STATE OF CALIFORNIA PETE WILSON, Governor

AIR RESOURCES BOARD
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State of California
AIR RESOURCES BOARD

**Notice of Decision and
Response to Significant Environmental Issues**

Item: PUBLIC MEETING TO CONSIDER THE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT'S REGIONAL CLEAN AIR INCENTIVES MARKET (RECLAIM)

Approved by: Resolution 94-11

Agenda Item No.: 94-3-1

Public Hearing Date: March 10, 1994

Issuing Authority: Air Resources Board

Issue/Comment:

The Environmental Assessment prepared by the South Coast Air Quality Management District as lead agency for the project and certified by the District Governing Board on October 15, 1993 identified a number of adverse impacts from the adoption of rules to implement RECLAIM. The Environmental Assessment (EA) concluded that although specified air quality impacts due to increases in ozone and oxides of nitrogen (NOx), compared to the 1991 Air Quality Management Plan (AQMP), were significant, the proposed NOx and SOx (i.e., oxides of sulfur) RECLAIM programs have equivalent or greater overall air quality benefits than the 1991 AQMP. It was also concluded that potential adverse environmental impacts would be equivalent for all market incentive alternatives considered and that the staff proposal presented the best balance between adverse impacts and improvements in air quality and emission reductions ultimately achieved, while maintaining compliance with the statutory criteria for the program and achieving economic, social, and technological feasibility.

Most potential impacts discussed in the EA which could result from implementing NOx and SOx RECLAIM were either not significant or could be mitigated to insignificance, and the District Governing Board adopted a Mitigation Monitoring Plan to accomplish all necessary and feasible mitigation. Adverse impacts which could not be mitigated below a level deemed significant included short-term increases in ozone levels in some localized areas of the Air Basin and NOx emissions which air quality modeling indicated would be higher for two years under RECLAIM than they would have been under the 1991 AQMP. The District conservatively concluded that these would be significant air quality impacts although, overall, RECLAIM would provide greater air quality benefits than the 1991 AQMP. Further, potential mitigation measures, such as increasing the annual rate of reduction in emissions under RECLAIM, could result in technologically

infeasible requirements or the elimination of the economic benefits of the program, jeopardizing compliance with the statutory criteria set forth in AB 1054.

The District Governing Board also found that RECLAIM could generate significant water demand impacts since compliance options could include the installation of control technologies that use water as part of the control process, such as hydrosulfurization, scrubbers, mist eliminators, and condensers. These water demands are not substantially different from those associated with the measures in the 1991 AQMP; they cannot be reduced to insignificance.

The third adverse impact described in the EA is "risk of upset" impacts from control projects using selective catalytic reduction and associated ammonia, despite the implementation of all feasible mitigation measures. Potential public exposure to irritation levels of ammonia (100 ppm) in the event of an accidental release of ammonia during transport do not differ significantly under RECLAIM from the 1991 AQMP, but a change in District policy whereby projects associated with ammonia use are deemed to have potentially significant adverse impacts necessitated a finding of significance in the RECLAIM setting.

Upon certifying the EA and adopting the NOx and SOx RECLAIM rules, the District Governing Board adopted a Statement of Overriding Considerations which concluded that for specified reasons, the benefits of the project outweigh the potential unmitigated impacts.

Action/Response:

The Air Resources Board, a responsible agency for this project under CEQA, approved the NOx and SOx RECLAIM rules at a public hearing on March 10, 1994. Prior to acting, the Board considered the environmental documents prepared by the SCAQMD. As stated in Resolution 94-11,

> "the ARB staff and the Board have reviewed the RECLAIM rules and regulations; the accompanying administrative record; the District's 1991 Air Quality Management Plan ("Plan"); the Environmental Assessment and accompanying documents, comments, and responses prepared for the program; the Socioeconomic Impact Assessment; and the written testimony presented by affected industry and the public for RECLAIM."

After reviewing the documents cited above as well as additional written and oral testimony presented by ARB staff, the District, industry, environmental groups, and the public, the Board concluded that the District's environmental documents complied with the substantive and procedural requirements of CEQA. The Board also found that all feasible mitigation measures were committed to by the District, and that approval of RECLAIM by the Board "will not have any adverse environmental impacts which the ARB can or should independently mitigate." The Board adopted the District's environmental documents, including the findings and Statement of Overriding

Considerations, by reference. ARB Resolution 94-11, dated March 10, 1994, and the District's findings, Statement of Overriding Considerations, and Mitigation Monitoring Plan, are attached hereto and incorporated by reference herein.

Issue/Comment:

Citizens for a Better Environment commented that substantial changes to RECLAIM since the drafting of the final Environmental Assessment and since the time the District Governing Board certified the EA and adopted RECLAIM (October 15, 1993) necessitate the preparation and circulation of a subsequent EA by the ARB, which would assume the role of lead agency. The changes alleged to be "substantial" are the exclusion of three city utilities from RECLAIM and the increase of the initial RECLAIM allocations for cycle one facilities by 5% over the October allocations, resulting in increased pollution.

However, as explained on the record, the utilities will be subject to the command and control measures set forth in the AQMP, which will require equivalent emission reductions as RECLAIM, although with less flexibility to the utilities. Moreover, the RECLAIM rules as proposed to the District Governing Board and as adopted on October 15, 1993, always included provisions whereby sources could have their starting allocations increased on the basis of specific adjustment factors set forth in the rules (see Rule 2002, "Allocations for Oxides of Nitrogen (NOx) and Oxides of Sulfur (SOx))." The allocation adjustment process was subject to environmental analysis and public comment before certification of the EA and adoption of the rules. The fact that facilities are taking advantage of the rule and increasing their initial allocations pursuant to the criteria established therein is a result of implementation of the rule as anticipated, and not a substantial change in the program.

The rules specify that any increases in allocations which occur based on any adjustments made pursuant to Rule 2002(c)(12), Rule 2015(c)(2) and Rule 2015(e) shall be offset during preparation of future AQMP revisions. (See Rule 2015(c)). In addition, the rules assure that the allocations in the year 2000 will not be above the projected inventory for those same sources under the 1991 AQMP by specifically requiring the District to establish a percentage "inventory adjustment factor" that will be applied to adjust each facility's allocation if necessary to achieve equivalent reductions to the AQMP. (See Rule 2002(d) and (e).) A similar adjustment methodology is set forth for the year 2003 allocations.

