

Updated Informative Digest

Proposed Amendments to the Regulation for Small Containers of Automotive Refrigerant

Sections Affected:

Proposed Amendments to California Code of Regulations, title 17, sections 95360, 95361, 95362, 95364, 95364.1, 95365, 95366, 95367, 95368, 95369, and 95370. Proposed repeal of California Code of Regulations, title 17, section 95363. Proposed adoption of California Code of Regulations, title 17, sections 95364.2, 95366.1, 95366.2, 95367.1, and 95367.2.

Documents Incorporated by Reference (Cal. Code Regs., tit. 1, § 20, subd. (c)(3)):

The following documents would be incorporated into the regulation by reference:

- Title 40, Code of Federal Regulations, Part 82, Subpart F, Appendix A: Specifications for Refrigerants (July 1, 2022). Incorporated in section 95361.
- 40 CFR, Part 82, § 82.164, adopted on July 30, 1992, as last amended on November 18, 2016. Incorporated in section 95361.
- Air-Conditioning, Heating, & Refrigeration Institute (AHRI) Standard 700: 2019 Standard for Specifications for Refrigerants (2019). Incorporated in section 95361.
- Certification Procedures for Small Containers of Automotive Refrigerant, adopted on July 20, 2009, as last amended on October 26, 2023. Incorporated in section 95362(d).
- Certification Procedures for Small Containers of Automotive Refrigerant, adopted on July 20, 2009, as last amended on January 17, 2017. Incorporated in section 95365(c).

The above listed certification procedure is being amended by this regulation and thus the amendment date is the date that the regulation was adopted by CARB at its Board Meeting on October 26, 2023.

Background and Effect of the Proposed Regulatory Action:

In January 2009, CARB approved for adoption of the Regulation for Small Containers of Automotive Refrigerant (hereinafter “Small Container Regulation” or “Regulation”) as an early action measure for Assembly Bill (AB) 32.¹ The Regulation reduces greenhouse gas (GHG) emissions associated with do-it-yourself (DIY) recharging of motor vehicle air conditioning (MVAC) systems. The Regulation established requirements applicable to containers that hold between 2 ounces and 2 pounds of any automotive refrigerant with a global warming potential (GWP) greater than 150. The Regulation became effective on March 10, 2010.

¹ AB 32 (N??ez, Stats. 2006, Ch. 488). Health & Saf. Code § 38500 et seq.

The initial regulation is comprised of three main provisions. First, it requires that small containers of automotive refrigerant be equipped with a self-sealing valve and labels containing information to promote consumer education on proper MVAC charging practices and to prevent misuse of refrigerant. Second, it establishes a manufacturer-administered deposit, return, and recycling program. Third, it mandates that any deposits unclaimed by consumers (unclaimed deposits) be used to increase the container return rate through an education and outreach program. Manufacturers of small containers of automotive refrigerant (manufacturers) must apply to CARB to certify their products for sale in California with information and data demonstrating compliance with the Regulation.

In 2016, CARB amended the Regulation with three additional provisions. First, clarifying language was added that requires retailers of small containers of automotive refrigerant (retailers) to transfer any unclaimed deposits to the container manufacturer or a designee of its choosing. Second, it allowed unclaimed deposits to be spent on projects, programs, or measures that reduce GHG emissions. Third, it fixed the consumer deposit at \$10. Based on data obtained from annual reporting from manufacturers, retailers, and distributors of small containers of automotive refrigerant, staff determined that the quantity of refrigerant remaining in small containers upon return (the container heel) is approximately 4%. This was significantly lower than the initial projection of 22%. As a result, the deposit and return program's contribution to emission reductions is lower than initially estimated.

In addition, container manufacturers launched an enhanced education program, starting midway through 2018 and lasting through 2020, to increase the container return rate. The program included a paid media campaign with social media and digital outreach and established container return centers located in several major cities in California. However, return rates showed little change due to the education and outreach program. Due to the low GHG emission reductions from container heel recovery, unchanged return rates, and financial impacts to the DIY community, staff is proposing to remove the deposit and return requirements. In addition, staff is proposing the requirement that reclaimed refrigerant be used in the manufacturing of small containers sold in California. This will offset the emission reductions lost after the removal of the deposit and return program. Finally, revisions to the expenditure of unclaimed deposits will be aimed at decreasing MVAC leaks and increasing recovery and reclaim in California.

