

Attachment 1

15-Day Modifications to the Original Proposal

MODIFICATIONS TO THE PROPOSED AMENDMENTS TO THE REGULATION FOR SMALL CONTAINERS OF AUTOMOTIVE REFRIGERANT

Shown on the following pages are the proposed modifications to the originally proposed regulatory text set forth in Appendix A of the Staff Report: Initial Statement of Reasons, which was released on March 1, 2016. All originally proposed regulatory language is shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. The proposed modifications to the original proposal are shown in double underline to indicate additions and ~~double strikethrough~~ to indicate deletions. Text that is both single underlined and double struck through is text that staff proposed during the 45-day public notice period but later retracted as part of this 15-day public notice period.

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**TITLE 17. PUBLIC HEALTH
DIVISION 3. AIR RESOURCES
SUBCHAPTER 10. CLIMATE CHANGE
ARTICLE 4. REGULATIONS TO ACHIEVE GREENHOUSE GAS EMISSION
REDUCTIONS
SUBARTICLE 5. SMALL CONTAINERS OF AUTOMOTIVE REFRIGERANT**

Amend Title 17, California Code of Regulations, sections 95362, 95364.1, 95366, 95367, 95367.1, and 95369, to read as follows:

§ 95362. Certification Procedures for Small Containers of Automotive Refrigerant.

- (a) Except as provided in sections 95363 or 95364, on or after January 1, 2010, no person may sell, supply, offer for sale, or manufacture for sale in California automotive refrigerant in a small container unless that automotive refrigerant in a small container has been certified for use and sale by the Air Resources Board and is covered by an Executive Order issued pursuant to this subarticle.
- (b) The criteria for obtaining certification, including all procedures for determining compliance with applicable test procedures, for automotive refrigerant in a small container sold, supplied, offered for sale, or manufactured for sale in California between January 1, 2010 and [day before effective date of amendment] are set forth in "Certification Procedures for Small Containers of Automotive Refrigerant", adopted on July 20, 2009, and last amended on January 5, 2010, which is incorporated by reference herein.
- (c) The criteria for obtaining certification, including all procedures for determining compliance with applicable test procedures, for automotive refrigerant in a small container sold, supplied, offered for sale, or manufactured for sale in California on or after [effective date of amendment] are set forth in "Certification Procedures for Small Containers of Automotive Refrigerant", adopted on July 20, 2009, and last amended on [adoption date of amended procedure], which is incorporated by reference herein.
- (ed) Any modification to the design or specifications of a small container of automotive refrigerant that has been issued an Executive Order pursuant to these procedures must be disclosed to ARB before any modified small container of automotive refrigerant may be sold, supplied, offered for sale, or manufactured for sale in California. The Executive Officer will exercise good engineering judgment to determine if said change(s) constitute a significant difference to the design or specification of a previously certified small container of automotive refrigerant. If the Executive Officer determines that said change(s) constitute a significant difference to the design or specification of a previously certified small container of automotive refrigerant, the manufacturer must then request that the modified small container of automotive refrigerant be issued a new Executive Order pursuant to the provisions of this subarticle.

§ 95364.1. Sell-Through Manufacturing of Products with Modified Labels

~~(a) Notwithstanding the provisions of section 95362(c), any small container of automotive refrigerant that was packaged or manufactured for sale, supplied, or offered for sale in California on or after the [effective date of amendment] 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, until December 31, 2017. Automotive refrigerant in a small container that was packaged or manufactured between January 1, 2010 and (the effective date of the regulatory amendment) may be sold, supplied, or offered for sale in California until one year from (the effective date of the regulatory amendment).~~

~~(b) Notification necessary for products sold during the sell through period. A person who sells or supplies automotive refrigerant in a small container that does not fully comply with the provisions of section 95362 must notify the purchaser in writing of the date on which the sell through period will end. This notification must be supplied only if all of the following conditions are met:~~

~~(1) The product is being sold or supplied to a distributor or retailer; and~~

~~(2) The sell through period for the product will expire 6 months or less from the date the product is sold or supplied.~~

~~(c) Any small container of automotive refrigerant manufactured between January 1, 2010 and (the effective date of the regulatory amendment) that is not sold by one year from (the effective date of the regulatory amendment) must be recalled by the manufacturer. A manufacturer must report the total number of small containers of automotive refrigerant that are recalled in the reports required by section 95367.~~

Note: Authority cited: Sections 38501, 38510, 38560, 38560.5, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38550, 38551, 38560, 38560.5, 39003, 39500, 39600 and 39601, Health and Safety Code.

