

**State of California
AIR RESOURCES BOARD**

EXECUTIVE ORDER G-12-053

Relating to the Recycling Reporting Requirements of the Regulation for Small Containers of Automotive Refrigerant

WHEREAS, the California Air Resources Board ("ARB" or "Board") adopted the Regulation for Small Containers of Automotive Refrigerant (Regulation) on January 5, 2010 to reduce greenhouse gas emissions resulting from non-professional (i.e., do-it-yourselfer [DIYer]) recharging of motor vehicle air conditioning (MVAC) systems;

WHEREAS, the Regulation for Small Containers of Automotive Refrigerant is set forth in sections 95360 through 95370 of title 17, California Code of Regulations;

WHEREAS, the Regulation requires manufacturers, distributors, and retailers of small containers of automotive refrigerant to provide ARB's Executive Officer annual reports of automotive refrigerant product sales and used product container returns;

WHEREAS, section 95367(b) of the Regulation provides that ARB will calculate and publish the annual return rate for containers of refrigerant based on reports submitted to ARB by the manufacturers, distributors, and the retailers by May 31 of each year, and that the return rate will be calculated as the number of containers of refrigerant returned, divided by the number of containers sold to consumers during the period under consideration;

WHEREAS, section 95367(c) of the Regulation provides that between January 1, 2010 and December 31, 2011, the target return rate for small containers is 90 percent. For periods beginning January 1, 2012 and thereafter, the target return rate for containers is 95 percent;

WHEREAS, section 95367(d) of the Regulation requires ARB to evaluate the return rate on a biennial basis beginning in 2012 based on data from the prior two calendar years and to compare the calculated return rate to the initial target rate of 90 percent;

WHEREAS, ARB has calculated the annual return rate for containers of refrigerant during the period between January 1, 2010 and December 31, 2011, as 38 percent for manufacturers and 69 percent for retailers;

WHEREAS, section 95367(d)(1) of the Regulation provides that the Executive Officer or his designee shall increase the initial deposit amount of \$10 specified

in section 95366(a) by an additional \$5 if the two-calendar year average return rate does not meet or exceed the applicable target return rate specified in section 95367(c) unless manufacturers and retailers submit information that demonstrates either that the applicable annual return rate was not calculated correctly, or that the underlying sales or returned can data, did not accurately reflect the true return rate of used containers;

WHEREAS, manufacturers have submitted information to the Executive Officer that indicates that the underlying sales and returned can data did not reflect the true return rate of used containers;

WHEREAS, the submitted information indicates that manufacturers' sales of certified automotive refrigerant products have occurred for a little over a year instead of the two year period specified in the Regulation. In addition, the certified product initially fills the supply chain in warehouses, distribution centers, and retailers' stockrooms where it is stored prior to distribution and/or sales. This storage delayed the onset of the retail sales of the new certified products into 2011, and ARB staff has estimated the number of stored containers to be over 600,000 which is over 36 percent of total manufacturers' sales for the calendar years 2010 and 2011. Finally, the Regulation requires consumers to return the used containers within 90 days of purchase in order to receive the refundable deposit, and automotive refrigerant containers purchased towards the end of 2011 may not be returned until 2012 further reducing the quantity of used containers returned in 2011;

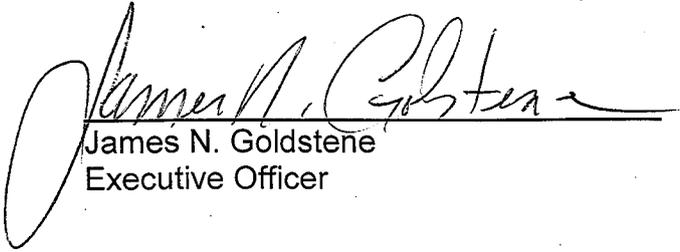
WHEREAS, section 95367(d)(1) of the Regulation provides that the Executive Officer or his or her designee will decide by May 31 of that calendar year to either increase the deposit amount of section 95366(a) by an additional \$5 or leave the deposit amount of section 95366(a) unchanged;

WHEREAS, based on the aforementioned facts and information I have determined that manufacturers and retailers have submitted information that sufficiently demonstrates that the underlying sales or returned can data, did not accurately reflect the true return rate of used containers;

NOW THEREFORE, pursuant to the authority vested in the undersigned by sections 39515 and 39516 of the Health and Safety Code and Executive Order G-12-053

IT IS ORDERED AND RESOLVED that the deposit amount of section 95366(a) shall remain unchanged at \$10 until the next evaluation of the two calendar year average return rate in 2014, at which time it will be determined whether the deposit will be adjusted based on the criteria specified in sections 95367(c) and (d) of the Regulation;

Executed at Sacramento, California this 24th day of August 2012.



James N. Goldstone
Executive Officer

15. (A) The area of the square is s^2 . The area of the circle is πr^2 . The area of the square is 100 and the area of the circle is 100π .

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