



Regulation XIII – New Source Review

Working Group Meeting
September 8, 2022

Join Zoom Webinar Meeting
<https://scaqmd.zoom.us/j/98344812021>
Webinar Meeting ID: 983 4481 2021
Teleconference Dial-In: 1-669-900-6833

Agenda

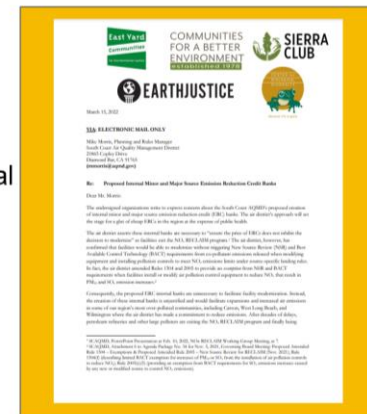
- Previous Working Group Meetings Summary
- Status of NSR Issues
- Proposed Regulation XIII Amendments
- Ongoing Efforts and Next Steps

Previous Working Group Meeting Summary

- Responded to comment letter which expressed concerns with proposed Minor and Major Source accounts
 - Comment letter is available on the proposed rules webpage¹
- Discussed changing surplus discounting method for Open Market ERCs
- Discussed potential amendments to Regulation XIII
 - Eliminating Short Term Emission Reduction Credits
 - Considering Food Waste Diversion projects as Essential Public Services