§ 95366. Container Deposit and Return Program Requirements.

(a) Except for small containers of automotive refrigerant exempted under section 95363 or section 95364 of this subarticle, on or after January 1, 2010, and subject to the provisions of section 95367, a retailer of automotive refrigerant in a small container that is subject to the requirements of this subarticle must:

(1) Collect a deposit from the consumer or charge the consumer's account for each small container of automotive refrigerant at the time of sale.

(2) The amount of deposit on each small container is initially set at \$10, and can be increased in \$5 increments as described in section 95367(d)(1) or decreased in \$5 decrements as described in section 95367(d)(2), but in no event shall the deposit amount of section 95366(a) be reduced below \$5.

(3) Return the deposit to the consumer, or credit the consumer's account when the consumer returns a used small container of automotive refrigerant to the retailer, provided that the consumer returns the used container of refrigerant to the retailer where purchased within 90 days of purchase, submits proof of purchase (e.g., cash register receipt), and provided that the container has not been breached. A retailer may return the deposit at his discretion if more than 90 days have elapsed, the consumer does not have a receipt, if the consumer returns the container to a location other than the place of purchase, or if the container has been breached.

(4) All deposits collected under section 95366(a)(1) that are not returned or refunded to consumers under section 95366(a)(3) within 90 calendar days of sale must be transferred to the manufacturer or its designee. Transfers must be made annually by April 1 and include all such deposits collected from January through December of the preceding calendar year. Unclaimed deposits held by retailers during January – March will be due May 1st; unclaimed deposits held by retailers during April – June will be due August 1st; unclaimed deposits held by retailers during July – September will be due November 1st; and unclaimed deposits held by retailers during October – December will be due February 1st of the following calendar year.

(5) If the amount of deposits that a retailer returns or refunds to consumers under section 95366(a)(3) exceeds the amount of deposits collected by that retailer under section 95366(a)(1) during the time period beginning with (the effective date of this regulatory amendment) and ending December 31, (year of effective date of this regulatory amendment), that retailer may elect to defer the transfer of the deposits collected under 95366(a)(1) during the specified time period until the immediately following reporting period. A retailer electing to utilize this option must include such deferred deposits in the deposits required to be transferred to manufacturers or their designees under section 95366(a)(4) in the subsequent reporting period and must additionally indicate that it has elected to utilize this option in the reports it is required to maintain pursuant to section 95369(b).

~~(4)(5)(6)~~ (6) Accumulate and store any used small container of automotive refrigerant for transfer to the manufacturer or its designee, and ~~may~~ segregate breached returned small containers from non-breached returned small containers. The manufacturer will, along with each participating retailer/distributor, identify or provide collection bins, totes or boxes that work in a complementary fashion within each retailer/distributors' current established distribution best practice for like merchandise, facilitating their ability to segregate breached small containers. Likewise, it will be the manufacturer's responsibility to identify each retailer/distributor's most ~~complementary~~ complementary manner of transport and return of returned small containers of automotive refrigerant to the recovery/recycle facilities.

(b) Except for small containers of automotive refrigerant exempted under section 95363 or section 95364 of this subarticle, on or after January 1, 2010, and subject to the provisions of section 95367, a manufacturer or its designated return agency must:

(1) Collect a deposit on each small container of automotive refrigerant at the time of sale to a distributor or retailer.

(2) Accept from a retailer or distributor used small containers of refrigerant certified under section 95362.

(3) Maintain a log of returned used containers by SKU, retailer, and return date.

