD Rule 1302 (Definitions) consists of the definitions for all terms relating to pre-construction review requirements for new and modified sources in the South Coast AQMD's NSR program. For the South Coast Air Basin as an Extreme nonattainment area, Rule 1302 defines "major polluting facility" as any facility in the Basin that emits or has the potential to emit 10 tons per year or more of NO_x or VOC. For the Coachella Valley, as a Severe nonattainment area for the 2015 ozone standard, the SIP-approved version of Rule 1302 defines "major polluting facility" as any facility that emits or has the potential to emit 25 tons per year or more of NO_x or VOC. In July 2019, the Coachella Valley was reclassified from Severe to Extreme nonattainment for the 1997 8-hour ozone standard. As a consequence, Rule 1302 was amended on December 4, 2020 to change the definition of Major Polluting Facility for Coachella Valley as any facility that emits or has potential to emit 10 tons per year or more of NO_x or VOC. The 2020 version of Rule 1302 has been submitted to the U.S. EPA for inclusion in the SIP. Major Stationary Source under the South Coast AQMD's RECLAIM program³ is defined under Rule 2000(c)(45) as any facility which emits or has the potential to emit 10 tons per year or more of NO_x. These thresholds are at least as stringent as the requirements in 40 CFR 51.165.

2. 40 CFR 51.165 (a)(1)(iv)(A)(3) provides additional definition of "major stationary source", stating that it also includes "Any physical change that would occur at a stationary source not qualifying under paragraphs (a)(1)(iv)(A)(I) or (2) of this section as a major stationary source, if the change would constitute a major stationary source by itself."

South Coast AQMD's Rule 1303 (Requirements) requires the Executive Officer or designee to "deny the Permit to Construct for any relocation or for any new or *modified* source which results in an emission increase of any nonattainment air contaminant, any ozone depleting compound, or ammonia, unless Best Available Control Technology (BACT) is employed for the new or relocated source or for the actual modification to an existing source" (Rule 1303(a)(1); emphasis added).

³ RECLAIM is an emissions cap and trade program that was developed to reduce NO_x and SO_x emissions in South Coast AQMD.

BACT is defined to be at least as stringent as LAER for major sources (Rules 1303(a) and 1302(f)). It also requires that facilities with a net increase in emissions of any pollutant offset their emissions for that pollutant, unless the new or modified facility has a potential to emit less than 4 tons per year of NO_x or VOC (Rule 1304(d)). South Coast AQMD Rule 1302 (Definitions) defines “modification” as “any physical change in equipment, change in method of operation, or an addition to an existing facility, which may cause the issuance of air contaminants” (Rule 1302(s)). Thus, the applicability of the South Coast AQMD NSR program goes beyond the definition of “major stationary source” in 40 CFR 51.165.⁴

South Coast AQMD Rule 2005 (New Source Review for RECLAIM) sets forth pre-construction review requirements for new facilities subject to the RECLAIM program, for modifications to RECLAIM facilities, and for facilities which increase their allocation to a level greater than their starting Allocation plus non-tradable credits (Rule 2005(b) and (c)). Rule 2000(c)(48) defines “modification” as “any physical change or change in the method of operation of a source.” As such, the NSR requirements for the RECLAIM program satisfy 40 CFR 51.165 (a)(1)(iv)(A)(3).

3. 40 CFR 51.165 (a)(1)(v) concerns “major modifications” in an NSR program. Part (E) of this section requires that for purposes of “applying the requirements of (a)(8) of this section to modifications at major stationary sources of nitrogen oxides located in ozone nonattainment areas or in ozone transport regions, whether or not subject to subpart 2, part D, title I of the Act, any significant net emissions increase of nitrogen oxides is considered significant for ozone.”⁵

South Coast AQMD’s NSR program requires that any relocation, new, or modified source resulting in an emission increase of any nonattainment air contaminant apply BACT (Rule 1303(a)(1)). BACT is defined as at least as stringent as LAER for major sources (see Rules 1303 and 1302). It also requires that facilities with a net increase in emissions of any nonattainment air contaminant offset their emissions for that pollutant (Rule 1303(b)(2)). South Coast AQMD Rule 1302 defines “modification” as “any physical change in equipment, change in method of operation, or an addition to an existing facility, which may cause the issuance of air contaminants” (Rule 1302(s)). Rule 1302 defines the term “nonattainment air contaminant” to include “any air contaminant for which there is a national or state ambient air quality standard, or precursor to such air contaminant” (Rule 1302(u)). VOC and NO_x are identified as precursors of ozone in the NSR program (Rule 1302(aa)). As such, any net emissions increase of nitrogen oxides is subject to NSR, not just “significant” levels. (See Item 5 below.)

⁴ Sources using the Priority Reserve and other exempt sources are discussed under Item 8.