Because the changes raised by CBE were contemplated by the rule and discussed in the EA and, indeed, throughout the District's lengthy rule development process, they are not changes in the activity or with respect to the circumstances under which the project is being undertaken to warrant preparation of a subsequent EA. Nor is there new information regarding new or more severe significant effects than shown in the District's EA, or new information on alternatives or mitigation measures. Under the

circumstances, the Board was justified in relying on the District's environmental documents and was not required to prepare a subsequent EA. (See Bowman v. City of Petaluma (1st Dist. 1986) 185 Cal.App.3d 1065, 1070-1074; Fund for Environmental Defense v. County of Orange (4th Dist. 1988) 204 Cal.App.3d 1538; Long Beach Savings and Loan Association v. Long Beach Redevelopment Agency (2d Dist. 1986) 188 Cal.App.3d 249; and Stone v. Tuolumne County (5th Dist. 1988) 2055 Cal.App.3d 927.) The initial allocation issue was discussed in detail at the Board's hearing, and the Board made a finding that "there [have not] been changes to RECLAIM or to the circumstances under which RECLAIM will operate which are so substantial as to require the preparation of a subsequent or supplemental environmental assessment." (Resolution 94-11, finding 17, at page 6)

Issue/Comment:

NRDC contends that substantial modifications were made to the RECLAIM program "only days before the September and October Governing Board hearings and subsequent to the expiration of the official comment period." While the District asserted that the changes were refinements and clarifications, NRDC said they were substantive and "could potentially have significant adverse environmental impacts." NRDC seems to want the ARB to prepare a supplemental EA to address the changes.

Action/Response:

Procedurally, we wish to note that since the changes took place prior to certification of the final EA by the District, the proper course would have been to have the EA amended and recirculated if further environmental review was in fact necessary. (See Public Resources Code section 21092.1, Sutter Sensible Planning, Inc. v. Bd. of Sups. (3d. Dist. 1981) 122 Cal.App.3d 813, 822, and Resource Defense Fund v. LAFCO (1st Dist. 1987) 191 Cal.App.3d 886). However, recirculation is required only where significant new information is added or other substantial changes are made to the EA. Public agencies are encouraged to modify and improve projects based on public comments, and there would be no incentive to do so if recirculation were required for every change. (See Sutter, supra., 122 Cal.App.3d at 822-823 and State of California v. Block (9th Cir. 1982) 690 F.2d 753,771).

None of the changes cited by NRDC occurred after EA certification in October 1993, nor did any new information come to light between the District Governing Board action and ARB consideration of RECLAIM approval; hence a supplemental EA is not appropriate. (See Sierra Club v. Gilroy City Council (6th Dist. 1990) 222 Cal.App.3d 38.) Further, even if the ARB could prepare new environmental documentation, the Board determined on the record that the District had sufficiently addressed the issues raised; that the RECLAIM rules themselves provided for a number of the types of outcomes which NRDC is concerned about; that significant environmental impacts would not result from the changes the District had made to the rules; or that the changes to the rules or to the circumstances under which RECLAIM would be carried out were not so substantial as to require the ARB to prepare a supplemental EA.

NRDC's specific areas of concern are addressed in detail in the record of the Board hearing. The issues and responses can be summarized as follows.

First, NRDC states that there were changes in emission factors used to calculate allocations. Rule 2002 contains an allocation formula which utilizes source-category specific emission factors, set forth in Tables 1 and 2 of Rule 2002 for NOx and SOx, respectively. Naturally, the emission factors were a subject of intense discussion between the regulated industry and the District, for low historical emissions would lead to a lower allocation while a higher emission factor for a particular source type would lead to a more robust allocation. The rule contemplates adjustment of emission factors on the basis of technical information pertaining to the type of equipment as well as permit information submitted by the facility. (See Rules 2002(c)(2) and 2015(c)(3).)

While a number of the emission factors in the tables changed between the District's July and October staff reports, they were always set forth in their final form in the draft and final EA, were subject to public comment, and were discussed prior to adoption by the District Governing Board. Moreover, any increase in allocations due to changes in emission factors are taken into consideration in the RECLAIM rules by adjusting the reduction percentage for future year allocations (Rule 2002(f)), making up the difference in future AQMPs (Rule 205(c)(1)), or instituting program specific backstops (Rule 2015(d)).

Second, NRDC contends that changes in the rates of reduction applied to Emission Reductions Credits (ERCs) for conversion to RECLAIM trading credits (RTCs) resulted in increased allocations which could have adverse environmental impacts. However, since the ERCs held by the applicable sources could, under the AQMP, be applied without a reduction in value in perpetuity, the fact that their value as RTCs is subject to a rate of decline after year six of the program (i.e., 2000) instead of immediately still results in greater air quality benefit due to their conversion to RTCs. Although NRDC may have wanted a more rapid decline in their value, this issue was aired before the District Board, which could legitimately change the draft rule at its hearings.

Third, NRDC is concerned about provisions in the rules which allow increased allocations to electric utilities and natural gas distributors for supplying fuel for alternative fuel vehicles. This provision was added by the District Governing Board on the basis of discussions regarding the possible increased demand for electricity and natural gas as a result of ARB clean fuel and low emission vehicle programs. These vehicle programs will affect demand regardless of whether the supplying sources are subject to RECLAIM or to the command and control measures in the AQMP. The measures in the AQMP which applied to electric generating and natural gas distribution facilities - which control emissions based on <u>concentration rates</u> as opposed to RECLAIM's <u>mass emission caps</u> - would have allowed an increase in

emissions. The increase which is possible under RECLAIM pursuant to Rule 2015(c)(2) merely maintains equivalence with the AQMP.

Further, the rule requires the District's Executive Officer to propose amendments to Rule 2002 to increase the allocations only if an evaluation of energy demand establishes a need for such increase. In that event, environmental documentation would be prepared along with the proposed amendments prior to their adoption by the District Governing Board, as required by CEQA.

Fourth, NRDC points out that alteration of the penalty calculations may cause negative impacts on the environment, but supplies no detail. Both the District and the ARB determined that the penalty provisions, especially the calculation procedure for violation of the annual allocation and the need for the facility to make up the difference the next year, ensures that the cost of noncompliance vastly outweighs the cost of compliance. The deterrent effect of the RECLAIM penalty provisions on violations of the rules is as great for RECLAIM as for the measures in the AQMP. The Board specifically found that the penalty structure met the statutory criteria (see Resolution 94-11, finding 3 at page 3). Thus, no adverse impact on air quality is anticipated as a result of minor changes to the penalty provisions.

Fifth, NRDC claims that the backstop provisions were weakened by providing that backstops measures be "proposed" instead of adopted. However, by law, the District's Executive Officer cannot assure that the Governing Board will adopt a particular measure, for it is the role of the Governing Board to do so only after complying with public hearing requirements on the basis of the evidence presented. Thus, Rule 2015 provides for annual and triennial audits of RECLAIM to allow the Governing Board to evaluate the program's performance against specific detailed criteria, and to amend all aspects of the program as necessary.