(4) Refund to the retailer or distributor the full amount of the deposits collected under section 95366(b)(1) for all used small containers of automotive refrigerant certified under section 95362 that were returned. A manufacturer or designated return agency must count and record the number of small containers of automotive refrigerant that have been breached.

(5) Ensure that All all deposits that are not returned or refunded by manufacturers to retailers and distributors in exchange for used small containers of automotive refrigerant under section 95366(b)(4) and all deposits collected by retailers that are transferred to manufacturers under section 95366(a)(4) will accrue to an account managed by the manufacturer or its designee to be used solely as described in section 95366(b)(6) for the purpose of enhancing the consumer education program or other programs, projects, and measures reducing greenhouse gas emissions as approved by the ARB. The manufacturer or its designee must report and account for how these account funds are spent in accordance with section 95367(a)(5) of this subarticle.

(6) Separately account for any funds attributable to unclaimed deposits, expend those funds only on enhanced educational programs or other programs, projects, and measures reducing greenhouse gas emissions approved by the Executive Officer. The enhanced educational programs that are designed to inform consumers of measures to reduce GHG emissions associated with do-it-yourself recharging of MVAC systems, and The manufacturers or their designees are to provide to ARB an accounting of the collection and expenditures of these funds as described in section 95367(a)(5). Examples of enhanced education programs include, but are not limited to: improved Internet website support, development of additional educational materials, training and outreach to the consumer via retailers, and development and usage of videos and other means of demonstrations at retail sites. Examples of programs, projects and measures reducing greenhouse gas emissions include, but are not limited to improved recycling or disposal of old refrigerants, and research, evaluation, and promotion of low GWP refrigerants. A manufacturer or its designee must provide a description of any proposed enhanced educational programs in its application for certification of small containers of automotive refrigerant, and must obtain the

Executive Officer's approval before it can expend funds attributable to unclaimed deposits on that enhanced educational program. For other programs or projects, a manufacturer or its designee must provide a description and obtain the Executive Officer's approval before it can expend funds attributable to unclaimed deposits.

(7) A manufacturer may designate an entity to collect consumer deposits pursuant to section 95366(a)(4), to spend these funds on enhanced education programs or other programs, projects, and measures reducing greenhouse gas emissions as approved by the ARB pursuant to sections 95366(b)(5) and 95366(b)(6), and fulfill reporting requirements pursuant to sections 95367(a)(5) and 95367(a)(6). This designation is subject to advance review and approval by ARB's Executive Officer.

(c) A manufacturer may designate an additional facility to receive and store returned used small containers of automotive refrigerant and to pay consumer refunds specified in section 95366(a) and (b) at the time a container is returned. Such a facility may be either a retail store or an entity that is not affiliated with a retail store.

(d) A manufacturer or its designee must coordinate the collection of used small containers of automotive refrigerant from retailers and any designated return agencies. To reduce the burden on the retailer, the manufacturer shall, along with each participating retailer/distributor, identify or provide collection bins, totes or boxes that work in a complementary fashion within each retailer/distributors' current established distribution best practice for like merchandise. Likewise, it shall be the manufacturer's responsibility to identify each retailer/distributor's most complementary manner of transporting returned small containers of automotive refrigerant to the recovery/recycle facilities.

(e) A manufacturer or its designee must recover any refrigerant remaining in the returned small containers at a facility registered with the ARB as described in "Certification Procedures for Small Containers of Automotive Refrigerant" adopted on July 20, 2009, and last amended on January 5, 2010, which is incorporated by reference herein. The facility must employ good engineering practices to avoid loss of refrigerant to the atmosphere. The refrigerant must be recovered, recycled, reclaimed, or removed to a licensed waste disposal facility.

Note: Authority cited: Sections 38501, 38510, 38560, 38560.5, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38550, 38551, 38560, 38560.5, 39003, 39500, 39600 and 39601, Health and Safety Code.

§ 95367. Recycling Reporting Requirements.