⁵ Section (a)(8) referenced above states that “the requirements of this section applicable to major stationary sources and major modifications of volatile organic compounds shall apply to nitrogen oxides emissions from major stationary sources and major modifications of nitrogen oxides in an ozone transport region or in any ozone nonattainment area, except in ozone nonattainment areas or in portions of an ozone transport region where the Administrator has granted a NO_x waiver”

RECLAIM facilities are subject to South Coast AQMD Rule 2005 (New Source Review for RECLAIM). Facilities that were included in RECLAIM with new or modified equipment prior to October 14, 1993 were required to hold RTCs for the annual increase at the potential to emit for the first year. Any new facility that is permitted after October 14, 1993 that enters RECLAIM after October 14, 1993 must hold RTCs for the annual potential emissions increase at the commencement of each compliance year. Sources causing emissions increases must be equipped with BACT (Rule 2005(b)(1)(A), (c)(1)(A), and (c)(4)).

4. 40 CFR 51.165 (a)(1)(v) concerns “major modifications” in an NSR program. Part (F) of this section requires that “Any physical change in, or change in the method of operation of, a major stationary source of volatile organic compounds that results in any increase in emissions of volatile organic compounds from any discrete operation, emissions unit, or other pollutant emitting activity at the source shall be considered a significant net emissions increase and a major modification for ozone, if the major stationary source is located in an extreme ozone nonattainment area that is subject to subpart 2, part D, title I of the Act.”

South Coast AQMD’s NSR program requires that any relocation, new, or modified source resulting an emission increase of any nonattainment air contaminant apply BACT (Rule 1303(a)(1)). It also requires that facilities with a net increase in emissions of any pollutant offset their emissions for that pollutant (Rule 1303(b)(2)). South Coast AQMD Rule 1302 defines “modification” as “any physical change in equipment, change in method of operation, or an addition to an existing facility, which may cause the issuance of air contaminants.” Rule 1302 defines the term “major modification” to include any physical change in equipment, change in method of operation, or an addition to an existing facility that will cause an increase of one pound per day or more, of the facility’s potential to emit NO_x and VOC, provided the facility is located in the South Coast Air Basin (Rule 1302(o)(1)). For an existing major polluting facility located in the Coachella Valley, the SIP-approved version of Rule 1302 defines major modification as any modification that will cause an increase of 25 tons per year or more, of the facility’s potential to emit NO_x or VOC. On December 4, 2020, Rule 1302 was amended to change the definition of Major Modification for Coachella Valley as an increase of one pound per day or more, of the facility’s potential to emit NO_x or VOC. The 2020 version of Rule 1302 has been submitted to U.S. EPA for inclusion in the SIP. Rule 1302 defines the term “nonattainment air contaminant” to include “any air contaminant for which there is a national or state ambient air quality standard, or precursor to such air contaminant” (Rule 1302(u)). VOC are identified as precursors of ozone (Rule 1302(aa)). As such, any relocation, new, or modified source resulting an emission increase of VOC triggers nonattainment NSR, including BACT and offsets, in the South Coast Air Basin.

5. 40 CFR 51.165 (a)(1)(x) addresses what it means to be a “significant” net emissions increase in an NSR program. The significant emission rate outlined in § 51.165 (a)(1)(x)(A) for ozone is 40 tons per year of VOC or NO_x pollutant.

Notwithstanding the rate discussed above, per (a)(1)(x)(B), significant means “any increase in actual emissions of volatile organic compounds that would result from any physical change in, or change in the method of operation of, a major stationary source locating in a serious or severe ozone nonattainment area ... if such emissions increase of volatile organic compounds exceeds 25 tons per year.”

Section (a)(1)(x)(C) states that for the purposes of applying the requirements of paragraph (a)(8) to modifications at major stationary sources of nitrogen oxides, “the significant emission rates and other requirements for volatile organic compounds ... shall apply to nitrogen oxides emissions.”

Finally, per section (a)(1)(x)(E), notwithstanding the significant emissions rates for ozone discussed above, “any increase in actual emissions of volatile organic compounds from any emissions unit at a major stationary source of volatile organic compounds ... shall be considered a significant net emissions increase.”

In the South Coast AQMD’s NSR program, any new or modified source which results in an emission increase of any nonattainment air contaminant (i.e., NOx or VOC) is subject to the BACT and offset (except for Priority Reserve and exempt sources, discussed below in Item 8) requirements, thus the threshold is anything greater than zero (Rule 1303(a)(1)). The SIP-approved version of Rule 1302 defines the term “major modification” to include any physical change in equipment, change in method of operation, or an addition to an existing facility that will cause an increase of one pound per day or more, of the facility’s potential to emit NOx and VOC, provided the facility is located in the South Coast Air Basin (Rule 1302(o)(1)). For an existing major polluting facility located in Coachella Valley, the SIP-approved version of Rule 1302 defines major modification as any modification that will cause an increase of 25 tons per year or more, of the facility’s potential to emit NOx or VOC (Rule 1302(o)).⁶

For the RECLAIM NSR program, “major modification” is defined under the SIP-approved version of Rule 2000(c)(44) as any modification at an existing major polluting facility that will cause an increase of one or more pounds per day in the facility’s potential to emit NOx or VOC, provided the facility is located in the South Coast Air Basin; or any modification that will cause an increase of 25 tons per year or more, in the facility’s potential to emit NOx or VOC, provided the facility is located in the Coachella Valley.⁷

Overall, the thresholds of “major modification” in Rule 1302 and Rule 2000 are equal to or lower than those listed in § 51.165 (a)(1)(x)(A). South Coast AQMD’s NSR program (Regulation XIII

⁶ On December 4, 2020, Rule 1302 was amended to change the definition of Major Modification for Coachella Valley as an increase of one pound per day or more, of the facility’s potential to emit NOx or VOC. The 2020 version of Rule 1302 has been submitted to U.S. EPA for inclusion in the SIP.

