

January 5, 2009

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

Sent via fax: 916-322-3928

SUBJECT: Draft Proposed Regulation Order, "Sales of Automotive Refrigerant in Small Containers" Division 3, Chapter 12, Halogenated Refrigerants

To Whom It Concerns:

Thank you for the opportunity to provide comments on the draft proposed regulations regarding California's Air Resources Board (ARB) "Do-It-Yourself" (DIY) Small Aerosol Can Measure. The California Product Stewardship Council (CPSC) is a state-wide coalition of local governments and their associations, businesses and their associations, non-profits and individuals. CPSC's mission is to shift California's product waste management system from one focused on government funded and ratepayer financed waste diversion to one that relies on producer responsibility in order to reduce the public costs and drive improvements in product design that promotes environmental sustainability.

The CPSC recommends that ARB revise the proposed Regulation to support a robust Extended Producer Responsibility (EPR) system. The final regulation should require the manufacturers of these products to develop, underwrite and implement a take back system built on the Framework Principles of Product Stewardship (see attached).

As written, the draft policy framework is inconsistent not only with the CPSC's Guidelines and principles for implementation of EPR (see attached) but also the Extended Producer Responsibility (EPR) model recently adopted by the California Integrated Waste Management Board (CIWMB). Like the California Retailers Association, the CPSC firmly believes that State-imposed disposal bans do nothing to reduce the toxicity or total volume of waste and places an undue financial burden on retailers, haulers, recyclers and other entities in the product chain, including ratepayers.

As currently written, the proposed draft regulation outlines the requirements for a take-back program for DIY users of motor vehicle air conditioning (small volume) products in order to regulate the contents and incentivize return of unused portion of refrigerant for proper disposal. The CPSC respectfully requests consideration of the following comments and recommendations when developing the next iteration of the regulation:

1. Consider AB 2347 as a model for development of the Small Aerosol Can Measure legislation. Recently signed by the Governor, this law now requires manufacturers to engage in an EPR system for the safe recycling of their mercury-containing thermostats.
2. The draft regulations call for a consumer-paid deposit on the containers to be refunded when the container is returned in good condition within a specific time period. Include language that requires the retailers to notify customers that they are charging a \$10 deposit, and that they need to keep that receipt and return the item to the same retail location, within 90 days, for a refund.
3. Set the recovery rate target at 100% to accommodate a 100% disposal ban.
4. Address online purchases in the regulation, and ensure there are provisions to enforce the same regulations for out-of-state retailers as there are for California retailers.
5. Address the fact that a percentage of customers will lose their receipts. There needs to be a mechanism to handle those cans.
6. Include language that exempts can deposits from sales tax.

Thank you for the opportunity to comment on these draft regulations. If we can provide any additional information, please let me know.

Sincerely,



Heidi Sanborn, Executive Director
California Product Stewardship Council

Enclosures: Who is CPSC?