

REQUEST FOR EARLY EFFECTIVE DATE

AMENDMENTS TO THE ASBESTOS AIRBORNE TOXIC CONTROL MEASURE – ASBESTOS-CONTAINING SERPENTINE

Pursuant to Government Code section 11343.4, the Air Resources Board (ARB) requests that the amendments to section 93106, title 17, California Code of Regulations (CCR), become effective upon filing with the Secretary of State. Good cause for this request exists.

The amendments to the Asbestos Air Toxic Control Measure (ATCM) are designed to reduce asbestos emissions from unpaved surfacing in California. Among other things, the amendments will prohibit the use or application of certain types of aggregate for unpaved surfacing. In general, aggregate cannot be used for surfacing if it contains or is likely to contain asbestos. These amendments would prohibit any new use or application of such material on unpaved roads and other surfaces, such as alleys, parking lots, playgrounds, and trails, including the use of these materials for decorative purposes.

Section 93106(a) specifies the effective date of the ATCM. To be consistent with Health and Safety Code section 39666(d), section 93106(a) provides that "no later than 120 days after the approval of this section by the Office of Administrative Law," each air pollution control and air quality management districts must either implement and enforce the requirements of the ATCM, or must propose their own ATCM for adoption.

It is important to begin reducing asbestos emissions as soon as possible. The ARB would therefore like to insure that the 120-day period starts on the date that OAL approves the ATCM, instead of starting 30 days after the date of OAL approval. Although section 93106(a) provides that the 120-day period begins on the date of OAL "approval," confusion might arise if there is a 30-day gap between OAL "approval" and the formal, operative date of the ATCM. Although lawyers understand such distinctions, not everyone in the regulated community does. Therefore, the ARB is requesting an early effective date to avoid the possibility of confusion on this issue.

Date: May 23, 2001

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