⁷ On December 4, 2020, Rule 2000 was amended to change the definition of Major Modification for Coachella Valley as any modification at an existing major polluting facility that will cause an increase of one pound per day or more of the facility’s potential to emit NOx. The 2020 version of Rule 2000 has been submitted to the U.S. EPA for inclusion in the SIP.

and Rule 2005) applies to any new or modified source which results in an emission increase of NO_x or VOC. Thus, the requirements in § 51.165 (a)(1)(x)(B), (C), and (E) are satisfied.

6. 40 CFR 51.165 (a)(3)(ii)(C)(1)-(2) describes provisions for emissions reduction credits.

Section (a)(3)(ii)(C)(1) provides that the SIP shall provide that emissions reductions achieved by shutting down an existing emission unit or curtailing production or operating hours may be credited for offsets if they meet the following requirements:

- Such reductions are surplus, permanent, quantifiable, and federally enforceable;
- The shutdown or curtailment occurred after the last day of the base year for the SIP planning process. A reviewing authority may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year “if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emission units.”

Section (a)(3)(ii)(C)(2) provides that the emissions reductions that do not meet the requirements in paragraph (a)(3)(ii)(C)(1)(i) may be generally credited only if:

- The shutdown or curtailment occurred on or after the date the construction permit application is filed; or
- The applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit, and the emissions reductions achieved by the shutdown or curtailment met the requirements of paragraph (a)(3)(ii)(C)(1)(i).

South Coast AQMD Rule 1309 (Emission Reduction Credits) addresses the application, eligibility, registration, use, and transfer of Emission Reduction Credits (ERCs) that are used as offsets for emission increases at new or modified facilities subject to Rule 1303(b)(2). Under Rule 1309, all stationary and mobile source reductions must be demonstrated to be: (A) real; (B) quantifiable; (C) permanent; (D) federally enforceable, and (E) not greater than the equipment would have achieved if operating with current BACT to be eligible as ERCs (i.e., surplus) (Rule 1309 (b)(4)(A)-(E)). Thus, the provisions in Rule 1309 satisfy the federal statutory requirements for emission reduction credits in an NSR program. Details on the basis for calculating the applicability of NSR as it relates to the determination of ERCs could be found in Rule 1306 (Emission Calculations).

Evaluation of the pre-base year offsets is found in the 2016 Air Quality Management Plan (2016 AQMP Appendix III, Page III-2-74⁸). Shutdowns and curtailments that occurred prior to the last day of the base year are explicitly included in the projected emissions inventory as growth. The

⁸ <http://www.aqmd.gov/docs/default-source/clean-air-plans/air-quality-management-plans/2016-air-quality-management-plan/final-2016-aqmp/appendix-iii.pdf?sfvrsn=6>.

growth of point and area sources subject to NSR offset requirements necessarily comes from pre-base year offsets that were shut down before the base year. This is because emissions offsets derived from sources that shutdown after the base year are accounted for in the baseline inventory. When those sources shut down, the most their offsets can do is replace the emissions from that shutdown source. Any growth above that base year is therefore supported from the offsets derived from the pre-base year reductions. Appendix III of the 2016 AQMP (Table III-2-20) shows that the growth projection for sources subject to NSR consists of emissions from pre-base year shutdowns. South Coast AQMD's NSR program is thus consistent with the requirements of 40 CFR 51.165 (a)(3)(i)(C)(1)-(2).

South Coast AQMD Rule 2002 (Allocations for Oxides of Nitrogen (NO_x) and Oxides of Sulfur (SO_x)) addresses the treatment of emissions reduction credits for the RECLAIM program. For NO_x RECLAIM facility shutdowns, RTCs are reduced to the equivalent of the average emissions of the highest 2 years from the previous 5 years of operation, less the emissions that would have occurred if the most stringent Best Available Retrofit Control Technology (BARCT) were applied. This requirement is applicable to NO_x RECLAIM facilities identified in Table 7 and Table 8 of Rule 2002. More details regarding applicability and RTC availability upon facility shutdowns can be found in Rule 2002(i).

7. 40 CFR 51.165 (a)(8) states that requirements applicable to “major stationary sources and major modifications of volatile organic compounds shall apply to nitrogen oxides emissions from major stationary sources and major modifications of nitrogen oxides.”

