

REQUEST FOR EARLY EFFECTIVE DATE

Pursuant to Government Code section 11346.2(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 in Part 6 of Division 26 of the Health and Safety code, commencing with section 44300 (the "Hot Spots Act") mandates that facilities which 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. A number of circumstances delayed the adoption of the "Hot Spots" Fee Regulation for fiscal year 1995-96. An initial public hearing, scheduled for July 8, 1995 was canceled because of pending legislation that, if passed, would affect the overall program. Two 15-day comment periods were provided. A substantial amount of time was spent in evaluating and verifying the facility count information, and obtaining supporting documentation from the districts.

These unavoidable delays make it imperative 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 facilities 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: June 4, 1996

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