(a) Reports to the Executive Officer are due March 1 every year starting March 1, 2011, except the spending plan described in section 95367(a)(6). Each annual report documents monthly data for small containers of automotive refrigerant sold and

returned during the prior calendar year, January 1 through December 31. Reports must be submitted as follows:

(1) Upon request from ARB, each retailer must report sales data of the number of small containers of automotive refrigerant sold and the number of used small containers of automotive refrigerant returned by consumers. The sales data and returned can data must be reported for each SKU, for each manufacturer, or distributor, for each month, and as totals for each annual reporting period. The data must be reported separately for the following categories: returned unused, returned for recycle, returned breached, to the extent that the retailer has segregated breached cans pursuant to section 95366(a)(4). Each retailer must also report the amounts of deposits collected under section 95366(a)(1) that are not returned or refunded to consumers under section 95366(a)(3), and that are transferred to manufacturers or their designees under section 95366(a)(4).

(2) Each distributor must report sales data of small containers of automotive refrigerant. The sales data must be reported for each SKU for each retailer, manufacturer, and for each month

(3) Each manufacturer must report sales data of the number of small containers of automotive refrigerant sold to each retailer or distributor within the State and the number of small containers of automotive refrigerant returned for recycling by each retailer or distributor within the State. The sales data must be reported for each SKU, for each distributor, retailer, or other outlet, for each month and as totals for each reporting period.

(4) Each manufacturer or recycler of small containers of automotive refrigerant must report the number of small containers received for recycling. The returned container data must be reported for each SKU, for each retailer or other source of return, for each month, and as totals for each reporting period. The data must be segregated according to reason for the can return: returned unused, returned for recycle, returned breached. The refrigerant amount recovered must be reported for each manufacturer, and for each month

(5) Each manufacturer of small containers of automotive refrigerant, or its designee, must report the amounts of both deposits that retailers transfer to it under section 95366(a)(4), and the deposits it collects under section 95366(b)(1) that it does not refund to retailers or distributors under section 96366(b)(4), and must also provide an accounting and description of how those funds were spent on enhancing consumer education or other programs, projects, and measures reducing greenhouse gas emissions for the previous calendar year. The report must highlight each component of an educational program or the other programs, projects, and measures and funds spent for that component.

(6) Each manufacturer of small containers of automotive refrigerant, or its designee, must submit a proposed plan that details how it expects to expend unreturned container deposit funds collected during the previous calendar year

on enhanced consumer education programs or other programs, projects, and measures reducing greenhouse gas emissions approved by the Executive Officer pursuant to section 95366(b)(6). The proposed plan must highlight each component of an educational program or the other programs, projects, and measures and funds to be spent for that component. Pursuant to section 95366(b)(6), a manufacturer or its designee may not begin expending these funds without review and approval of the plan by ARB's Executive Officer. The plans are to be sent to the Executive Officer and are due May 1 every year starting May 1, 2017.

~~(6)~~ (7) Each recycler of refrigerant from small containers of automotive refrigerant must report the amount of refrigerant recovered, along with the amount of that refrigerant recycled, reclaimed, or disposed of. The refrigerant amounts must be reported for each manufacturer, and for each month.

~~(b) Starting 2011, the ARB will calculate and publish the annual return rate for containers of refrigerant subject to the requirements of this subarticle based on reports submitted to ARB by the manufacturers, distributors, and the retailers. The return rate of containers will be published by May 31 each year and calculated as the number of containers of refrigerant returned, divided by the number of containers sold to consumers during the period under consideration. The return rate will exclude returned small containers of automotive refrigerant that are breached (i.e., the number of returned small containers that are breached will be excluded from the numerator, but will be included in the denominator).~~

~~(c) Between January 1, 2010 and December 31, 2011, the target return rate for small containers is 90%. For periods beginning January 1, 2012 and thereafter, the target return rate for containers is 95%.~~

~~(d) Every two years beginning 2012, ARB will evaluate the return rates, as described in section 95367(b), based on data from the prior two calendar years compared to the target rates, as described in section 95367(c).~~