Nonattainment air contaminants, including NO_x and VOC as ozone precursors, are subject to South Coast AQMD Rule 1303 (Requirements) provisions (Rule 1302(u) and (aa)). RECLAIM facilities are subject to RECLAIM NSR (Rule 2005). Thus, the NSR requirements applicable to major stationary sources and major modifications specified in Rules 1302, 1303 and 2005 apply to both VOC and NO_x emissions, as applicable.

8. 40 CFR 51.165 (a)(9)(ii)-(iv) describes the requirements of offset ratios for VOC and NO_x for ozone nonattainment areas. For severe and extreme nonattainment areas, § 51.165 (a)(9)(ii) requires the offset ratio to be “at least 1.2:1 if the approved plan also requires all existing major sources in such nonattainment area to use BACT for the control of VOC”. § 51.165 (a)(9)(ii)(D) and (E).

The offset ratios for the South Coast AQMD's NSR program are described in Rule 1303(b)(2). Unless a source is exempt from the offset requirements, it must offset its emission increase by either (1) ERCs (Rule 1309); or (2) allocations from the South Coast AQMD's Internal Bank (Rule 1303(b)(2)). Offset ratios must be 1.2-to-1.0 for ERCs, and 1.0-to-1.0 for allocations from South Coast AQMD's Internal Bank. South Coast AQMD requires that all existing major sources employ BARCT, which is defined similarly to federal BACT (Health & Safety Code § 40406), therefore,

sources within the South Coast AQMD can use a 1.2-to-1.0 offset ratio for ozone precursors (i.e., NO_x and VOC).

With respect to sources that are exempt from the South Coast AQMD's offset requirements pursuant to Rule 1304 or qualify for offsets from the South Coast AQMD's Internal Bank, which has an emission offset ratio of 1.0-to-1.0, SIP-approved Rule 1315 (Federal New Source Review Tracking System) maintains the South Coast AQMD's ability to issue permits to these sources (77 FR 31200). The South Coast AQMD's computerized emission tracking system is utilized to demonstrate equivalence with federal offset requirements on an aggregate basis. Each year, a status report⁹ is prepared by the South Coast AQMD staff to demonstrate compliance with federal NSR requirements by establishing aggregate equivalence with federal offset requirements for sources that were not exempt from federal offset requirements, but were either exempt by the South Coast AQMD from offsets or obtained their offsets from the South Coast AQMD's Internal Bank. Federal debits and credits accounting for South Coast AQMD's offset accounts are conducted pursuant to the same procedures previously agreed to by the U.S. EPA and as delineated in Rule 1315. For federal equivalency demonstrations, an offset ratio of 1.2-to-1.0 is used for extreme nonattainment air pollutants (ozone and ozone precursors, i.e., VOC and NO_x). That is, 1.2 pounds are deducted from South Coast AQMD's Internal Bank for each pound of maximum allowable permitted potential to emit VOC or NO_x increase at a federal source. More details about the debit and credit accounting, as well as the detailed listing of actual final withdrawals, deposits, and sum of withdrawals and deposits can be found in the yearly Status Report on Regulation XIII (New Source Review).¹⁰ Overall, South Coast AQMD's NSR program is considered to provide equivalent or greater offsets of emissions as required by federal requirements for each subject pollutant provided the balance of offsets left in the South Coast AQMD's federal offset account for each pollutant remains positive, indicating that there were adequate offsets available.

South Coast AQMD Rule 2005 (New Source Review for RECLAIM), implements the NSR requirements in the context of a cap and trade program. There are three requirements for RECLAIM that provide NSR programmatic equivalency. First, RECLAIM facilities must provide (hold), prior to the start of operation, sufficient RECLAIM Trading Credits to offset the annual increase in potential emissions for the first year of operation at a 1.0-to-1.0 ratio (Rule 2005(b)(2)(A) and (c)(2)). All new RECLAIM facilities that received all South Coast AQMD Permits to Construct on or after October 15, 1993, as well as all other RECLAIM facilities that increase their annual allocations above the level of their starting allocations plus non-tradable/non-usable credits, must provide sufficient RTCs to offset the annual potential emissions increase from new or modified source(s) at a 1.0-to-1.0 ratio at the commencement of each compliance year after the start of operation of the new or modified source(s) (Rule 2005(c)(4)(B) and (f)). Second, the

⁹ South Coast AQMD demonstrates compliance through two reports (Preliminary Determination of Equivalency and Final Determination of Equivalency) for a single reporting period.

