



September 7, 2018

**VIA EMAIL**

Dr. Philip Fine  
Deputy Executive Officer  
South Coast Air Quality Management District  
21865 Copley Drive  
Diamond Bar, CA 91765

Re: Proposed Amended Rules 2001 and 2002 and Draft Subsequent Environmental Assessment for Proposed Amended Rules 2001 and 2002

Dear Dr. Fine:

On behalf of Ultramar Inc., owner and operator of the Valero Wilmington Refinery, and Valero Refining Company – California, owner and operator of the Wilmington Asphalt Plant (collectively “Valero”), I appreciate the opportunity to submit comments on the South Coast Air Quality Management District (SCAQMD) Subsequent Environmental Assessment (SEA) for Proposed Amended Regulation XX – Regional Clean Air Incentives Market (RECLAIM) Rules 2001 and 2002. The SEA was prepared to analyze the rule amendments related to the transition of the RECLAIM program to a command-and-control regulatory structure (RECLAIM Sunset). Both the Wilmington Refinery and the Wilmington Asphalt Plant are located in the South Coast Air Basin and will be impacted by the RECLAIM Sunset.

**General Comments**

Valero appreciates that SCAQMD staff has been working diligently to meet the requirements and deadlines of AB 617 to implement best available control technology (BARCT); however, we note that there is no statutory deadline to sunset the RECLAIM program and California Health & Safety Code Section 40920.6(e) still allows BARCT to be met on an aggregate basis. We believe the RECLAIM program has been an overwhelming success, meeting all of the objectives that were set when the program was first adopted. The program has achieved greater emission reductions at a lower cost than traditional command-and-control regulations, resulted in the development of new BARCT, and resulted in over-compliance such that there are excess RECLAIM trading Credits (RTCs) on the market. Thus, we do believe that a RECLAIM sunset is unnecessary; that sunsetting this program can result in greater costs to those facilities that have been in the RECLAIM program than those facilities that were maintained under command-and-control regulations; and that sunset removes the incentives for facilities to develop new, more cost-effective BARCT.

In staff's effort to implement BARCT and sunset the RECLAIM program simultaneously, staff has failed to take a programmatic approach to analyzing and transitioning facilities out of the program. The approach has created confusion and added complexity that will result in additional hardship to facilities at the end of any transition. RECLAIM was developed and adopted as a whole comprehensive and complex program that fully accounted for environmental impacts, new source review (NSR), socioeconomic impacts, implications of emissions trading, enforcement and monitoring issues and a host of other consequences of adopting such a





program. This comprehensive approach ensured the overwhelming success of the RECLAIM program as it was designed. In this rulemaking, staff is slowly picking apart the RECLAIM program without analyzing any of the consequences of such an approach. Most importantly, staff has not addressed NSR, nor the environmental and socioeconomic impacts of a RECLAIM sunset. Staff's approach creates uncertainty for facilities, in particular those facilities that are subject to multiple BARCT determinations.

Further, we concur with staff's new assessment on the post RECLAIM calculation of facility potential to emit. The July 2018 Preliminary Draft Staff Report contains the following statement: "Moreover, Rule 1306 – Emission Calculations would calculate emission increases of exiting RECLAIM facilities based on actual to potential emissions, thereby further exacerbating the need for offsets." (Preliminary Draft Staff Report, p. 8). This is a complete change since the January 2018 amendments to these two rules. We believe that this is an indication that the RECLAIM sunset provisions are premature.

### **California Environmental Quality Act Comments**

Valero reiterates the concerns of the Los Angeles County Business Federation (BizFed) and WSPA regarding piecemealing of the California Environmental Quality Act (CEQA) analysis for the RECLAIM transition. SCAQMD staff has prepared a Draft Subsequent Environmental Assessment ("Draft SEA") to analyze environmental impacts from the proposed amendments to Rules 2001 and 2002. Staff is attempting to tier off of the 2016 Air Quality Management Plan (AQMP) Program Environmental Impact Report (PEIR) certified in March 2017, claiming that the "program-level CEQA analysis for the 2016 AQMP" included an analysis of the RECLAIM Transition<sup>1</sup>. (<http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/regxx/aqmd-response-letter-to-bizfed-042518.pdf?sfvrsn=6>). This simply is not factual.

While there was no challenge to the 2016 AQMP PEIR, the PEIR did not, nor could it have, contain an analysis of the RECLAIM Sunset. The RECLAIM Sunset provisions did not exist as a proposed control measure in the AQMP when the 2016 AQMP PEIR was developed, nor did it exist when the AQMP was presented to the Governing Board. The AQMP PEIR merely analyzed Control Measure CMB-05 as it existed when it was presented to the Governing Board, a 5 ton reduction in NO<sub>x</sub> to implement BARCT for the RECLAIM program.

The SCAQMD Governing Board never had a RECLAIM Sunset provision presented to it for consideration. The Mitchell Amendment which was made following the close of public comment, prematurely directed staff to revise Control Measure CMB-05 to contain a Sunset in the absence of any supporting analysis. Thus, the Governing Board never properly considered the RECLAIM Sunset and no analysis of the Sunset exists. There is no analysis of the RECLAIM Sunset from which to tier a SEA. Therefore, if the SCAQMD wishes to tier off of a programmatic analysis of the RECLAIM Sunset, it must first conduct such an analysis. As it stands currently, SCAQMD is piecemealing the RECLAIM Sunset rules, contrary to the requirements of CEQA.

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<sup>1</sup> See, <http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/regxx/aqmd-response-letter-to-bizfed-042518.pdf?sfvrsn=6>.



**Conclusion**

Valero requests that the SCAQMD not take any further actions on RECLAIM sunset until a programmatic evaluation can be completed.

Thank you for considering these comments. We look forward to continuing to work with you to develop a reasoned approach to compliance with AB 617 with minimizing unnecessary and unintended impacts to RECLAIM facilities. Please feel free to contact me at should you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mark Phair', is written over the typed name.

Mark Phair  
VP and General Manager

cc: Cathy Reheis-Boyd, WSPA  
Patty Senecal, WSPA  
Bridget McCann, WSPA  
Wayne Nastri, SCAQMD