~~(1) If the two calendar year average return rate does not meet or exceed the applicable target return rate specified in section 95367(c), the Executive Officer or his or her designee shall increase the deposit amount of section 95366(a) by an additional \$5 unless manufacturers and retailers submit information that demonstrates either that the applicable annual return rate, as described in section 95367(b) was not calculated correctly, or that the underlying sales or returned can data, as described in sections 95367(a)(1) through (a)(4), did not accurately reflect the true return rate of used containers. Manufacturers or retailers must submit such information by March 1 of the calendar year in which the two calendar year average return rate does not meet or exceed the applicable target return rate specified in section 95367(c), and the Executive Officer or his or her designee shall decide by May 31 of that calendar year either to increase the deposit amount of section 95366(a) by an additional \$5 or leave the deposit amount of section 95366(a) unchanged.~~

~~(2) If the two calendar year average return rate exceeds the applicable target return rate specified in section 96367(c) by at least 2.5 percent for two consecutive reporting periods within a four year period of time, a manufacturer or retailer may request that the Executive Officer or his or her designee reduce the deposit amount of section 95366(a) by \$5, but in no event shall the deposit amount of section 95366(a) be less than \$5. A manufacturer or retailer must make this request by March 31 of a calendar year, and the Executive Officer or his or her designee shall reduce the deposit amount of section 95366(a) by \$5 by May 31 of that calendar year, unless the Executive Officer or his or her designee has information that demonstrates either that the applicable annual return rates, as described in section 95367(b) were not calculated correctly, or that the underlying sales or returned can data, as described in sections 95367(a)(1) though (a)(4), did not accurately reflect the true return rate of used containers.~~

~~(e) If the Executive Officer or his or her designee increases the deposit amount of section 95366(a) as described in section 95367(d)(1), or decreases the deposit amount of section 95366(a) as described in section 95367(d)(2), all small containers of automotive refrigerant manufactured after January 1 of the year following that decision must have new labels and SKUs, which reflect the new deposit rate.~~

~~(f) If the Executive Officer increases the deposit amount specified in section 95366(a) pursuant to section 95367(d)(1), any small container of automotive refrigerant that was manufactured or packaged before January 1 of the year following that change to the deposit rate may be sold, supplied, or offered for sale in California.~~

~~(g) If the Executive Officer decreases the deposit amount of section 95366(a) pursuant to section 95367(d)(2), any small container of automotive refrigerant that was manufactured or packaged before January 1 of the year following that decision may be sold, supplied, or offered for sale in California until December 31 of the year following that decision. Any small container manufactured or packaged before January 1 of the year following the decision as described in section 95367(d)(2) to change the deposit rate that is not sold by the December 31 of the year following that decision must be recalled by the manufacturer no later than 90 calendar days after the December 31 of the year following that decision, and the manufacturer must report the total number of small containers recalled in the reports required by section 95367.~~

Note: Authority cited: Sections 38501, 38510, 38560, 38560.5, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38550, 38551, 38560, 38560.5, 39003, 39500, 39600 and 39601, Health and Safety Code.

~~**§ 95367.1. Unclaimed or Unreturned Deposit Reporting Requirements.**~~

~~**(a) Beginning on [effective date], retailers must file reports to the Executive Officer that contain the following information:**~~

~~**(1) the amounts of deposits collected under section 95366(a)(1) that are not returned or refunded to consumers under section 95366(a)(3), and**~~

~~(2) the amounts of deposits collected under section 95366(a)(1) that are not returned or refunded to consumers under section 95366(a)(3), that are transferred to manufacturers under section 95366(a)(4).~~

~~(b) Each quarterly report will be due subject to the following schedule: Reports for October—December—January—March will be due February—May 1st; reports for January—March—April—June will be due May—August 1st; reports for April—June—July—September will be due August—November 1st; and reports for July—September—October—December will be due November—February 1st of the following calendar year.~~

~~Note: Authority cited: Sections 38501, 38510, 38560, 38560.5, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38550, 38551, 38560, 38560.5, 39003, 39500, 39600 and 39601, Health and Safety Code.~~

§ 95369. Recordkeeping Requirements.

(a) Each manufacturer, distributor, and retailer of small containers of automotive refrigerant must retain invoices for a period not less than 5 years that show the manufacturer, distributor, or retailer name, business name, physical address, contact name, telephone number, fax number, e-mail address, web site address, sale date, and the quantity of small containers of automotive refrigerant purchased or sold.