¹⁰ The most recent Status Report on Regulation XIII (New Source Review) can be found at: <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-feb5-016.pdf?sfvrsn=2>.

facility must demonstrate by modeling that the operation will not result in a significant increase in the air quality concentration of NO_x if the facility's total emissions exceed its 1994 starting allocation plus non-tradable credits (Rule 2005(b)(1)(B) and (c)(1)(B)). Third, sources causing emissions increases must be equipped with BACT (Rule 2005(b)(1)(A), (c)(1)(A), and (c)(4)). Although RECLAIM allows a 1-to-1 offset ratio for emissions increases, RECLAIM complies with the federal 1.2-to-1 offset requirement for NO_x on an aggregate basis. If aggregate RECLAIM emissions do not exceed aggregate allocations, all unused allocations are available to provide offsets beyond the 1-to-1 ratio for NSR emission increases. Each year, an annual program audit report is provided to assess NSR permitting activities to verify that programmatic compliance of RECLAIM with federal and state NSR requirements has been maintained. In the most recent Annual RECLAIM Audit Report for Compliance Year 2019, RECLAIM demonstrated federal equivalency with a programmatic NO_x offset ratio of 1,504-to-1 based on the compliance year's total unused allocations and total NSR emission increases for NO_x.¹¹ Overall, RECLAIM complies with the federal 1.2-to-1 offset requirement for NO_x on an aggregate basis, as verified yearly through the Annual RECLAIM Audit Report.

9. 40 CFR 51.165 (i) states that the reviewing authority shall notify the public of a draft permit by a method described in either paragraph (i)(1) or (2) of this section. The selected method, known as the "consistent noticing method," shall comply with the public participation procedural requirements of § 51.161 of this chapter and be used for all permits issued under this section 51.165 and may, when appropriate, be supplemented by other noticing methods on individual permits.

South Coast AQMD's SIP-approved version of Rule 212 (Standards for Approving Permits) requires the process for public notification and comment for new or modified sources subject to Regulation XX, RECLAIM facilities, or Outer Continental Shelf Facilities located within 25 miles of the State's seaward boundary and for which the South Coast AQMD has been designated as the corresponding onshore area, which undergo construction or modifications resulting in an emissions increase exceeding the daily maximums (30 pounds of VOC per day or 40 pounds of NO_x per day). The process for public notification and comment shall include all of the applicable provisions of 40 CFR 51.161(b) and 40 CFR 124.10. The federal public notice and comment procedures, as described in Rule 212(g), require that the public notice be distributed to the broadest possible scope of interested parties, and include, at a minimum, the following:

- (1) Availability of information submitted by the owner or operator, and of South Coast AQMD's analyses of the effect on air quality for public inspection in at least one location in the area effected;

¹¹ Annual RECLAIM Audit Report for 2019 Compliance Year.
<http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-mar5-033.pdf?sfvrsn=2>.

- (2) Notice by prominent advertisement in the area affected of the location of the source information and the South Coast AQMD’s analyses of the effect on air quality;
- (3) Mailing a copy of the notice required in paragraph (2) to the following persons: The applicant the Administrator of U. S. EPA through Region 9, the Air Resources Board, affected local air pollution control districts, the chief executives of the city and county or the onshore area that is geographically closest to where the major stationary source or major modification would be located, any comprehensive regional land use planning agency, and State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the regulated activity; and
- (4) A 30-day period for submittal of public comments.

As such, South Coast AQMD Rule 212 satisfies the public participation requirements, as set forth in 40 CFR 51.165 (i).

Nonattainment NSR SIP Optional Provisions

In addition to the mandatory requirements described in the section above, the nonattainment NSR SIP may include discretionary programs allowing the use of project emissions accounting. Table 2 is a checklist of Nonattainment NSR optional SIP requirements for the 2015 8-hour ozone NAAQS.

Table 2
2015 Ozone NAAQS Nonattainment NSR SIP Optional Provisions

40 CFR 51.165 Checklist		Compliance Demonstration South Coast AQMD Regulation XIII
1.	(a)(2)(ii)(G): Allows use of Project Emissions Accounting	Not Applicable

- 1. 40 CFR 51.165 (a)(2)(ii)(G) requires that the “sum of the difference” as used in paragraphs (C), (D) and (F) of this section shall include both increases and decreases in emissions calculated in accordance with those paragraphs.

The basis for determining applicability of South Coast AQMD NSR program is defined in Rule 1306 (Emission Calculations). South Coast AQMD’s existing NSR program does not implement the optional provision of project emission accounting for NSR applicability determination.

Nonattainment NSR – Interpollutant Trading for Emissions Offsets

The 2018 Implementation Rule for the 2015 ozone standard (83 FR 62998) allows the use of interpollutant trading for offset. 40 CFR 51.165 (a)(11) describes provisions for the use of interpollutant offsetting, or interpollutant trading or interprecursor trading or interprecursor offset substitution for ozone. South Coast AQMD Rule 1309 (Emission Reduction Credits) addresses the application, eligibility, registration, use and transfer of emission reduction credits. Rule 1309(h) provides a provision that allows the use of interpollutant offset for ozone, contingent upon the U.S. EPA’s review and approval on a case by case basis:

For the use of interpollutant offsets, stating that the Executive Officer or designee may approve interpollutant offsets on a case-by-case basis, provided that the trade results in an equivalent or greater offset of the new, modified, or relocated source’s nonattainment pollutants; and that the applicant demonstrates, to the satisfaction of the Executive Officer or designee, that the emissions from the new or modified source will not cause or significantly contribute to the violation of an ambient air quality standard as specified in Table A-2. All interpollutant trading shall be subject to EPA’s review and approval.

