

RESOLUTION NO. AQM _____

RULE 202 - NEW SOURCE REVIEW

**THE BOARD OF DIRECTORS
OF THE SACRAMENTO METROPOLITAN AIR QUALITY
MANAGEMENT DISTRICT**

WHEREAS, the Board of Directors of the Sacramento Metropolitan Air Quality Management District is authorized to adopt, amend or repeal rules and regulations by sections 40001, 40702, 41010, 40920, and 42300 of the California Health and Safety Code (Health and Safety Code Section 40727(b)(2)); and

WHEREAS, the Board of Directors of the Sacramento Metropolitan Air Quality Management District has determined that a need exists for the adoption of amendments to Rule 202 – NEW SOURCE REVIEW in order to implement federal New Source Review requirements for “severe” nonattainment areas for the federal 8-hour ozone standard and nonattainment areas for the federal PM2.5 standard, as required by the federal Clean Air Act (42 USC 7410(a)(2)(C), 7410(l), 7515, 7502(c)(5), 7503, and 7511a(d)(2)), 75 FR 24409 (May 5, 2010), and Title 40 Code of Federal Regulations Part 51 and state New Source Review requirements of the Protect California Air Act of 2003 (Health and Safety Code Section 42500 et seq.) (Health and Safety Code Section 40727(b)(1)); and

WHEREAS, the Board of Directors of the Sacramento Metropolitan Air Quality Management District has determined that Rule 202 implements and makes specific federal requirements under Title I of the federal Clean Air Act Amendments of 1990, Title 40 Code of Federal Regulations Part 51, the state requirement (Health and Safety Code Section 41010(b)) for a no net increase permitting program, and the Protect California Air Act of 2003 (Health and Safety Code Section 40727(b)(6)); and

WHEREAS, the Board of Directors of the Sacramento Metropolitan Air Quality Management District has determined that the rule duplicates federal regulations for permitting programs (40 CFR 51.165) and that the duplicative requirements are necessary in order to execute the duties imposed upon the District (Health and Safety Code Section 40727(b)(5)); and

WHEREAS, the Board of Directors of the Sacramento Metropolitan Air Quality Management District has considered a written analysis comparing the proposed rule amendments to federal air pollution control requirements prepared by Staff (Health and Safety Code Section 40727.2); and

WHEREAS, the Board of Directors of the Sacramento Metropolitan Air Quality Management District has determined that the meaning of Rule 202 can be easily understood by the persons affected by it (Health and Safety Code Section 40727(b)(3)); and

WHEREAS, the Board of Directors of the Sacramento Metropolitan Air Quality Management District has determined that Rule 202 is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations (Health and Safety Code Section 40727(b)(4)); and

WHEREAS, the Board of Directors of the Sacramento Metropolitan Air Quality Management District has maintained records of the rulemaking proceedings (Health and Safety Code Section 40728); and

WHEREAS, the Board of Directors of the Sacramento Metropolitan Air Quality Management District held a duly noticed public hearing on October 28, 2010 and considered public comments on the proposed amendments to the rule (Health and Safety Code Sections 40725 and 40726); and

WHEREAS, the Board of Directors of the Sacramento Metropolitan Air Quality Management District has considered the socioeconomic impacts of the rule amendments (Health and Safety Code Section 40728.5); and

WHEREAS, although the District has coordinated this rulemaking effort with U.S. EPA, that agency may nonetheless disapprove the rule or require additional changes that may alter business compliance requirements or methods of compliance; and

WHEREAS, the California Environmental Quality Act (CEQA), under Section 15308 of the State CEQA Guidelines, exempts actions by a regulatory agency for the protection of the environment; and Section 15061(b)(3) of the State CEQA Guidelines exempts actions that can be seen with certainty that there is no possibility that such actions may have a significant adverse effect on the environment.

NOW, THEREFORE, BE IT RESOLVED THAT the amendment of Rule 202 is exempt from the provisions of CEQA; and

BE IT FURTHER RESOLVED THAT the Board of Directors of the Sacramento Metropolitan Air Quality Management District approves and adopts the proposed amendment of Rule 202 – NEW SOURCE REVIEW; and.

BE IT ORDERED that the amendments to Rule 202 – NEW SOURCE REVIEW are not effective until the day of the U.S. Environmental Protection Agency final action approving Rule 214 – FEDERAL NEW SOURCE REVIEW.

ON A MOTION by Director _____, seconded by Director _____, the foregoing Resolution was passed and adopted by the Board of Directors of the Sacramento Metropolitan Air Quality Management District, State of California, this 28th day of October, 2010, by the following vote, to wit:

AYES: Directors

NOES: Directors

ABSENT: Directors

Chair of the Board
Sacramento Metropolitan Air
Quality Management District

(SEAL)

ATTEST: _____

Clerk of the Board
Sacramento Metropolitan Air Quality Management District