

REQUEST FOR EFFECTIVE ON FILING EFFECTIVE DATE

Pursuant to Government Code section 11343.4(c), the Air Resources Board (ARB or Board) requests that the Office of Administrative Law (OAL) prescribe an “earlier effective date” for the Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms that was considered and approved by the Board at a June 28, 2012 public hearing. ARB believes the following demonstrates “good cause” for OAL to allow the regulations to be effective on September 1, 2012.

DEMONSTRATION OF GOOD CAUSE

In this rulemaking, the Board adopted amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms to implement the additional changes to the regulation to ensure individuals participating in the cap-and-trade program are who they say they are, and also changed certain dates contained in the existing regulation. The first auction is scheduled for November 14, 2012. To effectively participate in the auction, covered entities need to be able to assess their allowance needs. If the regulation is not effective on September 1, it impedes the ability for ARB to announce the November auction 60 days ahead of time as required by the regulation. The announcement includes the information necessary for regulated entities to plan and acquire bidding guarantees to participate in the auction for the amount of allowances they think they will want to purchase. The regulation requires publicly owned utilities (POUs) to consign allowances to the auction or place them in a limited use holding account. The POU must inform ARB of the number of allowances to be auctioned, which will be added to the allowances already designated for auction, which will be announced to the public to bid. The deadline for POU to inform ARB of their decision is September 1, as the regulations are currently amended. The current version of the regulation does not contain such a deadline. Without accurate information in the notice, regulated entities will not know how many allowances will be available for purchase, which will adversely impact bidding strategies. Failure to hold the auction in November means that the State of California will not receive proceeds from the auction. Failing to have these regulations effective September 1 will adversely affect the cap-and-trade program and California as a whole.

For these reasons, ARB hereby requests that OAL approve these amendments to be effective on September 1, 2012.

Date: July 31, 2012

/s/
Holly Geneva Stout
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