

State of California
AIR RESOURCES BOARD

**Notice of Public Availability of Modified Text
PROHIBITIONS ON USE OF CERTAIN HYDROFLUOROCARBONS IN
STATIONARY REFRIGERATION AND FOAM END-USES**

Public Hearing Date: March 23, 2018
Public Availability Date: June 15, 2018
Deadline for Public Comment: July 2, 2018

At its March 23, 2018, public hearing, the California Air Resources Board (CARB or Board) approved for adoption the proposed sections 95371 through 95377, Article 4, Subchapters 4 and 5, Chapter 1, Division 3, Title 17, California Code of Regulations. The proposed regulation prohibits the use of certain high-global warming potential (GWP) hydrofluorocarbon (HFC) substances in new and retrofit stationary refrigeration equipment and blowing agents in foam end-uses. This regulation was originally proposed in the Staff Report released for public review on January 30, 2018.

The Board directed the Executive Officer to determine if additional conforming modifications to the regulation were appropriate and to make any proposed modified regulatory language available for public comment, with any additional supporting documents and information, for a period of at least 15 days as required by Government Code section 11346.8. The Board further directed the Executive Officer to consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days, and present the regulation to the Board for further consideration if warranted, or take final action to adopt the regulation after addressing all appropriate modifications.

All regulatory documents for this rulemaking are available online at the following CARB website: <https://www.arb.ca.gov/regact/2018/casnab/casnab.htm>

The text of the modified regulatory language is shown in Attachment 1. The originally proposed regulatory language is shown in plain text. The originally proposed amendments to existing text are shown in ~~striketrough~~ to indicate deletions and underline to indicate additions. New deletions to the proposed language are made public with this notice are shown in ~~double striketrough~~ and double underline format, respectively.

In the Final Statement of Reasons, staff will respond to all comments received on the record during the comment periods. The Administrative Procedure Act requires that staff respond to comments received regarding all noticed changes. Therefore, staff will only address comments received during this 15-day comment period that are responsive to this notice, documents added to the record, or the changes detailed in Attachment 1.

Summary of Proposed Modifications

Staff's proposed modifications to the original proposed regulatory text to sections 95371 through 95377, Title 17, California Code of Regulations are summarized below and attached to this notice as Attachment 1. All subsequent section references are to Title 17, California Code of Regulations unless otherwise noted.

The following summary does not include all modifications to correct typographical or grammatical errors, changes in numbering or formatting, nor does it include all of the non-substantive revisions made to improve clarity.

1. Throughout Attachment 1. Staff replaced the word "*substitute*" with the word "*substance*" throughout the proposed regulatory text. The original proposed regulatory language used the word "*substitute*" because this is the term the U.S. Environmental Protection Agency (U.S. EPA) uses under the Significant New Alternatives Policy (SNAP) Program to identify substances that replace ozone-depleting substances. The intent of this proposed regulation is to prohibit high-global warming potential hydrofluorocarbons and as such, "*substance*" is more fitting.
2. Section 95373. Staff added one definition and modified two definitions in response to comments received by stakeholders. The following definitions were added to provide clarity:
 - a. The definition "*motor bearing*" is added to mean any refrigeration equipment containing motorized parts, including compressors, condensers, and evaporators. Staff made these changes to clarify the types of manufacturers needing to adhere to the recordkeeping and disclosure requirements in later sections and that the record keeping and disclosure statement requirements only apply to refrigeration equipment containing motorized parts.
 - b. The definition of "*new refrigeration equipment*" was modified to clarify that equipment is defined as new if the "*capacity*" of the system, not the "*charge*" of the system is increased. The charge refers to the amount of refrigerant in a system and the capacity refers to the cooling power of the system. This is in response to stakeholder comment that CARB should align with the U.S. EPA's definition of new refrigeration equipment and that some repairs may increase the charge slightly but this should not prompt the system to be classified as new.
 - c. The definition of "*substitute*" was replaced with "*substance*" and the definition was modified to include any chemical, product substitute, or alternative manufacturing process, whether new or retrofit, intended for use in the end-uses listed in Table 1, section 95374. See paragraph 1 for an explanation of the reason for this modification.
 - d. The definition of "*use*" was modified to remove "*Class I or Class II ozone depleting compound or any substitute*" and replaced with "*any substance*" to make clear that this regulation is prohibiting use of high-global warming

potential refrigerants and blowing agents, such as HFCs, not just ozone depleting substances.

3. Section 95374. In response to stakeholder comment, staff added rows to Table 1, "*End-use and Prohibited Substances*" to distinguish between "*refrigeration*" prohibitions and "*foam*" prohibitions, which provides clarity.

In addition, all end-use sectors with prohibited substance effective dates listed as "*September 1, 2018*" have been changed to "*January 1, 2019*", to provide industry with sufficient time to comply with the proposed regulation. The change in the effective date affects the following end-use sectors:

- Supermarket systems (new)
- Supermarket systems (retrofit)
- Remote condensing units (new)
- Remote condensing units (retrofit)
- Stand-alone units (retrofit)
- Vending machines (retrofit)
- Rigid polyurethane and polyisocyanurate laminated boardstock
- Flexible polyurethane
- Integral skin polyurethane
- Polystyrene extruded sheet
- Phenolic insulation board and bunstock

Because the other end-uses already have later effective dates in the proposed regulation, the original proposed effective dates remain the same in the following end-uses:

- Stand-alone medium temperature units with a compressor capacity below 2,200 btu/hr containing a flooded evaporator (new)
- Stand-alone medium temperature units with a compressor capacity below 2,200 btu/hr not containing a flooded evaporator (new)
- Stand-alone medium-temperature units with a compressor capacity equal to or greater than 2,200 btu/hr (new)
- Stand-alone low-temperature units (new)
- Vending machines (new)
- Refrigerated food processing and dispensing equipment (new)

4. Section 95375 (a). Staff made edits to clarify that the prohibition date refers to the date of manufacture of the equipment or foam system to dispel industry stakeholder confusion over how the regulation would be implemented and enforced.
5. Section 95375(b). Staff extended the effective date to January 1, 2025 for space-and aeronautics-related end-uses in order to align with the U.S. EPA's

extension granted in Rule 21. Staff added text to clarify that the extended effective dates for military or space and aeronautics-related end-uses refers to *“prohibited substances”* for foam end-uses.

