

# Request for an Early Effective Date

Pursuant to Government Code Section 11343.4, subdivision (b)(3)

## **Amendments to the Emission Inventory Criteria and Guidelines Report for the Air Toxics “Hot Spots” Program**

The California Air Resources Board (CARB or Board) requests, pursuant to Government Code section 11343.4, subdivision (b)(3), that the Office of Administrative Law (OAL) prescribe an “earlier effective date” for the Proposed Amendments to the Emission Inventory Criteria and Guidelines (EICG) Report for the Air Toxics “Hot Spots” Program that was adopted on November 19, 2020. CARB believes the following demonstrates “good cause” for OAL to prescribe an earlier effective date – i.e., an effective date to coincide with the filing of the regulations with the Secretary of State.

### **Demonstration of Good Cause**

CARB needs a more comprehensive understanding of emissions sources in the state in order to meet its obligations under state and federal laws. The amendments are necessary in order to provide CARB and air districts with a better understanding of stationary source toxic emissions, enhance the public access to information on toxic pollutant emissions, and further reduce their impacts on public health by ensuring that many new and emerging chemicals of concern are reported.

More specifically, this rulemaking action will provide the public, community groups, scientists, air districts, CARB, and others with updated information about facilities that represent a potential health risk to nearby residents. The amendments will not only expand the number of harmful substances that must be reported to the local districts and CARB, but also increase access to information about the facilities that emit them. Improving the availability of emissions data at the local level will help to efficiently implement community air protection programs in the state, and may also be used to inform the development of CalEnviroScreen, which is a tool to identify and assess geographic areas within California that are disproportionately impacted by pollution.


We believe it is imperative for the integrity of the timing commitments CARB made to public health stakeholders that the EICG achieve an early effective date, to ensure the promised phase-in schedules and coverage of new chemicals. Under the EICG regulation, facilities become subject to new provisions only upon notification by their air district “on or before April 1 of a given year.” This means that the EICG regulation amendments must be in effect as soon as possible—ahead of the formal “April 1” triggers in the EICG language regarding the new chemicals and Phase 1 sectors. The early effective date is vital so that the air districts can notify their affected facilities, and that those facilities can start record-keeping actions for the 2022 data reporting year.

Any later effective date on the quarterly filing process would in practice mean a delay of not just a few months but in fact anywhere from one to four years given the quadrennial reporting nature of the Hot Spots program. This would not only mean a loss of faith from public health stakeholders who already testified that the delays in addressing risks have been too long, but also a disturbance to the carefully negotiated stages of the phase-in schedule designed to distribute workload for air districts and affected facilities.

Lastly, we note that January 1, 2022, would have been the normal effective date if the regulation were approved by OAL in the course of its standard review. With Executive Orders N-40-20 and N-66-20 extending review deadlines due to the pandemic, review has extended beyond the original final determination due date of November 18, 2021, which would have ensured a quarterly effective date of January 1, 2022. Approval of the Request for Early Effective Date will allow this regulation to keep as close of an effective date as possible to its originally intended effective date, thus avoiding delays in reporting as described above. CARB appreciates the work and effort the OAL review team has put into reviewing this rulemaking action. Stakeholders throughout the state including pollution-burdened communities are counting on the timely implementation of this rulemaking action.

For all the reasons set forth above, CARB believes there is good cause for OAL to prescribe an earlier effective date pursuant to Government Code section 11343.4, subdivision (b)(3). CARB hereby requests that OAL approve an earlier effective date, coinciding with OAL's submittal of its approval of this rulemaking action to the Secretary of State.

Date: March 17, 2022

  
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