

August 26, 2016



Mr. Gary Quinn, P.E.
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Subject: Proposed RECLAIM Amendments – Shutdown Provisions

Dear Mr. Quinn:

We appreciate the opportunity to offer comments on the proposed RECLAIM amendments. Our comments are limited to two sections of the proposed shutdown provisions: replacement of previously sold credits and common ownership provisions.

Replacement of Previously Sold Credits

(i)(5) If any RTCs that would have been reduced from the adjusted initial allocation pursuant to paragraph (i)(1) have been sold prior to the reduction, the Facility Permit Holder shall purchase and retire sufficient RTCs to fulfill the entire reduction requirement.

This requirement should be removed or made more equitable by including an applicability date. The adjustments outlined in (i)(1)-(4) will remove RTCs from the RECLAIM universe, causing a need for sooner installation of BARCT at other RECLAIM facilities and greater emissions reductions, and they achieve the objectives of closer alignment with ERC shutdown credits.

If the SCAQMD is interested in fair treatment to facilities, there can be no real equity if (i)(5) is retained. The following list of considerations is not exhaustive, but it should bring to light some of the issues that are raised by a requirement to purchase and retire sufficient RTCs that may have been sold prior to shutdown:

- In many cases RTCs may have been sold so many years ago, that the current owner of a RECLAIM facility may have little or no knowledge of the decision-making process that led to the sale and never profitted from the sale;
- Proceeds from RTCs may have been invested into the company to install BARCT or newer, lower emissions equipment;
- This provision was never a condition of RTC sales, and the nature of buying and selling RTCs would have been considerably different if facilities knew that they would have to re-purchase RTCs in order to shut down.
- Current demand for available RTCs and RTC pricing are likely much higher than when many RTCs may have been previously sold by a facility that is shutting down.

If the SCAQMD is determined to retain (i)(5), an applicability date that is no sooner than rule amendment adoption must be added to section (i).

Common Ownership Provisions

(i)(6) The requirements specified in this subdivision shall not apply to facility shutdowns where RTCs are transferred to another facility under common ownership that conducts the same functions at another facility with the same 6-digit North American Industry Classification System (NAICS) designation.

The idea that an owner of multiple facilities should maintain ownership of RTCs is appropriate; however, the idea that the facilities must be classified under the same 6-digit North American Industry Classification System (NAICS) designation is overly restrictive. Furthermore, the justification postulated by AQMD staff is unfounded.

It is inconceivable that RTCs will become so valuable that business owners would be willing to purchase an entire facility just so that they can shut down that facility to obtain its RTCs. If RTCs reach that level of scarcity, then it is likely there are so few RTCs left in the RECLAIM universe that the RECLAIM program has run its course and is no longer viable.

Conversely, there are current (and future) facility owners who have multiple facilities that may not be classified by the same NAICS code. A printer may decide that it could be profitable to own a paper making facility, or the manufacturer of a product might find it useful to also own a packaging facility. Are such business owners to be treated differently or penalized, just because they have a diversified business?

Thank you for your consideration.

Sincerely,

ES Engineering Services, LLC



Marnie Dorsz
Senior Scientist
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