6. Section 95375(c)(1). Staff added text to clarify that this requirement applies to manufacturers of *“motor-bearing”* refrigeration equipment.

In addition, staff also revised the disclosure statement to remove the language *“California compliant refrigerant”* and instead require the statement to read that the *“equipment is prohibited from use in California with any refrigerants on the “Listed Prohibited Substances” for that specific end-use.”* This is in response to stakeholder comment that equipment cannot be designed to be used exclusively for California compliant refrigerants.

Staff made clarifying edits to require the written disclosure statement remain with the refrigeration equipment instead of as a part of the invoice provided to the buyer. This is in response to stakeholder comment that the initial buyer may not be an end-user located in California.

7. Section 95375(c)(2). Staff revised the recordkeeping requirements to apply to manufacturers of *“motor-bearing”* new refrigeration equipment for sale or entry into commerce in the State of California to provide clarity. Stakeholders requested clarification on who is subject to the recordkeeping requirements. Section 95375(c)(2)(B) through 95375(c)(2)(G) were renumbered to section 95375(c)(2)(C) through 95375(c)(2)(H).
8. Section 95375(c)(2)(A). Staff made clarifying edits to ensure manufacturers know it is the name and address *“of the person purchasing the equipment”* that needs to be kept as part of the recordkeeping requirements. In addition, staff modified the recordkeeping requirement for the telephone number and email address of the person purchasing the equipment to clarify that manufacturers are only required to keep this information if it is provided to the manufacturer. This is in response to stakeholder comment that the telephone number and email address of the purchaser may not be provided to the manufacturer.
9. Section 95375(c)(2)(E). Staff made clarifying edits to make clear that the manufacturer must keep records of the types of refrigerant *“the equipment is designed to use.”* This is in response to stakeholder comment that refrigerant equipment is certified for use with multiple types of refrigerant. This section was renumbered 95375(c)(2)(F).
10. Section 95375(c)(2)(F). Staff revised this requirement such that the refrigerant and full charge capacity of the equipment is required information for recordkeeping *“where available.”* This is in response to stakeholder comment that this information is not always known. This section was renumbered 95375(c)(2)(G).

11. Section 95375(c)(2)(G). Staff removed the requirement for manufacturers to keep a copy of an invoice containing the disclosure statement and instead, inserted a requirement for manufacturers to keep a copy of the disclosure statement “*issued to the buyer or recipient of the refrigeration equipment.*” This is in response to stakeholder comment that the initial buyer may not be an end-user located in California. This section was renumbered 95375(c)(2)(H).
12. Section 95375(d)(1). Staff removed the requirement to provide a disclosure statement to buyers for foam end-uses. This is in response to stakeholder comment that these foam end-uses affected by this regulation have already transitioned out of using HFCs. The risk that these end-uses revert to prohibited HFCs is low. Because these foam end-uses are still subject to the recordkeeping requirements, if CARB discovers evidence of foam manufacturers reverting to prohibited HFCs, CARB staff have the option to propose reinstatement of this requirement or more stringent requirements in a subsequent rulemaking.
13. Section 95375(d)(2). Staff modified the text to clarify that “*manufacturers of foam systems*” are subject to the recordkeeping requirements. Stakeholders requested clarification of who is subject to the recordkeeping requirements. This section was renumbered 95375(d)(1).
14. Section 95375(d)(2)(A). Staff modified the text to clarify that the name and address requirements refers to the name and address of the person “*purchasing the equipment.*” In addition, staff modified the recordkeeping requirement for telephone number and email address of the person purchasing the equipment to clarify that manufacturers are only required to keep this information “*if provided to the manufacturer.*” This is in response to stakeholder comment that the telephone number and email address of the purchaser may not be provided to the manufacturer. This section was renumbered 95375(d)(1)(A). Sections 95375(d)(2)(B) through 95375(d)(2)(F) were renumbered 95375(d)(1)(C) through 95375(d)(1)(F).
15. Section 95375(d)(2)(F). The section formerly numbered 95375(d)(2)(F) was removed as the disclosure requirement was removed for foam end-uses.

Environmental

These modifications do not change implementation of the regulation in any way that affects the conclusions of the environmental analysis included in the Staff Report because the proposed modifications only clarify the terms of the regulation.

Agency Contacts

Inquiries concerning the substance of the proposed regulation may be directed to Pamela Gupta, Manager, Greenhouse Gas Reduction Strategy Section at

(916) 327-0604 or Kathryn Kynett, Air Pollution Specialist, Greenhouse Gas Reduction Strategy Section, at (916) 322-8598.

Public Comments

Written comments will only be accepted on the modifications identified in this Notice. Comments may be submitted by postal mail or by electronic submittal no later than 5:00 pm, on the due date to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>


Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and verbal comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

In order to be considered by the Executive Officer, comments must be directed to CARB in one of the two forms described above and received by CARB by 5:00 p.m., on the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulations shall be considered by the Executive Officer.

If you need this document in an alternate format or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alterno u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

CALIFORNIA AIR RESOURCES BOARD



Richard W. Corey
Executive Officer

Date: *June 15, 2018*

Attachment