



September 12, 2016

Clerk of the Board
California Air Resources Board
1001 "I" Street
Sacramento, CA 95814

RE: Proposed Amendments to the Small Containers of Automotive Refrigerant Regulation

The Auto Care Association, California Automotive Wholesalers Association and Coalition for Auto Repair Equality submit the following comments relative to the 15-Day Modification to the Original Proposed Amendments to the Regulation for Small Containers of Automotive Refrigerant. We appreciate the effort by the Board staff to work with our groups to address concerns relative to the proposed regulation that was approved by the Air Resources Board on April 22. In particular, we appreciate the attempt to provide additional clarity and flexibility to the record-keeping process and the handling of unreturned consumer deposits. However, in general, we continue to believe that the return and deposit program is unnecessary, costly and contrary to the effort by the Board to reduce greenhouse gas emissions. Requiring retailers to send nearly empty cans across the country for recycling is inefficient and a major waste of resources. We agree with CARB's original direction to eliminate the program and we hope that the board will reconsider this decision in the very near future.

The associations also want to point out once again that the requirements that retailers forward unreturned deposits to the manufacturer is an entirely new mandate that was not in the original rule. Despite the staff's insistence, there is nothing in the current rule that would require any unused deposits that have been collected by California retailers to be returned to manufacturers.

We further take issue with the absence of any consideration for the money that will be spent by retailers for implementing this program. Specifically, retailers will continue to need to implement consumer and employee education programs, maintain proper records, and arrange storage and shipping of the empty containers. Under the current rules these costs were covered by the unclaimed deposits. However, these funds must now be returned to the manufacturers and therefore all of these costs will need to be absorbed by the retailer. We think this is a shortsighted approach that is counterproductive to the goal of improving consumer participation in the recycling program.

The following are our comments on specific provisions of the 15-day changes:

Modifications to California Code of Regulations (CCR), title 17 Sections 95362, 953564.1, 95366, 95367, 95367.1 and 95369

- A. **Section 95364.1.** We understand from the staff that the intention of this provision is to halt the production by manufacturers and packagers of small cans that do not have the additional labeling, required by these revisions, by December 31, 2017 but not to prevent sales of existing cans held by the manufacture and retailers after that date. However, the wording in the 15 day changes appears to revoke the exemption as of December 31, 2017 and could be construed to prevent the sale of the non-complying cans by both manufacturers and California retailers after December 31, 2017. We urge that the wording be revised to state that”any small container of automotive refrigerant that was packaged, supplied or offered for sale by a manufacturer in California on or after the (effective date of amendment) and prior to January 1, 2018 is exempt from the labeling requirements specified in Section 2.3(B)(4) of Certification Procedures for Small Containers of Automotive Refrigerant, adopted on July 20, 2009 as last amended on (adoption date of amended procedure), which is incorporated by reference herein. .” This wording should resolve any ambiguities and ensure that the rule only applies to the manufacturing of the product.
- B. **Section 95366(a)(4).** We appreciate the decision to permit deposits to be transferred on an annual basis rather than quarterly. We think that this makes much more sense and will reduce the burden on retailers and manufacturers.
- C. **Section 95366(a)(5).** We further appreciate the ability for retailers, during the first year, to defer transferring unclaimed consumer-retailer deposits to manufacturer if the amount of the deposits that retailers return or refund to consumer exceed the amount of deposits collected.
- D. **Section 95366(b)(5),(6), and (7).** The associations support the addition of the term “or its designee” to the regulation such that a manufacturers is allowed to designate a third party to manage the enhanced education program. We believe that this flexibility will provide more efficient and effective use of the funds.
- E. **Section 95367(a).** The associations support this revision that provides additional time to file reports on the outreach plan.
- F. **Section 95367(b).** The associations support the fixing of the deposit at \$10.
- G. **Section 95367(a)(1) and (5).** The associations support this change and the move to annual reporting over quarterly which we believe is unnecessary.
- H. **Section 95367(a)(6).** The association appreciates the added guidance this revised section of the regulation will provide manufacturers in developing their reports for CARB regarding their consumer education plans.
- I. **Section 95369(f).** The associations support the revision to permit a designee to provide reports on how unclaimed deposits money was spent. As we stated above, this approach provides needed flexibility to manufacturers and we believe will ultimately result in a more effective and efficient consumer education program.

Modification to the Certification Procedures for Small Containers of Automotive Refrigerant

- A. **Section 2.3(B)(4).** The association appreciate the efforts of the staff to reduce the wording changes necessary for the label. While we would prefer no additional labeling requirement, the change designated in this section is much preferable to the original proposal and will provide better visibility for the message with consumers.
- B. **Section 2.3(A)(8).** The associations strongly support the elimination of these wording requirements based on the already extensive amount of wording already required on the cans.

Thank you again for the opportunity to comment and we welcome any questions or further discussion on the issues mentioned above.

Sincerely,

A handwritten signature in black ink, reading "Aaron Lowe". The signature is fluid and cursive, with the first name "Aaron" and last name "Lowe" clearly distinguishable.

Aaron Lowe
Senior Vice President, Government Affairs
Auto Care Association