

**COMMENT LETTER #2**

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**NATURAL RESOURCES DEFENSE COUNCIL  
AND  
COALITION FOR CLEAN AIR**

04-27-2001

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From-NATURAL RESOURCES DEFENSE COUNCIL

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NATURAL RESOURCES DEFENSE COUNCIL

April 27, 2001

Mr. Jonathan D. Nadler  
CEQA  
South Coast Air Quality Management District  
21865 E. Copley Drive  
Diamond Bar, CA 91765-4182

Re: Draft Environmental Assessment for RECLAIM and Credit Generation Rules

Dear Mr. Nadler:

Thank you for your extension of time until today to provide these comments on the above-referenced programs. We have expressed our concerns about these programs in the past and will be providing further comments to staff and the Board later. This letter will address several concerns we have about the Draft Environmental Assessment.

2-1

1. RECLAIM allowance for mobile source credit trading – the Environmental Assessment (EA) reaches the conclusion (we think incorrectly) that allowing the use of mobile source credits in the RECLAIM program will not have an environmental impact, and may even benefit the environment. The EA needs to perform a more in-depth analysis of potential localized impacts, including environmental justice impacts, of allowing use of these credits (when the reductions may occur from facilities in one part of town) in lieu of emission reductions at RECLAIM facilities. In addition, we believe the EA analysis does not sufficiently take into account the foregone emissions reductions that RECLAIM facilities otherwise would achieve if they were not allowed to use these mobile source credits.

2-2

2. We have similar concerns to those in the above paragraph about the adequacy of the analysis of the environmental impact of allowing power plants to pay into a mitigation fund in lieu of reducing their emissions, particularly of peaking power plants, which will be given substantial time within which to install best available controls. The EA should contain an analysis of the likely emissions the District expects during peak power periods (i.e., the summers of 2001 and 2002), during which time many power generating facilities will be operating at maximum capacity. The EA should contain a worst case scenario of the pollution which will be created by the power sector above the facilities' current allocations. The EA should also contain an analysis of the estimated amount of mitigation fees (including, again, a worst case scenario) by the power sector, and the likely emissions reductions which will be achieved with the mitigation fees, and when. The timing of likely emissions reductions using mitigation fees is essential for the public

04-27-2001

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From: NATURAL RESOURCES DEFENSE COUNCIL

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Mr. Jonathan D. Nadler  
April 27, 2001  
Page 2

2-2  
cont.

to understand the impact the mitigation fee provision will have on pollution levels during peak periods.

2-3

3. RECLAIM use of Carl Moyer offset credits -- the current draft of the RECLAIM rule amendments allow the use of credits generated by using Carl Moyer projects by new peaking generation units. The Carl Moyer program was never designed with protocols adequate to quantify the emissions reductions which may legally be counted as emissions reductions under state and federal law. The environmental consequences of allowing the use of these offset credits in the RECLAIM program needs to be analyzed further.

2-4

4. The analysis of the credit generation rules (PR 1631, 1632, 1633, and 2507) fails adequately to analyze the impacts of localized impacts from the use of these credits, including the environmental justice impacts of the credits, as discussed in paragraph 1.

2-5

5. We are also concerned that the EA does not adequately address the potential of double counting emission reductions in the marine sector. Thus far the Air Resources Board has not presented adequate information to show that emission reductions on marine vessels pursuant to Rule 1631 would in fact be surplus to the state's mobile source measure M13.

2-6

6. The EA does not adequately address the likely level of turnover of diesel engines in the mobile sector without adoption of the credit generation rules, in order to determine whether emissions reductions generated under the credit rules are truly surplus.

Sincerely,



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Natural Resources Defense Council



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Coalition for Clean Air

**COMMENT LETTER 2**  
**Natural Resources Defense Council and Coalition for Clean Air**  
**April 27, 2001**

- 2-1 Comments received on the Initial Study suggested that an increased supply of non-stationary source credits (i.e., MSERCs and ASCs) into the RECLAIM market would result in adverse air quality impacts. The contention is that such credits are not real or surplus and could artificially drive down RTC prices, thus delaying actual emission reductions at RECLAIM facilities through installation of control equipment, changing operations, or curtailing production.