~~(b) Each retailer of small containers of automotive refrigerant must maintain records that document, on a calendar year quarterly basis,~~

~~(1) the amounts of deposits collected under section 95366(a)(1) that are not returned or refunded to consumers under section 95366(a)(3), and~~

~~(2) the amounts of deposits collected under section 95366(a)(1) that are not returned or refunded to consumers under section 95366(a)(3), that are transferred to manufacturers or their designees under section 95366(a)(4).~~

~~The records required under this section must be maintained on a manufacturer-specific basis for a period not less than 5 years, and must be provided to ARB upon request.~~

~~(b)(c) Each recovery facility must maintain records for a period not less than 5 years that show the number of small containers received, and from whom they were received.~~

~~(c)(d) Each recovery facility must maintain records for a period not less than 5 years that show the quantity of automotive refrigerant recovered, along with the quantity of that recovered refrigerant that was recycled, reclaimed, or disposed of.~~

~~(d)(e) Each manufacturer or its designee must maintain records for a period not less than 5 years that show expenditures for educational programs that it funded from unclaimed deposits.~~

~~(e)(f) Records include copies of all invoices, books, correspondence, electronic data, or other pertinent documents in the possession or under the control of a manufacturer or~~

its designee, distributor, or retailer that is necessary to prove compliance with the requirements of this subarticle.

(f)(g) The records specified in this section may be stored in paper, electronic, or other usable formats.

(g)(h) The records specified in this section must be provided to ARB upon request by the Executive Officer or his or her designee.

Note: Authority cited: Sections 38501, 38510, 38560, 38560.5, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38550, 38551, 38560, 38560.5, 39003, 39500, 39600 and 39601, Health and Safety Code.

Attachment 2

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The definitions in Section 95361, Title 17 of the California Code of Regulations (CCR) apply to this Certification Procedure. For purposes of these Procedures, the term "ARB" refers to the California Air Resources Board.

1. GENERAL INFORMATION AND APPLICABILITY

This document specifies the criteria and procedures used by ARB to evaluate and certify small containers of automotive refrigerant that are manufactured for sale, advertised for sale, sold, or offered for sale in California, or that are introduced, delivered or imported into California for introduction into commerce. An Executive Order will only be issued for a small container of automotive refrigerant that demonstrates compliance with all applicable certification requirements.

Compliance with the standards specified in these procedures does not exempt small containers of automotive refrigerant from compliance with other applicable federal or state statutes or regulations such as safety codes and other safety regulations, nor will the ARB test for or determine compliance with such other statutes or regulations.

2. CERTIFICATION REQUIREMENTS

A manufacturer seeking an Executive Order for small containers of automotive refrigerant that are subject to the requirements set forth in Title 17, CCR sections 95360 *et seq.* must submit information demonstrating that the small containers of automotive refrigerant comply with each of the requirements set forth below.

2.1 Self-sealing Valve and Leakage Rate

Each container of refrigerant must be equipped with a single self-sealing valve that automatically closes and seals when not dispensing refrigerant.

- (A) The leakage rate from each container must not exceed 3.0 grams per year when the self-sealing valve is closed. This leakage rate applies to new, full containers as well as containers that may be partially full.
- (B) The leakage rate specified in 2.1(B) of these procedures will be determined by TP-503, Test Procedure for Leaks from Small Containers of Automotive Refrigerant, adopted July 20, 2009, which is incorporated herein by reference.
- (C) All testing to demonstrate compliance with sections 2.1(B) and (C) of these procedures must be conducted by an independent test laboratory in the United States. For purposes of this requirement, an independent test laboratory is one that is not owned, operated or affiliated with the applicant seeking an Executive Order.

- (D) Test procedures other than those specified in this Certification Procedure may be used only if prior written approval is obtained from the Executive Officer. A request for approval to use an alternative test procedure must describe the proposed alternative test procedure, including equipment specifications and personnel skill requirements necessary to conduct the test. If training is required to properly perform a test, a proposed training program must be included. The Executive Officer will utilize good engineering judgment to determine if an alternative test procedure will produce data that is as accurate and precise as the data generated from the specified test procedures.