For example, Rule 2015(d) requires the Executive Officer to propose amendments to address "any specific problems," which could include "implementing technology-specific emission reductions" and, if these program amendments fail to correct the problem, the Executive Officer "shall recommend that the Governing Board, after holding a Public Hearing, consider reinstating all or a portion of the source category-specific emission limits or control measures contained in the then current AQMP" in lieu of RECLAIM (Rule 2015(d)(2)). Due process and the regulation adoption requirements set forth in the Health and Safety Code necessitate this approach, and there is no evidence that adverse impacts on the environment may result.

Finally, NRDC is concerned that a specific clause requiring the imposition of BARCT (best available retrofit control technology) on RECLAIM sources in the event RECLAIM is invalidated was removed by the District Governing Board when the RECLAIM rules were adopted. The emission reductions required from existing sources in the RECLAIM program were

specifically designed to be equivalent, in the aggregate, to the source-specific technology requirements set forth in the AQMP. Both the RECLAIM reductions and the AQMP BARCT measures stem from the same Health and Safety Code requirement that BARCT, as defined in Health and Safety Code section 40406, be required for all existing permitted stationary sources (H&SC section 40919(c) and 40920.5). If RECLAIM is invalidated, the BARCT requirement remains in existence by operation of law, and no specific severability provision is required in the RECLAIM rules. Nevertheless, it does appear that the BARCT provision is set forth in Rule 2015(e) and is the last sentence of the RECLAIM rules.

Issue/Comment:

A market incentives program such as RECLAIM is required by statute to achieve reductions of air pollutant emissions which are equivalent to those which would be achieved by the air quality plan which the District prepared and submitted to the ARB pursuant to the California Clean Air Act, at equivalent or less economic cost and dislocation. Thus, the entire process of developing and approving a NOx and SOx RECLAIM regulation involves important environmental issues centered on the enhancement of air quality in the SCAQMD. The documents prepared by the District to support the RECLAIM program, whether labeled Environmental Assessment or not, all involve air quality issues to a large extent. The extensive record which the Board considered in approving the District action is inextricably linked with air quality issues. Resolution 94-11 summarizes and addresses these issues. Interested parties are advised to consult the Staff Report, the Resolution, and the documents cited therein for a more lengthy and detailed discussion of the air quality issues germane to the Board's approval of the rules and regulations which will implement RECLAIM.

Certified: 

Artavia M. Edwards
Regulations Coordinator

Date: March 21, 1994

State of California
AIR RESOURCES BOARD

Resolution 94-11

March 10, 1994

WHEREAS, the Legislature has declared that the public interest in clean air shall be safeguarded by an intensive and coordinated state, regional, and local effort to protect and enhance the ambient air quality of the state;

WHEREAS, toward that end, the Air Resources Board ("ARB" or "Board") has adopted ambient air quality standards to protect the public health, safety, and welfare pursuant to section 39606 of the Health and Safety Code for, among other pollutants, ozone, nitrogen dioxide, and sulfur dioxide and PM_{10} (inhalable particles less than 10 microns in diameter);

WHEREAS, each air pollution control or air quality management district (district) which has been designated a nonattainment area for ozone, nitrogen dioxide, sulfur dioxide, or their precursors has prepared and submitted to the ARB a plan for attaining the standards by the earliest practicable date through the adoption and implementation of all feasible control measures, as required by sections 40910 through 40922 of the Health and Safety Code;

WHEREAS, districts which exceed the PM_{10} standard must make reasonable efforts to attain it;

WHEREAS, the South Coast Air Quality Management District ("District") is a nonattainment area for ozone, a pollutant formed in a photochemical reaction between oxides of nitrogen and hydrocarbons, which are ozone precursors, as well as for nitrogen dioxide and PM_{10};

WHEREAS, oxides of sulfur (SOx) and nitrogen (NOx) are precursors to PM_{10};

WHEREAS, pursuant to the California Clean Air Act, the District submitted, and on October 16, 1992 the ARB approved, an ozone attainment plan which, among other measures, contains a market-based emission reduction strategy for specified sources of NOx and hydrocarbons called the Regional Clean Air Incentives Market, or RECLAIM;

WHEREAS, rules and regulations to implement RECLAIM were adopted by the District Board on October 15, 1993 to replace a series of control measures affecting twenty (20) emission source categories set forth in Tiers 1 and 2 of the District's ozone attainment plan (1991 Air Quality Management Plan) and as an attainment strategy to reduce NOx and SOx in order to make progress towards attaining the PM_{10} standard;

WHEREAS, the Legislature, in section 39616(a)(2) of the Health and Safety Code, has endorsed market-based permitting programs such as RECLAIM an alternative to traditional "command and control" for improving air quality, as long as such programs result in equivalent emission reductions while expending fewer resources and while maintaining or enhancing the State's economy;

WHEREAS, section 39616(b) of the Health and Safety Code authorizes a district to adopt and implement a market-based incentive program as an element of the district's attainment plan in lieu of some or all of the current or anticipated command and control measures, provided that all of the criteria specified in section 39616(c) are met and that express findings are made and substantiated by the district;

WHEREAS, within 90 days after submittal of rules and regulations by a district to implement a market-based incentive program, the ARB must determine whether the rules and regulations meet all of the statutory criteria;

WHEREAS, section 40440.1 of the Health and Safety Code sets forth additional conditions pertaining to the nature and scope of the emissions reduction trading component which a market-based incentive program must meet in order to be acceptable;

WHEREAS, the District submitted the adopted RECLAIM program and the extensive administrative record to the ARB on February 4, 1994;

WHEREAS, the California Environmental Quality Act (CEQA; Public Resources Code section 21000 et seq.) and the CEQA Guidelines require that no project which may have a significant environmental impact may be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts, unless specific overriding considerations are identified which outweigh the potential consequences of any unmitigated impacts;

WHEREAS, the ARB is a "responsible agency" for CEQA purposes and is required to consider the environmental documents submitted by the lead agency, in this case the District, prior to making its CEQA findings and approving the project or activity (RECLAIM);

WHEREAS, the ARB staff and the Board have reviewed and considered the RECLAIM rules and regulations; the accompanying administrative record; the District's 1991 Air Quality Management Plan as amended in 1992 ("Plan"); the Environmental Assessment and accompanying documents, comments, and responses prepared for the program; the Socioeconomic Impact Assessment; and the written testimony presented by affected industry and the public for RECLAIM;

WHEREAS, the findings set forth below are supplemented by and based upon the detailed analysis set forth in the ARB Staff Report, District Board Resolution No. 93-28 (October 15, 1993), and the documents cited above, all of which are incorporated by reference herein, and by the Board's and staff's responses to comments on the record;

WHEREAS, the Board has held a duly noticed public meeting and, in addition to the written submittals, has considered the testimony presented by staff, the District, industry, environmental groups, and the public;

WHEREAS, on the basis of all the evidence before it, the Board finds:

1. ARB staff has participated fully in RECLAIM program development and RECLAIM committees and work groups from its inception as a "further study" measure in the 1989 SCAQMD attainment plan to adoption of the RECLAIM rules and regulations by the District Board in October 1993.