Concerns were also raised in comments on the Initial Study that a RECLAIM facility can maintain or increase emissions by the use of RTCs as opposed to installing pollution control equipment. The concern centers on the potential for adverse localized NO<sub>2</sub> concentrations if a facility increases emissions by purchasing RTCs instead of installing controls. An associated concern is that MSERC projects used to generate RTCs may produce regional air quality benefits, but such RTCs used by a RECLAIM source do not produce emission reductions in the vicinity of the facility.

Based on the comments received on the Initial Study, the Draft EA comprehensively analyzed the potential environmental impacts regarding the use of MSERCs and ASCs in the RECLAIM program. The Draft EA considered the potential for both localized and regional impacts from the influx of additional MSERCs and ASCs into the RECLAIM market. Since in some instances comment Letter #2 does not provide specific examples or substantial evidence of an inadequate analysis it is difficult to respond to this assertion. A summary of the analysis that addresses the commentator's concerns is presented in the following paragraphs.

Since the proposed project does not alter a stationary source's ability to use credits as a means of compliance with RECLAIM, its implementation would not alter the existing setting relative to this issue and, thus, would not be considered an impact under CEQA. Since there currently exists other SCAQMD rules that set forth provisions for the generation of RTCs from mobile and area sources, the absence of the proposed mobile and area source credit rules would not prevent a RECLAIM facility from using such credits as a means of compliance.

The SCAQMD has worked diligently with U.S. EPA, CARB, and representatives of the environmental and business communities to develop additional protocols that ensure the validity of the MSERCs and ASCs intended to be used in the program. The credits generated by these protocols will be real, surplus, and enforceable emission reductions. As such, it will not matter to ambient air quality whether the reductions are from stationary or mobile or area sources because any reductions from these sources will meet the requirements that they are real, surplus, and quantitative.

An environmental justice analysis is not required by CEQA, either in the Public Resources Code or the CEQA Guidelines (California Code of Regulations). It is, however, acknowledged that increasing the amount of MSERCs and ASCs that enter the RECLAIM market could allow more stationary source facilities to temporarily forego reductions without installing pollution control equipment. There are numerous reasons, however, why additional MSERCs and ASCs entering the RECLAIM market is not expected to result in significant adverse localized impacts, as discussed below.

In 1993 when RECLAIM was originally adopted, measured ambient NO<sub>2</sub> concentrations in the district were at or slightly below the one-hour state NO<sub>2</sub> ambient air quality standard of 0.25 parts per million. Even with high ambient NO<sub>2</sub> concentrations at that time, facilities emitting up to their initial allocations would not cause or contribute to a significant NO<sub>2</sub> localized air quality impact. Since that time, actual emissions and ambient NO<sub>2</sub> concentrations have declined. Consequently, an exceedance of the state one-hour NO<sub>2</sub> standard would be more unlikely to occur now even if a facility were to increase emissions up to its initial allocation.

If a facility sought to purchase credits in order to increase emissions above its starting allocation plus non-tradeable credits, New Source Review for RECLAIM (Rule 2005) would ensure that such a scenario would not cause a localized exceedance of the NO<sub>2</sub> standard.

Further, it is the power-producing facilities that are the primary RECLAIM sources that are substantially increasing their emissions above historic levels. Many of these facilities are currently in the process of installing SCR systems. Nine facilities are expected to have SCR installed in 2001. Another facility is proposing to install gas turbines with SCRs in 2002. Consequently, the facilities with the greatest emissions increases would be required under the proposed project to minimize their emissions by means of control equipment (i.e., achieve BARCT).

Regarding the concern that MSERC and ASC emission reduction projects result in regional benefits at the expense of local air quality, emission reductions from five of the seven sources subject to the proposed MSERC and ASC rules would be generated by sources that generally act as stationary sources. For example, yard hostlers subject to Rule 1612.1 generate emissions within the confines of the yard where they are operated, the captive fleets subject to PRs 1631 and 1632 generate emissions within the harbor area, and agricultural pumps subject to PR 2507 are stationary emission sources. Additionally, while NO<sub>x</sub> credits generated from these sources could be used by RECLAIM facilities, there would be concurrent reductions of particulate and toxic air contaminant emissions that are not eligible for credit. Moreover, an environmental benefit factor is imbedded in the protocols for generating MSERCs and ASCs.