If the Executive Officer approves a request to utilize an alternative test procedure, he or she may condition the approval upon provisos including, but not limited to, the manufacturer's acknowledgement and agreement that notwithstanding the approval, ARB will determine the leakage rate for a small container of automotive refrigerant by using test procedure TP-503, Test Procedure for Leaks from Small Containers of Automotive Refrigerant, adopted July 20, 2009, which is incorporated herein by reference, and will base decisions whether to initiate enforcement actions for non-compliant small containers of automotive refrigerant on the results obtained from TP - 503.

- (E) Test procedures referred to in this subarticle can be obtained from the California Air Resources Board.

2.2 Recovery Facilities

- (A) Each manufacturer seeking an Executive Order for small containers of refrigerant must identify and register with ARB each facility that will be used to recover refrigerant from a small container. Registration includes providing location, contact information, a description of recovery equipment including operating parameters such as vacuum to be used and operational capacity, and description of any processing and ultimate fate of the recovered refrigerant. Any recovery facility must use best operating procedures to minimize leakage of refrigerant to the atmosphere.

2.3 Container Labeling Requirements

- (A) Each container of refrigerant must clearly display instructions for proper use in both English and Spanish. The instructional language must be approved by ARB and must include the following:

(1) General safety precautions with the following statements required:

- (a) "Wear protective (rubber) gloves and safety glasses".

- (b) "Contents under pressure".
- (c) "Do not expose to temperatures above 120°F".
- (d) "Store in a cool place".
- (e) "Do not puncture or incinerate".
- (f) "Keep out of reach of children".

(2) Vehicle operating parameters for the performance of a typical DIY air conditioning recharge, phrases to be included are:

- (a) "Start engine..."
- (b) "... Set air conditioner on maximum cooling".
- (c) "...fan on highest setting (high)".

(3) Procedures for recharging with the following phrases included as a minimum requirement:

- (a) "Check hoses and ports for leaks and repair before recharging".
- (b) "Follow instructions on recharge hose." – or similar instruction.
- (c) "Hold can upright to charge. While charging, rotate can between 12 o'clock and 3 o'clock, continually agitating (sweeping) can back and forth." – or similar instruction.
- (d) "Continue process until can is empty (5 to 15 minutes) or until correct amount of refrigerant is charged into system". – or similar instruction.
- (e) An instructional phrase such as "Check A/C system nameplate for maximum volume", or "Check A/C system pressure", followed by the instruction: "Do not overcharge".
- (f) "Visit 'a *website address*'" [the website will contain information as described in Certification Procedures 2.4 (A)(6)] with one of the following: "for best practices", "for more info", "to learn more", "for project instructions".

- (B) Each small container must clearly display the following items:
- (1) The following statement in English and Spanish in a font size of at least 6 point unless otherwise specified “Contents of this container contribute to Global Warming. It is illegal to destroy or discard this container or its contents. Return for ~~XXX~~ \$10 refund.” Refer to Title 17, CCR section 95360 *et seq.* for actual dollar amount.
 - (2) The following statement in English and Spanish in a font size of at least 9 point for English and 8 point for Spanish: “Approved for use in California”.
 - (3) The following statement in English and Spanish: “~~XXX~~ \$10 refundable deposit, if returned within 90 days of purchase”. “~~XX~~” “\$10” must be in the lead position and at least 15 point font. “Refundable Deposit” must be at least 10 point font for English and 7 point font for Spanish. “If returned within 90 days of purchase” must be at least 7 point font for English and 6 point font for Spanish. Refer to Title 17, CCR section 95360 *et seq.* for actual dollar amount.
 - (4) The following statement in English and Spanish: “Do not vent ~~contents to atmosphere~~”. This must be at least 10 point font for English and 7 point font for Spanish.
 - ~~(5) The following statement in English and Spanish: “If container has refrigerant remaining after usage, return to retailer or retain for additional use until empty”. This must be at least 7 point font for English and 6 point font for Spanish.~~
 - (5) (6) (4) A product SKU code that is uniquely identifiable to this program by dedicated markings, UPC coding, and program identification markings, language or icons that serve to reasonably differentiate this product as approved for use in California.
- (C) Each manufacturer must display on each small container of refrigerant offered for sale in California a legible date or coded data of manufacture and file an explanation of such date code with the Executive Officer no later than three months after the effective date of this subarticle or within three months of production, and within three months of any change in coding.
- (D) Each manufacturer must supply to the Executive Officer a list of California specific SKU codes and non-California SKU codes with their application no later than three months after the effective date of this subarticle or within three months of production, and within three months of any change in coding.