2. RECLAIM will result in an equivalent or greater reduction in emissions at equivalent or less cost compared with the Tier I and II command and control measures which would have otherwise been adopted as part of the District's 1991 Air Quality Management Plan within the same timeframe (to 2003) because RECLAIM will require subject sources to reduce their emissions, in the aggregate, by an equivalent amount as the Plan, taking into account the potential increase in emissions that could result from increased productivity at a facility as the recession ends and the Plan's continued use of concentration limits, or rates, as opposed to RECLAIM's imposition of mass caps on facility emissions.

3. The penalty structure adopted into RECLAIM will provide a comparable level of deterrence as would apply for command and control measures in order to ensure compliance with the program's emission reduction requirements, because penalties can be assessed for numerous types of violations, including: violations of annual emission allocations based on each day of the year and for the amount of excess emissions; for reporting data inaccurately on quarterly reports, with each day of the quarter being a separate violation; and for violating concentration limits, operating parameters and other permit conditions on a daily basis, so that total available penalties substantially exceed the cost of compliance.

4. The monitoring requirements of RECLAIM include a greater number of continuous emission monitoring systems (CEMs) to be installed on large sources covering the majority of RECLAIM emissions, more extensive mandatory source testing, and frequent and accurate recordkeeping and reporting, ensuring that such monitoring and reporting requirements will provide a level of enforcement and monitoring to ensure compliance with the program's emission reduction requirements comparable to that under command and control.

5. The baseline emission methodology established for RECLAIM was the result of hard and long discussions among the District, industry, and all interested parties, taking into account peak production activity, emissions history, economic factors, existing and future control requirements, and emission source category characteristics, to ensure that sources which were modified to reduce emissions and stringently controlled prior to implementation of RECLAIM receive appropriate credit and equitable treatment.

6. The socioeconomic impact analysis performed by the District is consistent with both the District Board's March 17, 1989 Socioeconomic resolution for rule adoption and with section 40728.5 of the Health and Safety Code, utilizing supportable methodology to demonstrate that RECLAIM will not result in a greater loss of jobs or more significant shifts from higher to lower skilled jobs than would otherwise occur under the 1991 Plan's command and control measures, and will in fact result in increased job opportunities for all ethnic groups in each occupation group.

7. Because development of the baseline took into account the circumstances of each category of regulated sources and because the annual rate of reduction required for RECLAIM sources is based upon the rate of reduction which would result from the adoption and implementation of the command and control measures, including best available retrofit control technology on existing sources, as set forth in the 1991 Plan, RECLAIM will not result in disproportionate impacts, in terms of required emission reductions in the aggregate, between RECLAIM and non-RECLAIM sources.

8. Implementation of RECLAIM will not delay, postpone, or hinder District compliance with the requirements of the California Clean Air Act, specifically with the goals and objectives of the attainment planning requirements set forth in sections 40910-40927 of the Health and Safety Code, because RECLAIM is a more flexible and economically viable means of accomplishing emission reductions within the same range as those which would have resulted from the expeditious adoption of all feasible measures as set forth in the 1991 Plan as amended in 1992, including reductions of overall population exposure to pollution in excess of the ozone standard by at least 25% by December 31, 1994; 40% by December 31, 1997; and 50% by December 31, 2000.

9. The commitment to adopt the replaced command and control measures in the 1991 Plan as contingency measures in accordance with the "Rule Development Report for RECLAIM and Other Rules" endorsed by the District Board at its July 8 and October 15, 1993 public hearings and the opportunities for adjusting the allocations which are built into the RECLAIM rules will prevent backsliding and ensure that RECLAIM achieves equivalent emissions reductions as the replaced measures.

10. The District Board has committed itself to reassess RECLAIM within nine months if the average annual market price of emission trading units exceeds $25,000 per ton of NOx emissions or $18,000 per ton of SOx emissions, adjusted annually to reflect changes in the consumer price index, and has committed itself to revise the market price review level based upon economic factors including RECLAIM's effect on jobs, business formation and longevity, and the commensurate costs of command and control measures, as required by section 39616(f) of the Health and Safety Code.

11. RECLAIM permits the trading of emission reduction credits from a significant number of stationary sources, and holds the promise of expanding the trading component to include a greater number and variety of sources if this becomes practicable and desirable for air quality.

12. Pending amendments to the District's Regulation 13 (New Source Review) will correct any imbalance between the supply and demand of credits in the District's Community Bank and Priority Reserve, available to eligible non-RECLAIM sources, and will ensure equity among RECLAIM and non-RECLAIM sources as well as adequate funding to preserve economic growth.

13. Ongoing examination and analysis of the transactional costs associated with RECLAIM, including a determination of the costs associated with the monitoring protocols, will assist the District in ensuring that the costs associated with RECLAIM are less than or equal to those associated with the command and control measures it replaced while still complying with state and federal law.

14. RECLAIM will meet the State's "no net increase" provisions for all foreseeable emissions increases based on the District's analysis of available emission reduction credits and the District Board's direction to track emission increases and reductions to ensure continued compliance with such provisions.

15. The District's Environmental Assessment, responses to comments, Mitigation Monitoring and Reporting Plan, and Statement of Overriding Considerations comply with the applicable procedural and substantive requirements of CEQA and are sufficient to serve as the environmental documentation for the ARB as a responsible agency.

16. All feasible mitigation measures were committed to in order to reduce the identified impacts of RECLAIM, and for all significant adverse impacts which could not be reduced to insignificance through the imposition of feasible mitigation measures, the District prepared a Statement of Overriding Considerations.

17. Approval of RECLAIM by the Board will not have any adverse environmental impacts which the ARB can or should independently mitigate, nor have there been changes to RECLAIM or to the circumstances under which RECLAIM will operate which are so substantial as to require the preparation of a subsequent or supplemental environmental assessment.

18. While the adoption and implementation of command and control measures have been and continue to be a successful means for reducing emissions and making progress towards the attainment of the ambient air quality standards, the economic realities in Southern California, the emerging federal and state policy of encouraging choice and flexibility to regulated businesses, the desirability of capping emissions on a mass basis at levels less than the current capacity of sources to emit, and the depth and breadth of the District staff's knowledge, expertise, and commitment to air quality provide a timely opportunity to initiate an innovative new effort to stimulate the economy and clean the air.