Regarding the concern that the analysis does not take into account foregone emission reductions due to the use of MSERCs, the environment will not experience any adverse effect because the MSERCs represent real, surplus emission reductions. In addition, MSERC will be substantially used to offset either AQIP projects (which are already at BACT or BARCT) or excess emissions from power producing facilities, which would have occurred anyway under the Governor's Executive Orders. Nevertheless, to monitor and identify any unforeseen localized impacts so that corrective action could be taken, it should be noted that the proposed credit rules are pilot programs limited in scope and are temporary (applications accepted only up to January 1, 2004). The proposed project requires tracking the use of credits and report its findings to the Governing Board as part of the proposed project's implementation.

The commentator is also referred to Chapter 4 for the detailed analysis.

- 2-2 SACQMD staff believes the Draft EA provides all the analyses requested in this comment. The Draft EA comprehensively analyzes potential air quality impacts associated with the proposed project. The air quality analysis is divided into two sections. The first subsection analyzes the direct air quality effects of the proposed project relative to the existing setting. Specifically, the analysis considers what effect the proposed project would have on the projected supply and demand of RTCs relative to projections without project implementation in terms of NO<sub>x</sub> emission reductions forgone. The subsequent subsection analyzes the secondary effects of the proposed project, which include analyses of the potential for a delay in achieving anticipated emission reductions and the potential for adverse localized air quality impacts.

The Draft EA analyzes the potential for excess emissions (i.e., emissions above allocations plus RTC holdings) from power producing facilities and all other RECLAIM participants. Tables 4-6 through 4-8 quantify emissions (represented as RTC demand) as well as credit supply, including the amount of credits estimated to be generated through the Mitigation Fee Program for the current year (2001) and subsequent years through 2005.

As discussed in Chapter 3, RTC demand by power-producing facilities is estimated to exceed supply through at least 2005 without implementation of the proposed project (see Table 3-1). This is because power-producing facilities have substantially increased emissions due to the unanticipated statewide energy crises and the resulting need to generate more in-Basin electricity.

Table 4-6 forecasts the potential RTC demand and supply for power-producing facilities assuming implementation of the proposed project (as described by the methodologies in Appendix E). As can be seen in Table 4-6, the estimated shortfall of RTCs is diminished under the proposed project relative to the existing RECLAIM program assuming that California Governor's Executive Order D-24-01 is in effect. RTC demand would exceed supply only for Compliance Year 2001. The projected surplus of RTCs beginning in Compliance Year 2002 is a

result of the requirement to add controls (PR 2009), the Mitigation Fee Program set forth in PAR 2004, and additional credits entering the RTC market through the proposed MSERC and ASC rules. By requiring power-producing facilities to install BARCT, the demand by these facilities for RTCs will be reduced because they would emit less than they would without this level of control. Also, because of the additional credits entering the RTC market through the proposed MSERC and ASC rules, combined with the Mitigation Fee Program for power-producing facilities, these facilities may be more likely to operate within their allocations.

If there were to be insufficient external credit supply (i.e., MSERCs/ASCs) and if emissions in excess of a facility's annual allocation (as represented in Table 4-6 by a positive RTC demand) are deducted from the facility's annual emissions allocations two years subsequent to the exceedance (pursuant to the administrative remedies in proposed amendments to Rule 2010), an RTC shortfall would occur. Under the assumptions given, approximately 6.5 tons per day of NOx emission reductions in 2001 would be delayed, resulting in non-compliance in 2003 and 2005<sup>1</sup>. Nonetheless, the RECLAIM ending allocation of 2003 would be maintained. Furthermore, the estimated shortfall is substantially less than would occur under the emission reductions debt repayment scenario under the existing RECLAIM program as shown in Table 3-1 (i.e., without implementation of the proposed project).

Consequently, taken as a whole, the project as proposed is expected to result in less adverse air quality impacts than would likely occur without its implementation.

The commentator is also referred to Chapter 4 for the detailed analysis.

- 2-3 CARB has designed a program to provide temporary offsets to enable permitting of new peaking units that will be in operation by September 1, 2001. The state is using emission reductions generated from projects funded by the Carl Moyer Program. Reductions used to site peaking units in the Basin are from emission reduction projects in the Basin.