2.4 Education Requirement

- (A) Each manufacturer seeking an Executive Order for small containers of refrigerant must develop educational materials suitable for use by ultimate purchasers of automotive refrigerant in small containers. The format and content of the educational materials must be in both English and Spanish, must be approved by the Executive Officer, and must include the following:
- (1) Advice to identify and repair leaks in the MVAC system;
 - (2) Proper techniques to minimize can heel and servicing loss while transferring refrigerant from the container to the MVAC system;
 - (3) Information on environmental hazards associated with refrigerant;
 - (4) Information on risks and consequences of overcharging or undercharging the MVAC due to lack of professional diagnostic techniques.
 - (5) Components of the container deposit and return program.
 - (6) Web pages containing the information in items 1 through 5 above that are suitable for browsing by do-it-yourself consumers of automotive refrigerant in small containers
 - (7) Brochures containing the information in items 1 through 5 above that are suitable for distribution to do-it-yourself consumers of automotive refrigerant in small containers
 - ~~(8) Each manufacturer must also provide a description of any enhanced educational program it proposes to fund with unclaimed consumer deposits as specified in Title 17, CCR section 95366(b)(6).~~
- (B) Any manufacturer who sells small containers of automotive refrigerant that are subject to Title 17, CCR section 95360 *et seq.* must make available to consumers an Internet web site containing the educational course materials described in 2.4 (A)(6) of these certification procedures.
- (C) Any retailer who sells small containers of automotive refrigerant that are subject to Title 17, CCR section 95360 *et seq.* must display material as described in 2.4 (A)(7) of these certification procedures to customers.
- (D) On or after January 1, 2010, any retailer selling small containers of automotive refrigerant must display a placard next to the display of small containers of automotive refrigerant. This placard must be at least 8 ½

inches by 11 inches and describe environmental hazards associated with release of HFC-134a, references for proper recharge techniques, and a description of the deposit and recycle program. The language must be in English and Spanish and must be approved by ARB.

3. SUBMITTING AN APPLICATION

An applicant must submit the following information in an application for certification:

- 3.1** Model number(s), size(s), and SKU(s) of the small containers of automotive refrigerant for which certification is requested. The applicant must supply test data that demonstrates the small cans of automotive refrigerant comply with each of the requirements specified in Section 2.1 of these Procedures.
- 3.2** The bill of materials and engineering drawings of the small containers of automotive refrigerant that detail the dimensions specific to each component.
- 3.3** A sample of the small container of automotive refrigerant.
- 3.4** Test data from each of the test procedures specified in Section 2.1 of these procedures.
- 3.5** Any other test data that supports the requirements in 3.4 above and that would assist in the determination of certification.
- 3.6** The language and documentation required by Sections 2.2 through 2.4 of these procedures.

4. APPLICATION REVIEW

- 4.1** If an application for certification contains all of the information required by these procedures, it will be deemed to be complete, and will be processed for certification. The application will not be deemed complete unless an applicant has supplied all of the information required by section 3 of these procedures.
- 4.2** The Executive Officer may find it necessary to request additional information from the applicant in order to fully evaluate the application.
- 4.3** Applications will be processed in accordance with the procedures and time periods set forth in Title 17, CCR section 60030 *et seq.* The time periods may be extended by the Executive Officer for good cause.
- 4.4** An application must be signed by the applicant or their authorized delegate.