19. Monumental effort and countless hours on the part of District staff, affected industry, environmental groups, the general public, and ARB and federal EPA staff have gone into development of the RECLAIM rules and regulations.

20. RECLAIM is not unalterable and inflexible; if experience warrants program amendment or abandonment, sufficient safeguards and opportunities for reassessment are built into the program to ensure timely adjustment.

NOW, THEREFORE, BE IT RESOLVED, that the Board concurs with the District Board's adoption of the Regional Clean Air Incentives Market (RECLAIM), consisting of Rules 2000 (General), 2001 (Applicability), 2002 (Allocations for NOx and SOx), 2004 (Requirements), 2005 (New Source Review for RECLAIM), 2006 (Permits), 2007 (Trading Requirements), 2008 (Mobile Source Credits), 2010 (Administrative Remedies and Sanctions), 2011 and 2012 and associated protocols (Requirements for Monitoring, Reporting, and Recordkeeping for SOx and NOx, respectively), and 2015 (Backstop Provisions), and determines that the rules and regulations comprising RECLAIM meet the requirements of sections 39016 and 40440.1 of the Health and Safety Code.

BE IT FURTHER RESOLVED, that the Board adopts the District's environmental documents by reference, including the findings and Statement of Overriding Considerations, and directs the Executive Officer to respond to the CEQA concerns raised in accordance with the Board's direction and to file a Notice of Decision with the Secretary for Resources as required by CEQA.

BE IT FURTHER RESOLVED, that the Board commends the staff and Board of the SCAQMD, as well as the businesses and public who also participated, for their unflagging efforts to develop a workable, efficient, economically viable and environmentally protective market incentive program and encourages them to implement and refine the program with equal enthusiasm based on the challenges and lessons which RECLAIM will present.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to continue to monitor and participate in the implementation of RECLAIM and its expansion to include sources of hydrocarbons as well as a greater variety of NOx and SOx sources to the extent technical analysis and experience prove this feasible.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to present a status report on RECLAIM at least annually and more often if warranted.

I hereby certify that the above is a true and correct copy of Resolution 93-11 as adopted by the Air Resources Board.

Pat Hutchens

Pat Hutchens, Board Secretary

ATTACHMENT 1

FINDINGS, STATEMENT OF OVERRIDING CONSIDERATIONS, AND MITIGATION MONITORING PLAN

Findings - Consideration of Potentially Significant Adverse Impacts and Findings

Findings - Significant Impacts that Can Be Mitigated

Findings - Significant Impacts that Cannot Be Reduced Below A Significant Level

Statement of Overriding Considerations

Mitigation Monitoring Plan

FINDINGS - CONSIDERATION OF POTENTIALLY SIGNIFICANT ADVERSE IMPACTS

Pursuant to the California Environmental Quality Act (CEQA), when a lead agency determines that a project may have a significant adverse effect on the environment and that an environmental analysis of the proposed project is necessary, an initial study is prepared to identify environmental areas in which adverse impacts may occur. The initial study and a notice to the public that a CEQA analysis is being prepared is then circulated to the public for additional input regarding the scope of the environmental analysis to be conducted for that project. Pursuant to the South Coast Air Quality Management District's (District) certified regulatory program (Rule 110) and the state and District CEQA Guidelines, the CEQA document prepared for the proposed NO_x and SO_x Regional Clean Air Incentives Market (RECLAIM) programs was an Environmental Assessment. The Final Environmental Assessment for the proposed NO_x and SO_x RECLAIM programs is a comprehensive document and is comprised of three of the five volumes of the proposed NO_x and SO_x RECLAIM programs Staff report: Volume I - Development Report and Proposed Rules; Volume II - Supporting Documentation; and Volume III - Socioeconomic and Environmental Assessments.

The District as lead agency prepared a Notice of Preparation of a Draft EA (NOP) for the proposed NO_x and SO_x RECLAIM programs, which included an initial study. The NOP was circulated to the public on October 23, 1992, for a 30-day public review and comment period. Chapter 2 of the initial study (the environmental checklist), identified environmental areas that may be adversely affected by adopting the proposed programs. Chapter 3 of the initial study explained why the proposed programs could create adverse impacts in the environmental topics checked "Yes" or "Maybe" on the environmental checklist. Chapter 3 of the initial study also explained why adverse impacts were not expected in the environmental areas checked "No" on the environmental checklist.

The May 1993 draft of the five-volume Staff Report for the proposed NO_x and SO_x RECLAIM programs was circulated for a 30-day public review and comment period on May 24, 1993. As previously noted, the Draft EA for the

proposed NO_x and SO_x RECLAIM programs was included in Volume III as Chapters 7 through 9. Chapter 8 - Environmental Impacts, identified and analyzed all potential direct and indirect adverse environmental impacts that could result from adopting the District's proposed NO_x and SO_x RECLAIM programs.

After evaluating comments received on the May 1993 Draft Staff Report, the District made several minor revisions to the May 1993 NO_x and SO_x RECLAIM programs. The Staff Report, including the environmental and socioeconomic analyses, was revised and recirculated on July 22, 1993 for a second 30-day public review and comment period. On August 13, 1993, a notice was circulated to the public stating that this second public review and comment period would be extended an additional 15 days, thereby allowing the public a total of 45 days to review the Revised Staff Report.

The revised analysis in the EA (Chapter 8 of the Revised Draft Staff Report for the proposed programs) included updated modeling analyses to reflect the revised NO_x and SO_x RECLAIM programs. The results of the revised emissions trading model analyses indicate that there may be slight changes in the timing of installation of specific control technologies. In general, no new technologies were identified and installation of some control technologies was slightly delayed compared to the analysis in the May 1993 Staff Report. As a result of the revised analysis of the emissions trading model, effects on the environmental analysis were determined to be minor and did not substantially change potential impacts that could be generated by the proposed project. The primary exception to this conclusion was the fact that effects on air quality resulting from implementing the proposed NO_x and SO_x RECLAIM programs were more beneficial compared to the effects of the May version of the programs.

The District also revised the analysis of projected impacts that could result from the No Project Alternative (which is the 1991 AQMP) to more accurately reflect rules and regulations that have actually been adopted, as well as reflecting changes to the 1991 AQMP rulemaking calendar for 17 1991 AQMP control measures. As a result of these revised analyses, the conclusion regarding SO_x air quality impacts was changed from significant to insignficant because air quality modeling demonstrated that the proposed NO_x and SO_x RECLAIM programs would actually achieve greater SO_x emission reductions than the 1991 AQMP. No other conclusions were changed as a result of the revised analysis.

