

State of California
AIR RESOURCES BOARD

EXECUTIVE ORDER R-09-020

Relating to the Public Hearing to Adopt a Regulation for Small Containers of Automotive Refrigerant

WHEREAS, on January 22, 2009, the Air Resources Board (ARB or Board) conducted a public hearing to consider adoption of a regulation for small containers of automotive refrigerant, as set forth in the Initial Statement of Reasons released to the public on December 5, 2008;

WHEREAS, following the public hearing on January 22, 2009, the Board adopted Resolution 09-1 in which the Board approved adoption of article 4, subchapter 5, title 17, California Code of Regulations sections 95360 through 95370, as set forth in Attachment A thereto, the incorporated Certification Procedures for Small Containers of Automotive Refrigerant, as set forth in Attachment B thereto, Test Procedure TP-503, Test Procedure for Leaks from Small Containers of Automotive Refrigerant, as set forth in Attachment C thereto, and Balance Protocol BP-A1, Balance Protocol for Gravimetric Determination of Sample Weight using a Precision Analytical Balance, as set forth in Attachment D thereto;

WHEREAS, Resolution 09-1 directed the Executive Officer to take final action to adopt the regulatory amendments set forth in Attachments A, B, C and D to Resolution 09-1, with such other conforming modifications as may be appropriate, after making the modified regulatory language available to the public for a period of at least 15 days, provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such further modifications as may be appropriate in light of the comments received or as necessary to ensure consistency with the modifications approved by the Board, and shall present the regulatory amendments to the Board for further consideration if he determines that this is warranted;

WHEREAS, on April 9, 2009, the modified regulations, reflecting the amendments approved by the Board and other changes made to best reflect the intent of the Board at the hearing, were made available for public comment for a period of at least 15 days, with the changes to the originally proposed text clearly indicated, in accordance with the provisions of the California Code of Regulations, title 1, section 44;

WHEREAS, one written comments was received during the 15-day comment period and that comment was considered by the Executive Officer.

WHEREAS, the Executive Officer adopted the small containers of automotive refrigerant regulation by Executive Order R-09-007, dated July 20, 2009, and submitted

the rulemaking package to the Office of Administrative Law for review in accordance with the California Administrative Procedure Act (APA);

WHEREAS, on September 8, 2009, the Office of Administrative Law issued a decision of disapproval of part of regulatory action;

WHEREAS, modifications to the approved regulations were made in order to correct the deficiencies specified in the Decision of Disapproval by the Office of Administrative Law;

WHEREAS, the modifications were made available for a second 15-day comment period starting November 16, 2009, in accordance with the provisions of section 44, title 1, CCR, with the modifications clearly indicated; and

WHEREAS, one comment was received during the second 15-day comment period and that comment has been considered by the Executive Officer.

NOW, THEREFORE, IT IS ORDERED that the recitals and findings contained in Resolution 09-1 are incorporated by reference herein.

IT IS FURTHER ORDERED that California Code of Regulations, title 17, sections 95362, 95365, 95366, 95367, and 95368, and the incorporated documents therein, are adopted as set forth in Attachment 1 hereto.

Executed this 5th day of January 2010, at Sacramento, California.

/s/

James N. Goldstene
Executive Officer

Attachment