

**REQUEST FOR AN EARLY EFFECTIVE DATE
Pursuant To Government Code Section 11343.4(b)**

**ADOPTION OF PROHIBITIONS ON USE OF CERTAIN HYDROFLUOROCARBONS
IN STATIONARY REFRIGERATION AND FOAM END-USES REGULATION**

The California Air Resources Board (CARB or Board) formally requests, under Government Code section 11343.4(b), that the Office of Administrative Law (OAL) prescribe an early effective date for the adoption of regulation for “Prohibitions on Use of Certain Hydrofluorocarbons in Stationary Refrigeration and Foam End-Uses,” title 17, California Code of Regulations, sections 95371, 95372, 95373, 95374, 95375, 95376, and 95377 (CA SNAP Regulation) that were considered by the Board on March 23, 2018, and subsequently adopted. Specifically, CARB requests that the amendments be effective on the date of OAL approval. CARB believes that “good cause” exists for OAL to grant CARB’s request that the adopted regulation become effective with OAL’s approval and filing of the regulations with the Secretary of State.

In this rulemaking, the Board considered and adopted a regulation that lists prohibited hydrofluorocarbon (HFC) substances, prohibits manufacturers of specific retail food refrigeration equipment, vending machines, and certain foam end-uses from using, selling, or entering into commerce these HFC substances; places a recordkeeping requirement on these specific manufacturers; places a disclosure requirement on manufacturers of new motor-bearing refrigeration equipment; and provides a penalty for violations of the CA SNAP Regulation.

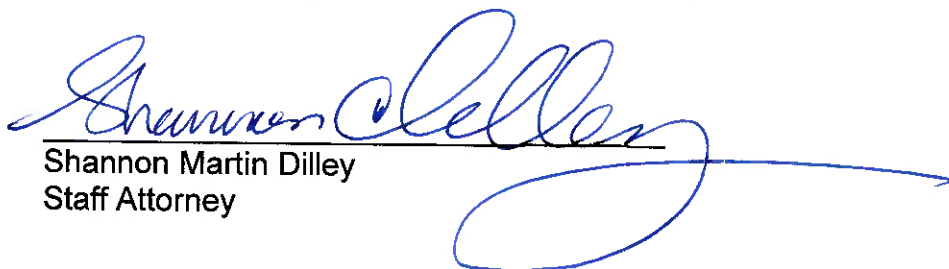
This rulemaking was put in place to backstop specific prohibitions at the federal level in the United States Environmental Protection Agency (U.S. EPA) Significant New Alternatives Policy (SNAP) program, Rules 20 and 21. These provisions were put in jeopardy on August 8, 2016, when the D.C. Circuit Court of Appeals issued a decision in *Mexichem Fluor Inc. v. EPA* (D.C. Cir. 2017) 866 F. 3d 451, vacating Rule 20 of the federal SNAP program to the extent it requires manufacturers to replace HFCs with a substitute substance. On January 26, 2018, the court denied petitions for en banc rehearing and on February 6, 2018, issued the mandate. U.S. EPA has provided guidance, indicating it will not be implementing any provisions of Rule 20, which significantly expands the court ruling.

This court decision and U.S. EPA’s guidance places the federal SNAP program in jeopardy and without an early effective date for the CA SNAP Regulation, industry could backslide by replacing equipment with high-global warming potential (GWP) HFCs. Some industries have deadlines that are approaching. Because equipment lasts fifteen years or longer, industry would be locking in equipment containing these high-GWP HFC emissions for this duration, which would be problematic for California because it has a legal mandate to reduce HFC emissions by 40 percent below 2013 levels by 2030.

An early effective date assists in continuity of regulation, provides certainty and clarity to the manufacturers, helps ensure that CARB receives the required data in a timely manner if it requests the information, and provides notice to consumers on the legality of the equipment.

For these reasons, CARB believes good cause exists for OAL to grant CARB's request for an early effective date that coincides with its approval of the regulation and filing of the regulation to the Secretary of State pursuant to Government Code section 11343.4(b).

Date: September 24, 2018



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