

ATTACHMENT E

RESOLUTION NO. 01-

A Resolution of the Governing Board of the South Coast Air Quality Management District (AQMD) certifying that proposed amendments to Regulation III – Fees, including Rules 301 – Permitting and Associated Fees, 303 – Hearing Board Fees, 304 – Equipment, Materials, and Ambient Air Analyses, 304.1 – Analyses Fees, 305 – Fees for Acid Deposition Research, 306 – Plan Fees, 307 – Fees for Air Toxics Emissions Inventory, 307.1 – Alternative Fees for Air Toxics Emissions Inventory, 308 – On-Road Motor Vehicle Mitigation Options Fees, 309 – Fees for Regulation XVI, 311 – Air Quality Investment Program (AQIP) Fees, 312 – Special Permitting Fees for Agricultural Sources, and 313 – Authority to Adjust Fees and Due Dates are exempt from the requirements of the California Environmental Quality Act (CEQA).

A Resolution of the Governing Board of the AQMD amending Regulation III – Fees, including Rules 301 – Permitting and Associated Fees, 303 – Hearing Board Fees, 304 – Equipment, Materials, and Ambient Air Analyses, 304.1 – Analyses Fees, 306 – Plan Fees, 307 – Fees for Air Toxics Emissions Inventory, 307.1 – Alternative Fees for Air Toxics Emissions Inventory, 308 – On-Road Motor Vehicle Mitigation Options Fees, 309 – Fees for Regulation XVI, 311 – Air Quality Investment Program (AQIP) Fees, adopting Rule 313 – Authority to Adjust Fees and rescinding Rules 305 – Fees for Acid Deposition Research and 312 – Special Permitting Fees for Agricultural Sources.

WHEREAS, the AQMD staff reviewed the proposed project and determined that it is exempt from the requirements of CEQA; and

WHEREAS, the AQMD Governing Board obtains its authority to adopt, amend, or repeal rules and regulations from Sections 40000, 40001, 40440, 40500, 40501.3, 40506, 40510, 40510.5, 40512, 40522, 40522.5, 40523, 40702, 40725 through 40728, and 44380 of the California Health and Safety Code; and

WHEREAS, the AQMD Governing Board has determined that a need exists to amend Regulation III – Fees, including Rules 301, 303, 304, 304.1, 306, 307, 307.1, 308, 309, and 311, adopt Rule 313 and rescind Rules 305 and 312, to fund the Fiscal Year 2006-07 Budget, consolidate fiscal administrative requirements and delete obsolete rules that are no longer applicable; and

WHEREAS, the AQMD Governing Board has determined that Regulation III – Fees, including Rules 301, 303, 304, 304.1, 306, 307, 307.1, 308, 309, and 311, as proposed to be amended and Rule 313 as proposed to be adopted, are written or displayed so that their meaning can be easily understood by the persons directly affected by them; and

WHEREAS, the AQMD Governing Board has determined that Regulation III – Fees, including Rules 301, 303, 304, 304.1, 306, 307, 307.1, 308, 309, and 311, as proposed to be amended and Rule 313 as proposed to be adopted, are in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations; and

WHEREAS, a public hearing has been properly noticed in accordance with the provisions of Health and Safety Code Section 40725; and

WHEREAS, the AQMD Governing Board has held a public hearing in accordance with all provisions of law; and

WHEREAS, the AQMD Governing Board, in adopting, amending or adopting these rules, references the following statutes which the AQMD hereby implements, interprets, or makes specific: Health and Safety Code Sections 40500, 40500.1, 40510, 40510.5, 40512, 40522, 40522.5, 40523, 41512, and 44380; and

WHEREAS, the AQMD Governing Board has determined that Health and Safety Code Section 40920.6 is not applicable to Regulation III – Fees, including Rules 301, 303, 304, 304.1, 306, 307, 307.1, 308, 309, 311 and 313, as proposed, since the rules in Regulation III - Fees are not Best Available Retrofit Control Technology rules and do not regulate air contaminants; and

WHEREAS, the AQMD Governing Board has determined that Regulation III – Fees, including Rules 301, 303, 304, 304.1, 306, 307, 307.1, 308, 309, 311 and 313, as proposed, do not impose the same requirements as any existing state or federal regulation and are necessary and proper to execute the power and duties granted to, and imposed upon, the District; and