The state CEQA Guidelines Section 15121 maintains that a CEQA document, "...is an informational document which will inform public agency decision-makers and the public generally of the significant environmental effect of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project." The District considered a reasonable range of alternatives in both the May Draft and the July Revised Draft Environmental Assessments. In general, the alternatives, except the No Project Alternative could feasibly attain the basic project objectives, i.e., to create a single market-based regulatory program for a large portion of NO_x and SO_x stationary sources in the South Coast Air Basin (Basin), reduce compliance costs compared to the 1991 AQMP, and produce air quality benefits at least equivalent to the 1991 AQMP.

It was concluded in the Revised Draft EA that, although air quality impacts are considered significant for ozone and NO_x for some years, the proposed NO_x and SO_x RECLAIM programs have equivalent or greater overall air quality benefits than the 1991 AQMP. Further, because the proposed NO_x and SO_x RECLAIM programs are expected to result in installation of the same types of control equipment compared to the AQMP (as would the other project alternatives), spread out over a longer period of time, it was concluded that potential adverse environmental impacts would be relatively equivalent to the AQMP for all alternatives, or possibly less, because later installation of control equipment might allow new, more efficient, and less polluting control technologies to be developed.

In summary it was determined in the Final Environmental Assessment that the analysis of project alternatives indicated that potential adverse impacts from all market incentive alternatives are approximately equivalent. Further, each alternative had slightly different effects regarding: improvements in air quality and emission reductions ultimately achieved. It was concluded that the current staff proposal (Alternative G) presents the best balancing of these factors while maintaining compliance with AB 1054 and achieving economic, social, and technological acceptability.

The CEQA Guidelines also state that a public agency shall consider the information in the CEQA document along with other information which may be presented to the agency. If significant impacts remain after mitigation, the decision-makers must make a determination that the benefits of the project outweigh the unavoidable adverse environmental effects before they may approve such a project. Staff has prepared for the District Governing

Board's consideration, a Statement of Overriding Considerations in connection with the following significant adverse environmental impacts that may be generated by implementing the proposed NO_x and SO_x RECLAIM programs: air quality, water demand, and risk of upset. When approving a project under such circumstances, the unavoidable adverse effects may be considered acceptable (state CEQA Guidelines, Section 15093). This Attachment sets forth the factors to be considered in the District Governing Board's evaluation of potential impacts and benefits resulting from implementation of the proposed NO_x and SO_x RECLAIM programs.

FINDINGS - SIGNIFICANT IMPACTS THAT CAN BE MITIGATED

The analysis presented in the Chapter 8 of Volume III of the Staff Report analyzed potential adverse environmental impacts in the following areas: air quality, water resources, land use, population, housing, transportation/circulation, risk of upset, public services, energy/natural resources, utilities-solid waste, utilities-communication systems, and human health. The Board finds that the anlysis in Chapter 8 of Volume III of the Staff Report concluded that for all of the environmental areas analyzed, except for air quality, water demand, and risk of upset as discussed in the next section, potential adverse impacts resulting from implementing the proposed NO_x and SO_x RECLAIM programs, including cumulative impacts, were not significant or could be mitigated to insignificance. The District Governing Board also finds and reaffirms that measures have been identified in the "Mitigation Monitoring Plan" section of this Attachment, which, upon implementation, will accomplish any and all necessary and feasible mitigation.

FINDINGS - SIGNIFICANT IMPACTS THAT CANNOT BE REDUCED BELOW A SIGNIFICANT LEVEL

CEQA prohibits a public agency from approving or carrying out a project for which a CEQA document has been completed which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding (CEQA Guidelines Section 15091). The following paragraphs include findings for significant impact and the rationale for each finding.

The District Governing Board has reviewed the Environmental Assessment for the proposed NO_x and SO_x RECLAIM programs (Chapters 7, 8, and 9 in Volume III of the Staff Report) and makes the following findings.

The Board finds that implementing the proposed NO_x and SO_x RECLAIM programs may generate short-term adverse impacts, namely increased ozone levels and oxides of nitrogen (NO_x) emissions. It should be noted that overall, both the 1991 AQMP and the RECLAIM programs will improve air quality in the Basin. The conclusion that RECLAIM will have a significant air quality impact is based upon a comparison of the effects on air quality between the 1991 AQMP and the RECLAIM programs. As noted in Chapter 8 of Volume III, overall, the RECLAIM programs provide greater air quality benefits than the 1991 AQMP. The conclusion of significant adverse air quality impacts is based upon two results. The first is that in some localized areas of the Basin, ozone concentrations were projected to be higher under RECLAIM than under the 1991 AQMP. The higher ozone concentrations, however, generally occur in nonpeak ozone areas. It should be further noted that the same modeling showed that other areas of the Basin would have higher ozone concentrations under the 1991 AQMP than RECLAIM. In addition, the projected higher ozone concentrations under the 1991 AQMP, were greater than those identified for RECLAIM. In other words, the magnitude of the difference in ozone concentrations was higher for the 1991 AQMP than for RECLAIM.

The second result contributing to the conclusion of significant air quality impacts is that modeling indicated that for two years RECLAIM did not reduce NO_x emissions to as great an extent as projected for the 1991 AQMP.

This difference in emission reduction effectiveness exceeded the District's daily threshold of significance for NO_x. Generally, for other pollutants, the RECLAIM programs are expected to result in air quality benefits equivalent to or greater than the 1991 AQMP. Therefore, the conclusion of significant air quality impacts is a conservative conclusion given the fact that, overall, RECLAIM will provide greater air quality benefits than the 1991 AQMP.

The Board finds that there are no feasible mitigation measures to reduce air quality impacts to insignificance and still achieve the objectives of the project. A variety of mitigation measures were evaluated as possible actions to eliminate such potential impacts. These included alternative allocation methods, rates of reduction, changes to the universe of sources, and trading restrictions. The feasibility of each option was examined according to the CEQA definition which states that "feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors (CEQA Guidelines Section 15364). The District determined that potential mitigation measures, such as increasing the rate of reduction, could result in requirements that are technologically infeasible and/or would eliminate the economic benefits of the program, thus rendering the program infeasible from a CEQA standpoint and jeopardizing compliance with AB 1054.

The Board finds that implementing the proposed NO_x and SO_x RECLAIM programs could generate significant water demand impacts. It was determined in Chapter 8 of Volume III of the Staff Report that potential compliance options under RECLAIM could involve installation of the following control technologies that use water as part of their control process: hydrodesulfurization control equipment, scrubbers, mist eliminators, and condensers. It was concluded that, even though recent drought conditions have eased considerably, the Basin is still an area concerned with satisfying the water needs of its growing population. Therefore, the potential for increased water demand was concluded to be significant.

