

REQUEST FOR EARLY EFFECTIVE DATE

AMENDMENTS TO THE NONVEHICULAR SOURCE, CONSUMER PRODUCTS, AND ARCHITECTURAL COATINGS FEE REGULATIONS

Pursuant to Government Code section 11343.4, the Air Resources Board (ARB) requests that the adoption of sections 90805 and 90806, and the amendments to sections 90800.8 and 90803, title 17, California Code of Regulations (CCR), become effective upon filing with the Secretary of State. Good cause for this request exists.

In 2003 the Legislature enacted AB10X (Stats. 2003, Chapter 1X), which authorized the ARB to collect fees from large nonvehicular sources (facilities) and large manufacturers of consumer products and architectural coatings. The purpose of AB 10X was to shift a portion of the ARB's Stationary Source budget from the General Fund to fee-supported programs. In July 2003, the Board approved regulations to collect the fees authorized by AB10X. The regulations establish a process to assess uniform fees (on a dollar per ton basis) on large facilities and large manufacturers of consumer products and architectural coatings.

For FY 2003-2004, the Legislature authorized the ARB to collect \$17.4 million in fees from facilities and manufacturers of consumer products and architectural coatings. For FY 2004-2005, the Legislature authorized the ARB to collect an additional \$2.6 million, for a total of \$20 million in fees. In this rulemaking the ARB adopted amendments to the existing fee regulations that would provide for the collection of supplemental fees from facilities. The supplemental fees would be collected only in fiscal years where the State Legislature has authorized ARB to collect fees in excess of \$17.4 million. Any amount in excess of \$17.4 million would be collected from facilities, which means that approximately \$2.6 million would be collected from facilities for FY 2004-2005. The remaining \$17.4 million would continue to be collected on a uniform basis from facilities, manufacturers of consumer products, and manufacturers of architectural coatings, as specified in the existing regulations. The amendments to the fee regulations are designed to avoid any potential "nexus" problems with consumer products and architectural coatings fees.

The amendments are not yet legally operative and the ARB has not collected any supplemental fees. We are now well into the 2004-2005 fiscal year, and the ARB needs the supplemental fees as soon as possible to avoid disruption in our programs. Moreover, the ARB cannot send out supplemental fee determination notices until after the amended regulations become legally operative, and the regulations allow fee payers 60 days to pay the fee after receiving the notice. This built-in lead time means that the 2004-2005 fiscal year may be almost over before the ARB receives the full amount of the fees. Therefore, the ARB is requesting an early effective date so that we may assess and collect the fees as soon as possible.

Date: _____

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