As described above, Rule 1309(h) allows for interpollutant offset trades on a case-by-case basis, and all trading are subject to the U.S. EPA’s review and approval. However, due to the extensive resources and modeling involved with the interpollutant trading process, the interpollutant trading (IPT) provision has seldomly been utilized in the South Coast AQMD’s NSR program.

On January 29, 2021, the D.C. Circuit Court of Appeals¹² ruled that the IPT program violates the Clean Air Act which specifies that increases of VOC must be offset by VOC reductions so there can be no trading with NOx reductions, thereby vacating the provisions allowing IPT for ozone precursors in the U.S. EPA’s nonattainment NSR regulations. As a result of this court decision, the U.S. EPA will no longer approve any interpollutant trading. Given that Rule 1309 already requires the U.S. EPA’s review and approval of all interpollutant trading, the IPT provision in Rule 1309 satisfies the recent court decision for the 2015 ozone standard. Nevertheless, in light of the D.C. Circuit Court of Appeals January 29, 2021 decision vacating the IPT provision for ozone precursors, South Coast AQMD certifies that the IPT provision in Rule 1309(h) will not be used to issue an NSR permit for a major source of an ozone precursor. South Coast AQMD also commits to remove the IPT provision from Rule 1309 as it relates to ozone and its precursors in the future rule amendment. Currently, South Coast AQMD’s NSR program is going through a rulemaking process to address the NSR requirements related to the transition of RECLAIM facilities from a cap-and-trade program to a command-and-control regulatory structure. As part of the NSR amendment for the RECLAIM transition, the IPT provision in Rule 1309 will be removed to be

¹² Sierra Club, et al. v. EPA, No. 15-14654 (D.C. Cir. Jan. 29, 2021).

consistent with the recent court ruling. As such, we conclude that Rule 1309 meets the nonattainment NSR requirements for the 2015 ozone standard.

Clean Fuel for Boilers Compliance Demonstration

The South Coast Air Basin is classified as an Extreme ozone nonattainment area for the 2015 ozone standard. For Extreme nonattainment areas, section 182(e)(3) of the CAA requires the use of clean fuels or advanced control technologies for electric utility and industrial and commercial boilers. Specifically, each new, modified, and existing electric utility and industrial and commercial boiler which emits more than 25 tons per year of NO_x must either (A) burn as its primary fuel¹³ natural gas, methanol, or ethanol (or a comparably low polluting fuel), or (B) use advance control technology (such as catalytic control technology or other comparably effective control methods) for reduction of NO_x emissions.

Currently, within the South Coast Air Basin, boilers that are subject to the requirements of CAA section 182(e)(3) fall into two broad categories: (1) boilers subject to the RECLAIM Program (Regulation XX) and (2) boilers subject to Rule 1146. As to the boilers subject to the RECLAIM program, Rule 2004 (Requirements) of Regulation XX requires that each new, modified and existing electric utility and industrial and commercial boiler emitting more than 25 tons of NO_x per year (1) burn clean fuel (i.e., burn as their primary fuel, natural gas, methanol, or ethanol (or a comparably low polluting fuel), or (2) use advanced control technology. In addition, Rule 2002 (Allocations for NO_x and SO_x) establishes the methodology for calculating facility allocations and adjustments to RTC holdings for NO_x and SO_x. The RTC allocation is updated periodically to reflect the implementation of BARCT for equipment in the RECLAIM program. As to the boilers that are not subject to RECLAIM, the requirements of CAA section 182(e)(3) are fulfilled through implementation of South Coast AQMD's Rule 1146 (Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers Steam Generators, and Process Heaters) for existing boilers and through implementation of Rule 1303 (Requirements) for new or modified boilers. Below is a brief description of the SIP approved version of each rule.

- Rule 2002 (Allocations for NO_x and SO_x)

Rule 2002 (amended October 7, 2016) was approved in the SIP on September 14, 2017 (82 FR 43176). Rule 2002 establishes the methodology for calculating facility allocations and adjustments to RTC holdings for NO_x and SO_x. The RTC allocation is updated periodically to reflect the implementation of BARCT for equipment in the RECLAIM program.

- Rule 2004 (Requirements for RECLAIM)

Rule 2004 (adopted April 6, 2007) was approved in the SIP in July 3, 2008 (73 FR 38122), and establishes the requirements for operating under the RECLAIM program, including

¹³ For purposes of this subsection, the term "primary fuel" means the fuel which is used 90 percent or more of the operating time. This paragraph shall not apply during any natural gas supply emergency (as defined in title III of the Natural Gas Policy Act of 1978 [15 U.S.C. 3361 et seq.]).

provisions pertaining to permits, allocations, reporting, variances, and breakdowns. Rule 2004 requires, effective November 15, 1998, that each new, modified and existing electric utility and industrial and commercial boiler emitting more than 25 tons of NO_x per year (1) burn clean fuel (i.e., burn as their primary fuel, natural gas, methanol, or ethanol (or a comparably low polluting fuel), or (2) use advanced control technology.