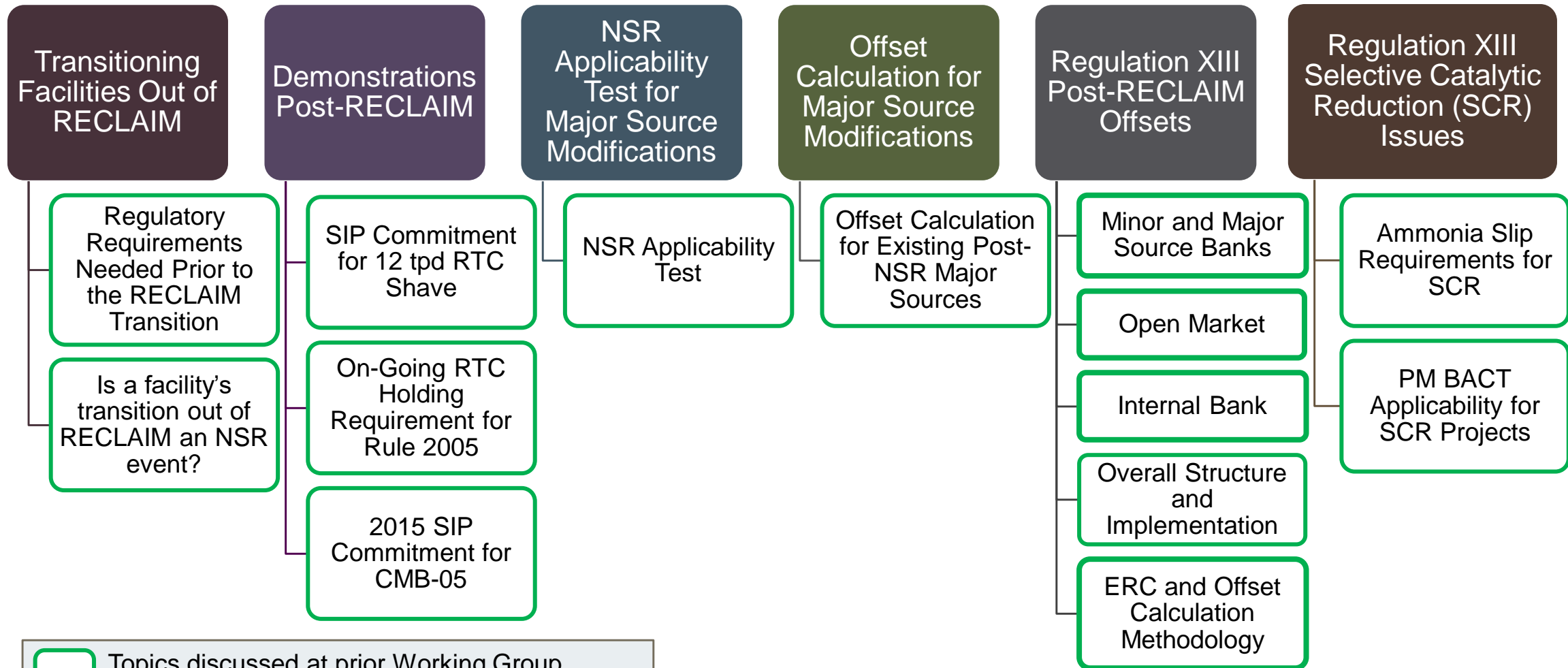
Comment Letter

- Comment letter received from:
 - Earthjustice
 - Communities for a Better Environment
 - Sierra Club
 - East Yard Communities for Environmental Justice
 - Center for Biological Diversity
- Expressed concerns with Minor and Major Source Banks
- Comment letter is available on the proposed rules webpage¹



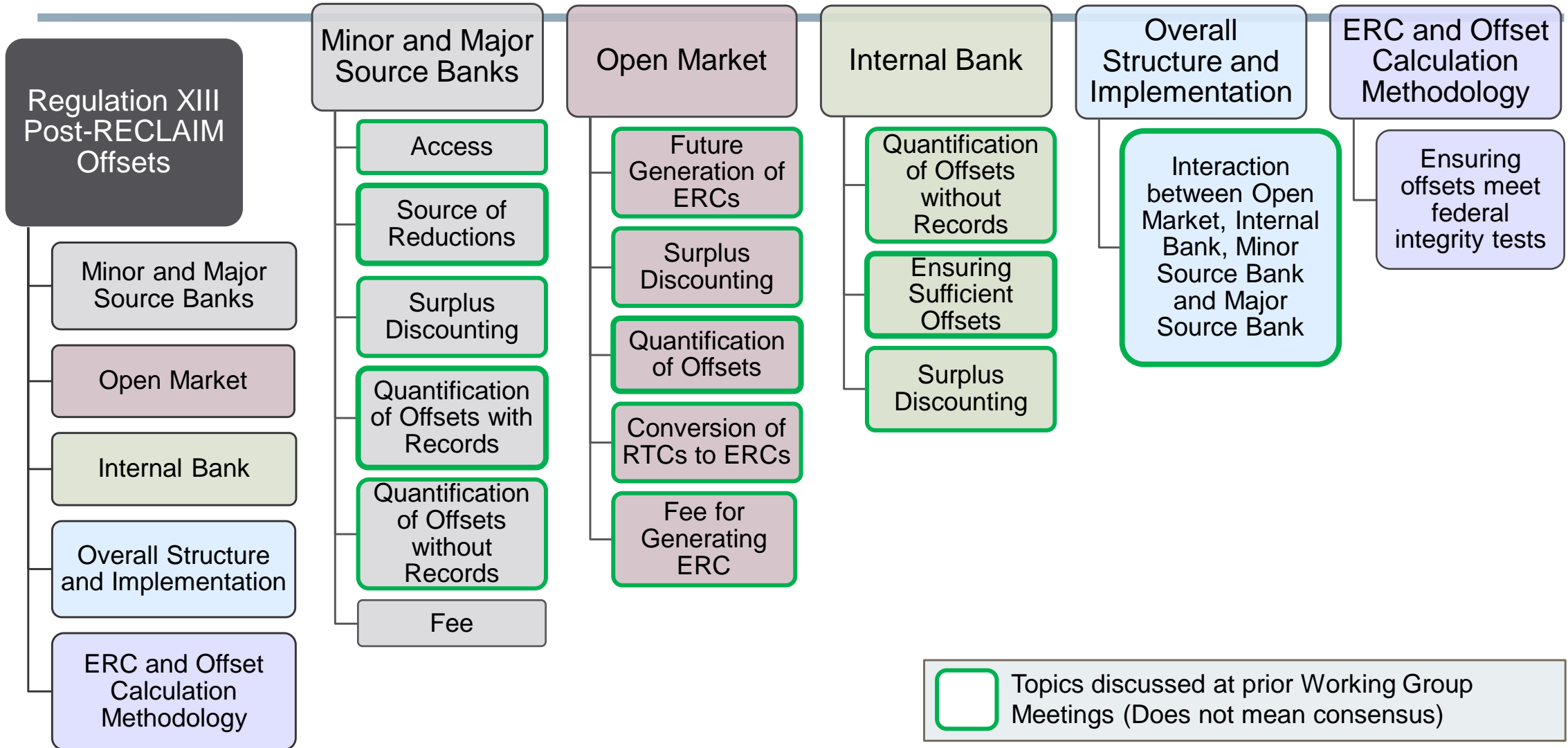
¹ <http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/regx111/2022-0315-letter-on-south-coast-aqmd-proposed-erc-internal-banks.pdf?sfvrsn=16>