WHEREAS, the AQMD Governing Board has determined that the proposed amendments better recover specific program costs in part including: collection of unpaid fees for permit to operate where no permit to construct was issued, standard streamlined permit fee alignment, re-issuance of permit prohibiting use of toxic fee alignment, re-issuance of permits for removed standby fuel supply not requiring a NSR evaluation, administrative change fee alignment, EIR addendum fee alignment, RECLAIM facilities permit fee alignment and change of operator fee alignment, Title V facilities administrative permit revision fee alignment, permit revision fee alignment, facility permit change of operator fee alignment and renewal initial processing fee alignment, Schedule A and A1 permit change of condition and Schedule F, G, and H permit processing fee alignment, change of operator non-small business fee alignment, addition of new equipment categories to the table of permit fee rates, Revision of fee rate schedules for certain equipment, compliance plan annual renewal, qualified independent consultant fee, “AB 2588 diesel engine facility-wide flat fee”, special health risk assessment fee, AB 2588 air toxics surcharge, failure to notify of applicability of Rule 2002 fee, fees for Rule 1610 scrapping

plan review and inspections and a rule consolidating fiscal administrative requirements; and

WHEREAS, the AQMD Governing Board has determined that the proposed amendments to Rules 301, 303, 304, 304.1, 306, 307, 307.1 308, 309, and 311, in addition to the proposals for recovering specific program costs are necessary to fund the AQMD FY 06-07 budget; and

WHEREAS, the AQMD Governing Board determines that none of the provisions of Rule 305 – Fees for Acid Deposition Research and Rule 312 – Special Permitting Fees for Agricultural Sources are applicable and therefore should be rescinded; and

WHEREAS, the AQMD Governing Board finds and determines that the proposed fee increases that exceed the CPI increase are necessary to better address the significant under-recovery that still remains after a CPI rate increase and are equitable because they are distributed over District programs where the costs exceed the revenues received and are applied equitably to support these District programs; and

WHEREAS, the AQMD Governing Board finds and determines that proposed new or amended fees that exceed the CPI increase accurately reflect levels of effort that are necessary to recover the reasonable costs for evaluation of applications for permits and rule making, monitoring, and planning, and enforcement; and

WHEREAS the AQMD Governing Board finds and determines that the fee increases that exceed the CPI increase, including the AB 2588 facility with a standby diesel engine flat fee, revision of fee schedule for certain equipment categories to better reflect the amount of staff work time required, the AB 2588 Air Toxics surcharge per facility and also other fee increases not specifically referred to in this resolution are necessary to support reasonable program costs as documented through studies, and that such fees are equitably apportioned because they are based on the actual costs based on hourly rates to the AQMD to perform the work for which the fees are charged including their fair share of apportionable costs or are apportioned based on emissions and therefore in proportion to their contribution to the problem of ammonia; and

WHEREAS, the AQMD Governing Board has determined that the socioeconomic impact assessment of Regulation III – Fees, including Rules 301, 303, 304, 304.1, 305, 306, 307, 307.1, 308, 309, 311 and 313, as proposed, is consistent with the March 17, 1989 Board Socioeconomic Resolution for rule adoption; and

WHEREAS, the AQMD Governing Board specifies the manager of Proposed Amended Regulation III – Fees, as the custodian of the documents or mother materials which constitute the record of the proceedings upon which the adoption of this proposed amended regulation is based which are located at the South Coast Air Quality Management District, 21865 Copley Drive, Diamond Bar, California 91765; and

NOW, THEREFORE, BE IT RESOLVED, that the AQMD Governing Board does hereby certify the Notice of Exemption for Regulation III – Fees, including Rules 301, 303, 304, 304.1, 305, 306, 307, 307.1, 308, 309, 311, 312 and 313, as proposed, completed in compliance with State CEQA Guidelines Sections 15002(k)(1), 15061(b)(1), and 15273, and that it was presented to the Governing Board, whose members reviewed, considered, and approved the information therein before acting on Regulation III – Fees, including Rules 301, 303, 304, 304.1, 305, 306, 307, 307.1, 308, 309, 311, 312 and 313, as proposed and

BE IT FURTHER RESOLVED, that the AQMD Governing Board finds that Regulation III – Fees, including Rules 301, 303, 304, 304.1, 305, 306, 307, 307.1, 308, 309, 311, 312 and 313, as proposed, establish fees charged for the purposes of meeting operating expenses, including employee wages and fringe benefits; purchasing and leasing supplies, equipment and materials; meeting financial reserve needs and requirements; and obtaining funds for capital projects necessary to maintain mandated services, all of which are necessary to carry out AQMD's programs; and

BE IT FURTHER RESOLVED, that the AQMD Governing Board finds, based on the evidence in the rule making record, that the increase in fees that exceed the CPI for 2005 are necessary to carry out AQMD programs and are equitably apportioned; and

BE IT FURTHER RESOLVED, that the AQMD Governing Board does hereby approve the Socioeconomic Impact Assessment; and

BE IT FURTHER RESOLVED, that the AQMD Governing Board does hereby amend Regulation III – Fees, including Rules 301, 303, 304, 304.1, 306, 307, 307.1, 308, 309, and 311, adopt Rule 313 and rescind Rules 305 and 312 pursuant to the authority by law, as set forth in the attached and incorporated herein by this reference.

DATE: _____

CLERK OF THE BOARD