- Rule 1146 (Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters)

Rule 1146 (adopted in November 1, 2013) was approved in the SIP in September 25, 2014 (79 FR 57442), and applies to boilers, steam generators, and process heaters of equal to or greater than 5 million British thermal unit (Btu) per hour rated heat input capacity used in all industrial, institutional, and commercial operations. It regulates large boilers not covered in the RECLAIM program. NO_x emission limits range from 5 to 30 ppm depending on equipment size, fuel, and type of burner. Rule 1146 requires that Group I boilers, using natural gas equal to or greater than 75 million Btu per hour, have a NO_x limit of 5 ppm. Group II boilers, using natural gas equal to or greater than 20 but lower than 75 million Btu per hour, are required to have a NO_x limit of 9 ppm depending on compliance schedule. Group III boilers, using natural gas equal to or greater than 5 million Btu per hour but lower than 20 million Btu per hour are required a NO_x limit of 9 ppm. Rule 1146 allows for combustion of fuel that may not necessarily be natural gas, methanol, ethanol or other comparably low polluting fuel. The emission limits for these other fuels, including units fired on digester or landfill gas, are 15 ppm and 25 ppm, respectively. According to the South Coast AQMD's most recent Annual Emissions Reports, aside from the refinery boilers currently regulated under the RECLAIM program, there was only one boiler emitting more than 25 tons per year of NO_x using other fuels. This boiler is located in the Los Angeles County Sanitation District Landfill in Puente Hills, which combusts recovered landfill gas as the primary fuel and is equipped with flue gas recirculation, which is a highly effective technique used for lowering NO_x emissions from burners. The boiler is subject to the 25 ppm NO_x emission limits for landfill gas-fired units. It should however be noted that on February 5, 2021, Rule 1150.3 (Emissions of Oxides of Nitrogen from Combustion Equipment at Landfills) was adopted to regulate NO_x emissions from combustion equipment at municipal solid waste landfills and landfill gas to energy facilities. A BARCT assessment was conducted as part of the rulemaking effort. The analysis revealed that considering technological and economic feasibilities, the emission limit of 25 ppm reflects BARCT for boilers using landfill gas in the Basin. This NO_x emission limit is consistent with Rule 1146. Based on the cost-effectiveness analysis, a lower NO_x limit of 9 ppm was also established with a compliance date of January 1, 2031.

- Rule 1303 (Requirements for NSR)

Rule 1303 (amended in May 10, 1996) was approved in the SIP in December 4, 1996 (61 FR 64291). Under Rule 1303, a new or modified boiler is required to employ BACT, which must be at least as stringent as the LAER as defined in CAA section 171(3) for major sources (Rules 1303(a) and 1302(f)). Rule 1303 requires the Executive Officer or designee to “deny the Permit to Construct for any relocation or for any new or modified source which results in an emission increase of any nonattainment air contaminant, any ozone depleting compound, or ammonia, unless Best Available Control Technology (BACT) is employed for the new or relocated source or for the actual modification to an existing source” (Rule 1303(a)(1)). As such, new or modified boilers are subject to BACT which by definition requires the use of the Best Available Control Technology. For example, the BACT emissions limits for boilers using natural gas equal to or greater than 75 million Btu per hour is 5 ppm, which would require the use of advanced control technology such as Selective Catalytic Reduction (SCR).¹⁴

Given the information above, the requirements in the Rules 1146, 2002, 2004, and 1303 (and recently Board approved Rule 1150.3) are at least as stringent as those described in section 182(e)(3) of the CAA.

¹⁴ The latest amendments to South Coast AQMD BACT Guidelines. <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-feb5-025.pdf?sfvrsn=2>.

Summary and Conclusions

The South Coast Air Basin and the Coachella Valley are designated as Extreme and Severe nonattainment areas, respectively, for the 2015 8-hour ozone standard. For these nonattainment areas, the U.S. EPA requires submittal of a nonattainment NSR plan or plan revision. As described in the Nonattainment NSR Compliance Demonstration, South Coast AQMD's current SIP-approved Nonattainment NSR program, which covers both the South Coast Air Basin and the Coachella Valley, applies to new major stationary sources or major modifications to existing sources, and is at least as stringent as the requirements at the Code of Federal Regulations (40 CFR 51.165) for ozone and its precursors. Therefore, no changes are necessary to comply with the 2015 ozone standard nonattainment NSR requirements. For Extreme nonattainment areas, the CAA requires the use of clean fuels or advanced control technologies for large electric utility, industrial, and commercial boilers. This requirement is fulfilled through South Coast AQMD's Rule 1146, Rule 2002, Rule 2004, and Rule 1303, which regulate NO_x emissions from existing, new or modified boilers. As such, the South Coast AQMD is hereby certifying that the current SIP-approved NSR rules satisfy the 2015 ozone standard nonattainment NSR requirements, and that the current SIP-approved Rules 1146, 2002, 2004, and 1303 satisfy the 2015 ozone standard requirements for the use of clean fuels or advanced control technology for new, modified and existing boilers.