Overview of NSR Issues



Topics discussed at prior Working Group Meetings (Does not mean consensus)

Regulation XIII Post-RECLAIM Offsets



Proposed Regulation XIII Amendments

Regulation XIII Rule Development

Preliminary New Source Review rule language is being developed to:

Transition NO_x RECLAIM facilities into command-and-control program

Reconcile Regulation XIII with 2002 NSR Reform

Ensure compliance with Protect California Air Act of 2003 (SB 288)

Provide a long-term solution for offset availability post-RECLAIM

Staff is providing preliminary rule language

- Reflects discussions held over the past three years
- Further amendments may be necessary beyond those indicated today
 - Staff is still deliberating on Major/Minor Source accounts
- Draft language available at: <http://www.aqmd.gov/home/rules-compliance/rules/scaqmd-rule-book/proposed-rules/regulation-xiii>

Planned Changes to New Source Review¹

Rule	Title	Status
1302	Definitions	Update and clarify terms
1306	Emission Calculations	Update NSR applicability and offsetting calculation methodology for major source modifications; no longer pursuing change to surplus discounting of ERC for the Open Market
1309	Emission Reduction Credits (ERCs) and Short Term Credits	Sunset use of Short Term Emission Reduction Credits; remove ozone precursors from interpollutant offset trading

¹ Does not include grammatical or stylistic changes (i.e. changing “District” to South Coast AQMD)

Proposed Amended Rule 1302 - Definitions

New Definitions

- Food Waste Diversion Facility
- South Coast Waters
- Surplus Emission Reductions

Modified Definitions

- Essential Public Service
- Major Polluting Facility
- Short Term Credit
- Volatile Organic Compounds

Deleted Definitions

- Short Term Emission Reduction Credit

Key Definition Changes

- Food Waste Diversion Facility added to Essential Public Service – subdivision (s)
- Threshold for PM10 increased to 100 tons per year to be consistent with federal threshold – subdivision (u)
- South Coast Waters added to clarify intent of Rule 1306 (g)(3) – subdivision (aw)
- Surplus Emission Reductions added to clarify limits of ERC generation – subdivision (ax)
- VOCs for netting, banking, and offsetting limited to only those that have not already federally exempted – subdivision (ay)
 - For example, dimethyl carbonate and tertiary butyl acetate would not be eligible for netting, banking, and offsetting

Proposed Amended Rule 1306 – Emission Calculations (Major Sources)

- Major source modifications may calculate using Potential to Emit-to-Potential to Emit (PTE-to-PTE) when actual emissions are at least 80 percent of pre-modification PTE
- Two-tier test required for all other major source modifications
 - Must calculate emission increase by both federal test and PTE-to-PTE
 - If either calculation results in an increase, then offsets and BACT/LAER are required
 - Two-tier test reconciles Regulation XIII with 2002 NSR Reform and ensures compliance with SB 288

Proposed Language for Rule 1306 (d)(2)

Rule 1306 (d)(2)

(2) Modification of Existing Source at a Major Polluting Facility

Net emissions increase after the modification shall be calculated as ~~pursuant to Rule 1306(b) which is the post modification potential to emit minus either:~~

