REQUEST FOR EARLY EFFECTIVE DATE

Pursuant to Government Code section 11343.4(c), the Air Resources Board (ARB) requests that the amendment to Tables 1, 2, 3a, 3b, 3c and 4 in section 90705, as determined by sections 90700 through 90705, and Appendix A, Title 17, 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 emit specified air pollutants periodically assess and report their emissions of toxic air pollutants to local air pollution control, and air quality management districts (districts). The districts and the State calculate 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, which is preferably effective early in the fiscal year. For fiscal year 2000-2001, the adoption of the "Hot Spots" Fee Regulation was delayed slightly so that the districts had additional time to document changes in facility categories and for the ARB to verify that documentation. The public hearing occurred on October 26, 2000.

This delay makes it necessary 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 further delays in the recovery of funds required to carry out the program activities. Facilities subject to Program fees cannot be invoiced until the Fee Regulation takes effect. Without the necessary funding Program fees provide, program-related activities may be disrupted. One of the objectives of the program is to gather information regarding risks to the public health associated with the emission of substances known to be toxic, delays in the gathering of information could delay identification of potential dangers to public health.

The parties directly affected by these regulations are the 35 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 the implementation of 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: April 6, 2001

Noreen Skelly, Staff Counsel