ATTACHMENT C

Certification of Nonattainment New Source Review and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard

Board Meeting

June 4, 2021



Background – 2015 8-hour Ozone Standard

- In 2015, U.S. EPA strengthened the National Ambient Air Quality Standards (NAAQS) for ozone to 70 parts per billion (ppb)
- Nonattainment classifications for South Coast Air Basin and Coachella Valley

Standard	Level	South Coast Classification	Coachella Valley Classification	Attainment Date
2015 8-hour Ozone	70 ppb	Extreme	Severe	August 3, 2038 (South Coast) August 3, 2033 (Coachella Valley)
2008 8-hour Ozone	75 ppb	Extreme	Severe	July 20, 2032 (South Coast) July 20, 2027 (Coachella Valley)
1997 8-hour Ozone	80 ppb	Extreme	Extreme	June 15, 2024 (both South Coast and Coachella Valley)
1979 1-hour Ozone	120 ppb	Extreme	Attainment	February 6, 2023 (South Coast)



Key SIP Elements and Due Dates for Severe and Extreme Nonattainment Areas

	8/3/2020	8/3/2021	8/3/2022	8/3/2028
Severe and Extreme Areas	Baseline Year Emissions Inventory	Nonattainment New Source Review (NSR)	Attainment Demonstration	Section 185 Fee Program (Failure to attain)
	Emissions Statement		Reasonably Available Control Measures	
	Reasonably Available Control Technology Demonstration		Reasonable Further Progress	
	Vehicle Miles Traveled Offset		Conformity	
Extreme Area Only		Clean Fuels for Boilers	Contingency Measures	
			Enhanced Inspection and Maintenance Program	



Nonattainment NSR - Background

- **Nonattainment New Source Review (NSR) Requirements**
 - ❑ **Pre-construction review permit program for new or modified sources located in a nonattainment area (*40 CFR § 51.165*)**
 - ❑ **Requirements**
 - **Installation of the lowest achievable emission rate (LAER)**
 - **Offset emissions increase from new or modified sources**
 - **Public participation in permitting process**
 - ❑ **Prior certification for 2008 ozone standard**
 - **In 2017, a certification of Nonattainment NSR Compliance Demonstration for 2008 Ozone NAAQS was submitted and approved by U.S. EPA in 2018 (83 FR 64026)**





Nonattainment NSR – South Coast AQMD NSR Regulations

- **South Coast AQMD's Existing Nonattainment NSR Program**
 - ❑ Implements the federal regulatory requirements for NSR
 - ❑ Covers both South Coast Air Basin and Coachella Valley
- **Requirements in Reg XIII (NSR), Reg XX (RECLAIM), and Reg II (Permits) consistent with Clean Air Act requirements**
 - ❑ Cover ozone precursors (VOC and NOx)
 - ❑ Definitions for major stationary source, major modification, and significant emissions
 - ❑ Provisions for emission reduction credits and offset ratios
 - ❑ Public participation



Nonattainment NSR – Interpollutant Trading Provisions for Emission Offsets

- **Interpollutant Trading (IPT)**
 - ❑ A voluntary program that allows the use of reductions of one pollutant to offset emission increases of another pollutant (PM and ozone)
- **Rule 1309 (Emission Reduction Credits)**
 - ❑ Allows the use of IPT for emissions offset contingent on U.S. EPA's review and approval on a case by case basis
- **Recent Court Decision Vacated IPT (January 2021)**
 - ❑ IPT violates Clean Air Act
 - ❑ Increases of VOC must be offset by VOC reductions so there can be no trading with NOx reductions

South Coast AQMD certifies not to use the IPT provision in the NSR program and also commits to remove the IPT provision from Rule 1309 in the future



Clean Fuels for Boilers – Extreme Ozone Nonattainment Areas

- Clean Air Act requires the use of clean fuels or advanced control technologies for electric utility and industrial and commercial boilers emitting more than 25 tons per year of NO_x
- In South Coast AQMD, boilers are required to use clean fuel or advanced control technologies through
 - ❑ Rule 1146 (NO_x Emissions from Industrial and Commercial Boilers)
 - ❑ Rule 2002 (Allocations for NO_x and SO_x)
 - ❑ Rule 2004 (Requirements)
 - ❑ Rule 1303 (Requirements for NSR)





Certification for 2015 Ozone Standard

- **Certifying that South Coast AQMD rules and regulations meet the Clean Air Act requirements for nonattainment NSR and clean fuels for boilers for the 2015 ozone standard**
- **No changes are necessary to comply with the 2015 ozone standard NSR/clean fuels requirements**
 - South Coast AQMD commits to amend Rule 1309 in a future rulemaking to remove the IPT provision**



Public Process and Next Steps





Recommended Board Action

- **Adopt the Resolution**
 - Certifying the Nonattainment NSR and Clean Fuels for Boilers Compliance Demonstration for 2015 8-hour Ozone Standard**
 - Directing staff to forward the Certification to CARB for approval and subsequent submission to U.S. EPA for inclusion in the State Implementation Plan**