

REQUEST FOR EARLY EFFECTIVE DATE

AMENDMENTS TO THE REGULATION FOR THE MANDATORY REPORTING OF GREENHOUSE GAS EMISSIONS AND CONFORMING AMENDMENTS TO THE DEFINITION SECTIONS OF THE AB 32 COST OF IMPLEMENTATION FEE REGULATION AND THE CAP-AND-TRADE REGULATION

Pursuant to Government Code section 11343.4(c), the Air Resources Board (ARB) requests that the Office of Administrative Law (OAL) prescribe an "early effective date" for the adoption of amendments to division 3, chapter 1, subchapter 10, article 2, sections 95101, 95102, 95103, 95104, 95105, 95111, 95112, 95113, 95114, 95115, 95119, 95120, 95121, 95122, 95123, 95130, 95131, 95132, 95133, 95150, 95151, 95152, 95153, 95154, 95155, 95156, and 95157, title 17, California Code of Regulations (CCR); the adoption of new section 95158, title 17, CCR; the adoption of amendments to division 3, chapter 1, subchapter 10, article 3, section 95202, title 17, CCR; and the adoption of amendments to division 3, chapter 1, subchapter 10, article 5, section 95802, title 17, CCR. ARB believes the following demonstrates "good cause" for OAL to prescribe an early effective date of January 1, 2013.

DEMONSTRATION OF GOOD CAUSE

These amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (title 17, CCR, sections 95100 et seq.) (reporting regulation) require affected facilities to annually report their greenhouse gas (GHG) emissions to the State using methods prescribed within the regulation. Although the reporting deadlines are April 10, 2013 for a subset of the facilities, and June 1, 2013 for the remainder of the facilities, facilities can begin reporting as soon as January 1, 2013. Moreover, reporting entities must begin collecting data pursuant to the regulation starting January 1, 2013 for their emissions data reports due in 2014. The annual GHG emissions data reports also form the basis of the separate California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation (title 17, CCR, sections 95800 et seq.) (cap-and-trade regulation). The cap-and-trade regulation's first compliance period begins on January 1, 2013, and will rely on annually reported emissions and product data. Amendments to definition sections of the cap-and-trade regulation and the AB 32 Cost of Implementation Fee Regulation (title 17, CCR, sections 95200 et seq.) (fee regulation) are necessary to ensure that commonly used terms are used consistently across all three regulations.

Given the impending reporting dates and the need to support the January 1, 2013 start of the cap-and-trade regulation's first compliance period, ARB requests an early effective date for these regulatory amendments to assist reporting entities to completely and accurately meet the reporting requirements. The early effective date provides certainty and clarity to the reporting entities as soon as possible, as they begin preparing their GHG emissions data reports. It also helps to ensure that ARB receives the required GHG emissions data in a timely manner to support its GHG emissions inventory and other regulatory programs, including the fee regulation and cap-and-trade regulation. For these reasons, ARB hereby requests that OAL approve an early effective date of January 1, 2013.

Date: November 2, 2012

_____/s/
Jason Gray
Staff Counsel