

REQUEST FOR EARLY EFFECTIVE DATE

Pursuant to Government Code section 11343.4(d), the Air Resources Board (ARB) requests that the amendment of sections 90700 through 90705, and Appendix A, Titles 17 and 26, California Code of Regulations (CCR), (the Air Toxics "Hot Spots" Fee Regulation) become effective upon filing with the Secretary of State. Good cause for this request exists. An early effective date is necessary to effectively administer and implement the Air Toxics "Hot Spots" Program.

Part 6 of Division 26 of the Health and Safety Code, commencing with section 44300 (the "Hot Spots Act") mandates that facilities that manage certain toxic substances and emit certain air pollutants periodically assess and report their emissions of toxic air pollutants to local air pollution control districts (districts). The districts and the State determine the risks these toxic emissions pose to surrounding populations. Facilities whose emissions pose a significant risk are required to notify affected populations.

The "Hot Spots" Program is funded by fees assessed upon the facilities required to conduct "Hot Spots" assessments, reports, and notification. Most of these fees are collected via the "Hot Spots" Fee Regulation, normally amended early in the fiscal year. For fiscal year 1997-98, a number of circumstances delayed the adoption of the "Hot Spots" Fee Regulation. The public hearing was postponed from September 25, 1997 to November 13, 1997 to allow districts additional time to document substantial changes in facility categories and for ARB to verify that documentation. As a result of these documented changes, and an additional proposed reduction in state costs, a 15-day comment period was necessary to adjust category fees in the Fee Regulation.

These unavoidable delays make it essential that the "Hot Spots" Fee Regulation become effective upon filing with the Secretary of State. Any further delay in the date of effectiveness will cause a delay in recovering the funds necessary to carry out the program activities because facilities cannot be billed until the Regulation takes effect. Without the necessary funds the fees provide, program activities will be disrupted. The objective of the program is to gather information regarding any dangers to the public health threatened by the emission of substances known to be toxic. A delay in gathering this information could represent a danger to public health.

The parties directly affected by these regulations are the 34 air pollution control and air quality management districts and all facilities in the state subject to the "Hot Spots Act." An early effective date will not have an adverse impact on the ability of the districts to comply with the regulations. To the contrary, an early effective date will facilitate district and State program activities so that they can comply with the Act's statutory deadlines by ensuring the fees can be recovered in time to fund these tasks. Districts have been consulted in the development of these regulations and they have been active participants in the rulemaking process. The ARB will notify the districts of the effective date of the regulations as soon as it is known.

Date: February 18, 1998

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