It should be noted that, although water demand impacts were determined to be significant, they are not substantially different than those expected under the 1991 AQMP. Indeed, because of the structure of the RECLAIM programs, potential water demand impacts were expected to be spread out over a longer time period under RECLAIM than under the 1991 AQMP. This would have the effect of reducing actual impacts at any one time,

although the impacts would be spread out over a longer period. Even with measures to mitigate water demand impacts to the maximum extent feasible, these impacts would remain significant.

Given the fact that water demand impacts are not substantially different from those expected under the AQMP and since water demand impacts for the 1991 AQMP were considered significant in the 1991 AQMP Final Environmental Impact Report, the conclusion of significant water demand impacts is a conservative conclusion given the fact that, water demand impacts from the proposed NO_x and SO_x RECLAIM programs are not expected to be substantially different from those anticipated under the 1991 AQMP. The Board finds that, even after implementing all feasible mitigation measures identified in the Mitigation Monitoring Plan, water demand impacts are expected to remain significant.

In both the May 1993 Draft and the July 1993 Revised Draft Environmental Assessments, it was determined that risk of upset impacts resulting from the proposed NO_x and SO_x RECLAIM programs would not be significantly different from the existing setting (the 1991 AQMP). As a result, the analysis concluded that significant adverse risk of upset impacts were not anticipated. In both documents, however, it was also noted that recent analyses of projects involving SCR and associated ammonia use could create significant adverse impacts, in spite of implementing all feasible mitigation measures. Based upon the results of these analyses involving SCR and ammonia, the District recently implemented a change in policy in which projects associated with ammonia use are deemed to be significant in spite of implementing all feasible mitigation measures because of the potential for public exposure to irritation levels of ammonia (100 ppm) in the event of an accidental release of ammonia during transport. As a result of the recent change in District policy, and since all proposed project alternatives involve use of SCR and ammonia, the conclusion regarding risk of upset impacts has been changed to significant for the proposed NO_x and SO_x RECLAIM programs and all project alternatives.

Changing the conclusion regarding risk of upset impacts to significant is not the result of receiving or identifying new information, but merely reflects a recent change in District policy. It should also be noted that risk of upset impacts from adopting Alternatives B through G are not anticipated to be significantly different from adopting Alternative A, the No Project Alternative. Concluding that risk of upset impacts from implementing the

project alternatives are significant is a conservative approach that highlights for decision makers potentially controversial issues associated with the proposed project and all proposed alternatives.

The District Governing Board finds that, as a result of a change in District policy, the proposed NO_x and SO_x RECLAIM programs and all alternatives to the proposed project have the potential to generate significant risk of upset impacts in the event of an accidental release of ammonia during transport. The Board finds further that implementing all feasible mitigation measures as identified in the Mitigation Monitoring Plan will not reduce potential risk of upset impacts to insignificance.

Summary

The May 1993 Draft and July 1993 Revised Draft Environmental Assessment for the proposed NO_x and SO_x RECLAIM programs analyzed 13 environmental areas in which potential adverse impacts could occur. In 10 of these 13 environmental categories, significant adverse environmental impacts are either not expected to occur or can be mitigated to insignificant levels. This Attachment primarily addresses the three categories of potentially adverse environmental impacts (air quality, water demand, and risk of upset) that cannot be fully mitigated, as discussed in the "Mitigation Monitoring Section."

Finally, the Board finds that the findings required by the CEQA Guidelines Section 15091 and described in the two sections preceding this summary, are supported by substantial evidence in the record.

STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to Section 15093 of the CEQA Guidelines, CEQA requires the decision makers to balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. If the benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable." In the paragraphs below, the District specifies the

reasons to support its action based upon information in the Final Environmental Assessment and other information in the record.

Potential adverse environmental impacts and mitigation measures that could result from implementing the proposed NO_x and SO_x RECLAIM programs are described in Chapter 8 of Volume III of the Staff Report and in the "Mitigation Monitoring Plan" in the following section. In the preceding "Findings" sections, it was determined that significant adverse impacts may occur as a result of implementing the proposed NO_x and SO_x RECLAIM programs. It was also determined that no feasible mitigation measures or feasible project alternatives were identified in the case of air quality impacts. In addition, even implementing all feasible measures to mitigate water demand and risk of upset impacts are not anticipated to reduce these impacts to insignificant levels. Despite the District's inability to fully mitigate potential air quality, water demand, and risk of upset impacts, the District Governing Board finds that the benefits of the project, outweigh the potential unmitigated impacts for the following reasons:

- Adopting the proposed NO_x and SO_x RECLAIM programs would allow the District to adopt one consolidated program to replace a number of individual source specific rules in such a way as to lower compliance costs, while still demonstrating progress toward attaining state and federal ambient air quality standards.

- The 1991 AQMP calls for the development of one broad best available retrofit control technology (BARCT) rule. BARCT is typically defined as an equipment- or process-specific requirement. By redefining BARCT in terms of mass emission reductions, the proposed NO_x and SO_x RECLAIM programs may accelerate BARCT for all affected facilities.

- The proposed NO_x and SO_x RECLAIM programs are expected to achieve emission reductions equivalent to or greater than the 1991 AQMP and comply with the California Clean Air Act to achieve Basin-wide emission reductions of five percent per year.

- The proposed NO_x and SO_x RECLAIM programs are expected to allow greater compliance flexibility for affected sources.

- The proposed NO_x and SO_x RECLAIM programs may provide greater incentives for sources to find cleaner and less expensive

production technologies and to reduce pollution beyond required limits.

- The proposed NO_x and SO_x RECLAIM programs would not require new or additional mitigation measures beyond those identified in the Final EIR and Mitigation Monitoring Plan prepared for the 1991 AQMP.

The Board finds that the proposed NO_x and SO_x RECLAIM programs comply with the provision of AB 1054 and the requirements of CEQA, including identification of potential adverse environmental impacts, feasible mitigation measures, identification and comparison of alternatives, etc.

MITIGATION MONITORING PLAN

CEQA requires that for each identified significant adverse environmental impact, findings be prepared on how the lead agency proposes to mitigate these impact(s), and whether any potential mitigation measures or project alternatives are considered infeasible. These findings are to be further supported by a mitigation monitoring program (AB 3180, Cortese), incorporated into the Public Resources Code (PRC) as Section 21081.6, and which contains the following requirements:

> Section 21081.6. When making the findings required by subdivision (a) of Section 21081 or when adopting a negative declaration pursuant to Paragraph (2) of subdivision (c) of Section 21080, the public agency shall adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation. For those changes which have been required or incorporated into the project at the request of an agency having jurisdiction by law over natural resources affected by the project, that agency shall, if so requested by the lead or responsible agency, prepare and submit a proposed reporting or monitoring program.