(A) the post-modification potential to emit minus the permitted or allowable pre-modification potential to emit when:

(i) actual emissions are at least 80 percent of the pre-modification potential to emit; or

(ii) past emission increases were fully offset less than five years prior to submittal of a complete application;

(B) the post-modification potential to emit minus the actual emissions calculated pursuant to Rule 1306(c)(1) if the source was never subject to Rule 213 or Regulation XIII; or

(C) whichever of the following methods that results in the greater increase:

(i) the calculation methodology pursuant to Rule 1316 (a)(1);

(ii) post-modification potential to emit minus the permitted or allowable pre-modification potential to emit.

Applicable only to modifications at a Major Polluting Facility

Subparagraph (d)(2)(A) indicates that PTE-to-PTE test is sufficient in specific circumstances

Two-tier test requiring both federal test and PTE-to-PTE test to determine applicability

Proposed Amended Rule 1306 – Emission Calculations (Minor Sources)

- Determination of required offsets separated by major source modifications and minor source modifications – paragraphs (d)(2) and (d)(3)
- Minor source modifications will retain PTE-to-PTE calculation

Rule 1306 (d)(3)

(A) Modification of Existing Source at a Minor Facility

Net emissions increase after the modification shall be calculated pursuant to Rule 1306(b) which is the post-modification potential to emit minus the permitted or allowable pre-modification potential to emit.

BARCT Discounting for Generation of ERCs for the Open Market

Staff is no longer pursuing changes to surplus discounting method of ERCs for the Open Market

- Staff was considering changing BACT discount at time of generation to BARCT discount at time of generation and again at time of use
- Analysis indicates that change does not appear to provide any benefit

Considerations for BARCT Discounting for Generation of ERCs for the Open Market

- South Coast BARCT limits are equal or more stringent than BACT limits in 93% of equipment categories
- South Coast BARCT limits are equal or more stringent than LAER limits in 65% of equipment categories
- It is reasonable to assume discounting to BARCT at time of generation and again at time of use is equivalent to discounting to BACT only at time of generation
 - High rates of BARCT limits already as stringent as BACT/LAER limits
- CARB is evaluating proposal to determine if there is an SB 288 issue to change surplus discounting from BACT to BARCT
- Staff discussing with U.S. EPA and CARB
- Staff is seeking stakeholder input

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Proposed Amended Rule 1309 – Emission Reduction Credits and Short Term Credits (STERCs)

- Use of Short Term Emission Reduction Credits (STERCs) will not be allowed – paragraph (f)(1)
 - STERCs are underutilized and may not be approved by U.S. EPA

Rule 1309 (f)(1)

- ~~(A) ERCs issued from stationary sources may be used as STERCs;~~
- ~~(B) Operator may request the Executive Officer to re-issue ERCs issued prior to rule adoption, in yearly increments and a permanent credit thereafter;~~
- ~~(C) Executive Officer shall issue ERCs after rule adoption in yearly increments for the first 7 years and a permanent credit thereafter;~~
- ~~(D) STERCs can only be used as offsets during the specific calendar year for which the STERC is issued; and~~

Proposed Amended Rule 1309 – Emission Reduction Credits and Short Term Credits (Interpollutant Trading)

- Ozone precursors not allowed for interpollutant offset trading – subdivision (h)
 - Recent court ruling prohibits trades of ozone precursors

Rule 1309 (h)

The Executive Officer or designee may approve interpollutant offsets, excluding ozone precursors, 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.

Ongoing Efforts and Next Steps



Continue Working Group Meetings



Continue rulemaking activities



Continue work with U.S. EPA, CARB, and stakeholders to resolve NSR issues

Contacts – RECLAIM & New Source Review

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To receive e-mail notifications for Regulation XX or Regulation XIII, sign up at: www.aqmd.gov/sign-up
To view proposed rules and supporting documentation, visit the South Coast AQMD Proposed Rules webpage at:
<http://www.aqmd.gov/home/rules-compliance/rules/scaqmd-rule-book/proposed-rules>