Objectives and Benefits of the Proposed Regulatory Action:

The objectives of the Proposed Amendments are threefold. First, they would decrease costs for all consumers, with Disadvantaged Communities (DAC) receiving the greatest cost savings benefits. Staff projects a benefit to California consumers of \$59.5 million cumulatively from 2025 to 2045 as deposits are no longer required to be collected from consumers. Second, they are expected to reduce emissions of Hydrofluorocarbon (HFC)-134a, helping to meet the 2030 or 2045 GHG reduction targets mandated by Senate Bill (SB) 1383,² SB 32,³ and AB 1279.⁴ Third, staff expects the Proposed Amendments to incentivize the reclamation of refrigerant. Staff anticipates that the reclaimed refrigerant used in future containers would lead to potential

² SB 1383 (Lara, Stat. 2016, Ch. 395); Health & Saf. Code §§ 39730.5 through 39730.8; and Public Resources Code §§ 42652 through 42654.

³ SB 32 (Pavley, Stat. 2016, Ch. 249); Health & Saf. Code § 38566.

⁴ AB 1279 (Muratsuchi, Stat. 2022, Ch. 337); Health & Saf. Code § 38562.2.

emission reductions of 1.6 and 3.3 million metric tons of carbon dioxide equivalent (MMTCO_{2e}) cumulatively by 2030 and 2045, respectively.

Description of Regulatory Action

On July 3, 2023, CARB released the Notice of Public Hearing (45-Day Notice) and Staff Report: Initial Statement of Reasons for Rulemaking (ISOR), titled “Public Hearing to Consider the Proposed Amendments to the Regulation for Small Containers of Automotive Refrigerant,” for public review. The ISOR contains a description of the rationale for the proposed amendments. On July 3, 2023, all references relied upon and identified in the ISOR were made available to the public. CARB received five written comments during the 45-Day Notice comment period.

At its October 26, 2023, public hearing, CARB staff informed the Board of the Proposed Amendments to the Regulation for Small Containers of Automotive Refrigerant and the Board received written and oral comments from the public. At the conclusion of the item, the Board approved [Resolution 23-21](#) for adoption of the Proposed Amendments to the California Code of Regulations, title 17, sections 95360, 95361, 95362, 95364, 95364.1, 95365, 95366, 95367, 95368, 95369, and 95370; proposed repeal of California Code of Regulations, title 17, section 95363; and proposed adoption of California Code of Regulations, title 17, sections 95364.2, 95366.1, 95366.2, 9567.1, and 95367.2.

The amendments to the Regulation cover four main areas: (1) removal of the deposit and return program; (2) phase-in of requirements for reclaimed refrigerant in new small containers; (3) modification and clarification of associated provisions related to sell-through and reporting requirements, and clarification of associated provisions related to sell-through and reporting requirements; and (4) refinement of procedures and parameters for spending unclaimed deposits. The Proposed Amendments also include minor changes to the Certification Procedures. The Proposed Amendments are expected to achieve slightly greater GHG emission reductions while reducing costs to the DIY community, the primary consumers of small containers. Approximately 40% of small container sales occur in DAC. In addition, the Proposed Amendments focus the expenditure of any remaining unclaimed deposits towards projects that will reduce GHG emissions and increase the supply of reclaimed refrigerant that can be used in small containers. Overall, the Proposed Amendments decrease costs to consumers, particularly those in DAC, achieve slightly greater emission reductions to the existing regulation, and incentivize the reclamation of refrigerant.

Comparable Federal Regulations:

Currently, there are no federal regulations that require reclaimed refrigerant in small containers of automotive refrigerant. However, it is important to note that the Proposed Amendments would align with the Federal American Innovation and Manufacturing (AIM) Act⁵ in incentivizing HFC recovery and increasing the supply of reclaimed refrigerant. The amount of reclaimed HFC-134a necessary to meet the requirements of the Proposed Amendments is small relative to the amount used in all applications. The Proposed Amendments would align with the AIM Act production phase-down and can help serve as a market incentive for reclamation operations alongside the AIM Act’s requirements.

⁵ Pub. L. 116-120, div. S, §103, 134 Stat. 2255 (2021-2022); codified at 42 U.S.C. § 7675.

An Evaluation of Inconsistency or Incompatibility with Existing State Regulations (Gov. Code, § 11346.5, subd. (a)(3)(D)):

During the process of developing the proposed regulatory action, CARB searched for any similar regulations on this topic and concluded these regulations are neither inconsistent nor incompatible with existing state regulations.