This legislation requires follow-up monitoring for projects in which mitigation measures for potential adverse environmental impacts have been identified. However, specific guidelines as to how this monitoring is to be performed have not yet been developed. The State Office of Planning and Research has indicated that a draft study is currently under review and monitoring guidelines will be included in the next CEQA revision (Fergison, pers. com.). To fulfill the requirements of PRC 21081.6, the District has developed a monitoring plan for anticipated impacts resulting from implementation of the proposed NO_x and SO_x RECLAIM programs.

The following sections discuss potentially significant environmental impacts identified in Chapter 8 of Volume III of the Staff Report. Also identified are agencies responsible for performing follow-up monitoring as required by PRC 21081.6.

Determination of Environmental Impacts

The Draft EIR identified potential adverse environmental impacts in the following environmental categories: air quality, water impacts, energy/natural resources, risk of upset, utilities\solid waste, and human health. Impacts and mitigation measures are discussed in the following sections. The following agencies have been identified as agencies that may be responsible for implementing some of the mitigation measures.

State of California, Office of Planning and Research

California Department of Health Services

Metropolitan Water District of Southern California

Air Quality Impacts

Relative to air quality impacts, it was determined that the proposed NO_x and SO_x RECLAIM programs would provide equivalent or better overall air quality than a comparable set of command and control regulations (see Chapters 8 and 9 of Volume III for details). Nonetheless, utilizing stringent thresholds for potential adverse air quality impacts originally designed for land use projects and single pieces of equipment, it was concluded in the Environmental Assessment that there may be some potentially significant

impacts in select locations and years due to RECLAIM implementation. A variety of mitigation measures were evaluated as possible actions to eliminate such potential impacts. These included alternative allocation methods, rates of reduction, changes to the universe of sources, and trading restrictions. The feasibility of each option was examined according to the CEQA definition which states that "feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors. (CEQA Guidelines sec. 15364.) The current staff proposal presents the best balancing of these factors while maintaining compliance with AB 1054 and achieving economic, social, and technological acceptability. Therefore, since no feasible mitigation measures or project alternatives that achieve the goals of the proposed NO_x and SO_x RECLAIM programs with fewer or less severe air quality impacts were identified, no additional mitigation measures have been included.

Water Impacts

IMPACTS: Water impacts were associated with various Tier I control technologies, including scrubber and mist eliminators, condensers, carbon adsorption, post-combustion treatment. Impacts were broken down into two areas water quality and demand. Water quality impacts were determined to be insignificant. It was concluded, however, that the proposed NO_x and SO_x RECLAIM programs would have little or no effects on water demand compared to the 1991 AQMP, but because such impacts were deemed significant in the 1991 AQMP Final EIR, it was determined that these potential impacts would remain significant.

MITIGATION: The mitigation measures provided in the 1991 AQMP Final EIR have been incorporated into the Final Environmental Assessment. These measures are summarized below. The reader is referred to the 1991 AQMP Final EIR for a complete discussion of all applicable mitigation measures.

Water Demand Mitigation

1. Use reclaimed water when possible;

2. Use of water treatment and steam condensers at refineries could reduce potential water demand impacts;

3. During construction, use alternative methods for dust control such as approved chemical soil binders, windbreaks, etc.; and

4. Where possible, use less water intensive control equipment.

RESPONSIBLE AGENCIES: SCAQMD and Water purveyors such as Metropolitan Water District.

MITIGATION MONITORING: Mitigation measures, as identified in the 1991 AQMP FINAL EIR, can and should be implemented primarily by the agencies identified above through their discretionary permit authority over water supply and distribution activities or as a responsible agency commenting on any CEQA documents that may be necessary for projects affecting water quality. Implementing the above mitigation measures is primarily within the responsibility of these other government agencies and is also within the jurisdiction of the District. These mitigation measures should be adopted and implemented by the district and the referenced agencies to ensure that water impacts are not significant or are reduced to the lowest feasible levels. The District will contact the appropriate agencies referenced above to determine whether these measures have been implemented.

Risk of Upset Impacts

IMPACT: In general, the results of the least-cost trading model indicated that, because of the flexibility inherent in the marketable permits program, a greater variety of compliance options would be available to affected facilities. As a result more benign control options could be used. As indicated in Chapter 8 of Volume III of the Staff Report, the net effect of the proposed amendments could be that risk of upset impacts could be less severe (but not significantly) compared to the 1991 AQMP. Because of recent policy changes regarding risk of upset analyses, as noted previously, risk of upset impacts associated with transport of ammonia for the proposed NO_x and SO_x RECLAIM programs (and all other project alternatives) are considered significant. Further, it was determined that sufficient mitigation measures are not available to reduce these impacts to insignificance.

MITIGATION: Since risk of upset impacts are equivalent or possibly slightly less severe compared to the 1991 AQMP, the same mitigation measures identified in the the 1991 AQMP continue to be applicable. The following paragraphs summarize the mitigation measures included in the 1991 AQMP

EIR. The reader is referred to the 1991 AQMP Final EIR for a complete listing of mitigation measures.

General Mitigation Measures

1. Compliance with all applicable safety, regulations to reduce the potential for accidental releases of hazardous materials;

2. Provide workers with safety guidelines regarding emergency response and emergency first aid procedures;

3. Provide workers with information regarding the appropriate agencies to contact in the event of an accidental release of a hazardous material;

4. Business emergency response plans and submit them to appropriate local agencies; and

RESPONSIBLE AGENCIES: Office of Emergency Services, local fire and police departments, CalOSHA, Department of Transportation, EPA, and Office of Environmental and Health Hazards Assessment.

MITIGATION MONITORING: The District Governing Board finds that the mitigation measures summarized above can and should be implemented primarily by the agencies identified above through their discretionary permit authority over safety and emergency response activities or as a responsible agency commenting on any CEQA documents that may be necessary for projects that could create risk of upset impacts. Implementing the above mitigation measures is primarily within the responsibility of these other government agencies and possibly within the jurisdiction of the District. These mitigation measures should be adopted and implemented by the referenced agencies to ensure that risk of upset impacts are not significant or are reduced to the lowest feasible levels. The District will contact the appropriate agencies referenced above.

Conclusion

The District will evaluate the effectiveness of these monitoring programs one year after Board adoption of the Proposed Amendment and every subsequent five years after that. If the above monitoring programs are