The reductions from Carl Moyer projects will be used by new peaking units for three years (whether they are in RECLAIM or under Regulation XIII – New Source Review). After that time, the operator must provide other offsets if the peaking unit is to continue operation. The peaking units in RECLAIM will be permitted with non-tradeable credits, so the credits cannot be used for any other purpose. This comment does not address the proposed project, but rather the use of Carl Moyer offset credits for power producing facilities, which is allowed

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<sup>1</sup> The proposed project was modified after the release of the Draft EA to allow one-quarter of the exceedance to be carried over for an additional year if 75 percent of the exceedance has already been mitigated (the ability to delay deductions through the Mitigation Fee Program would still sunset after Compliance Year 2003). Staff has reviewed the proposed modification and has determined that it is within the scope of the alternatives analysis and does not result in a significant adverse impact not previously identified nor make a previously identified significant impact substantially worse.

- under the Governor's Executive Orders whether or not he proposed project is adopted.
- 2-4 Comment #2-4 reiterates the commentator's concerns as expressed in comment #2-1. Please see the response to comment #2-1.
- 2-5 The 1997 AQMP control measure, M13 – Marine Vessels, applies to a variety of marine vessels that are included in PR 1631 and PR 1632. For captive marine vessels such as those that could generate credits under PR 1631, it was assumed in the 1997 AQMP that NO<sub>x</sub> emissions would be reduced three percent per year beginning in 1998. CARB has commented that emission reductions attributed to M13 can be accounted for up until the ozone season in 2005. Based on information from CARB, PR 1631 will discontinue credits after June 30, 2005, to ensure emission reductions from this source category are surplus and there is no double counting of emission reductions.

For marine vessel hotelling operations such as those that could generate credits under PR 1632, it was assumed in the 1997 AQMP that NO<sub>x</sub> emissions would be reduced one percent per year beginning in 2001. The emission reductions are attributed to implementation of the International Maritime Organization (IMO) standards as compared to the implementation of a hotelling rule. CARB has commented that it is not economically feasible to develop a rule within the next ten years regarding hotelling, thereby any emission credit generation rules should be considered surplus. To account for NO<sub>x</sub> emission reductions assumed in the 1997 AQMP, PR 1632 includes a 10 percent discount in 2010. If a revised approved AQMP determines, however, that emission reductions from hotelling are not needed, then the 10 percent discount in 2010 will not be applied.

If CARB or U.S. EPA are not assured that the protocols in PR 1631 or PR 1632 provide for surplus credits, then one or both of the proposed rules would not be approved into the State Implementation Plan. If such were the case, the credits would not be recognized by these agencies and thus would not jeopardize air quality. In fact, the credit rules may facilitate future reductions in the marine vessel sector by demonstrating the feasibility of emission reductions. The SCAQMD has and is continuing to work diligently with U.S. EPA, CARB, and representatives of the environmental community to develop protocols that ensure the integrity of the MSERCs and ASCs intended to be used in the RECLAIM program.

- 2-6 Based on data from the Carl Moyer program and the Marine Vessel Emissions Inventory and Control Strategies, the useful life of a marine engine is approximately 30 years. The greatest emission benefits from implementing the proposed credit generation rules will be through the retirement of older higher polluting equipment. Because of the high capital cost required to replace a marine engine, marine vessel operators continually overhaul the engine to extend the useful life rather than purchase new engines. The cost to replace an engine is generally 100 percent more than the cost to overhaul the engine.



For diesel engines driving agricultural pumps, it is estimated that an engine can have a useful life of 30 to 40 years if the engine can be rebuilt. Based on information from the Carl Moyer program, most farmers replace existing engines with a rebuilt rather than a new engine. Since PR 1633 is creating an incentive for the purchase of a truck or trailer electric standby mode refrigeration unit, the useful life is not applicable. Based on current data from a major truck refrigeration manufacturer, however, approximately 30 percent of truck refrigeration units are currently equipped with an electric standby mode. To account for this current market trend, and to ensure emission reductions are real and surplus, NO<sub>x</sub> reductions generated from truck refrigeration units will be discounted by an additional 30 percent (beyond the standard 10 percent discount). No additional discounts beyond the 10 percent, are proposed for trailer refrigeration units since most of these units are not equipped with an electric standby mode based on discussions with trailer refrigeration manufacturers, and a representative of the trucking industry.

As stated in response to comment #2-5, if CARB or U.S. EPA are not assured that the proposed credit generating rules provide real, quantifiable, enforceable, and surplus credits, then such proposed rules would not be approved into the State Implementation Plan. The SCAQMD has and is continuing to work diligently with U.S. EPA, CARB, and representatives of the environmental and business communities to develop protocols that ensure the integrity of the MSERCs and ASCs intended to be used in the RECLAIM program.