

October 26, 2023

Honorable Liane Randolph
Chair of the California Air Resources Board
1001 I Street
Sacramento, CA 95814

Subject: 23-9-3: Public Hearing to Consider Proposed Amendments to the Regulation for Small Containers of Automotive Refrigerant

Dear Chairperson Randolph,

I am writing to you today to provide written comments on the proposed action on your meeting agenda for today's meeting. The California Product Stewardship Council (CPSC) is a 501(c)(3) organization with an extensive network of local governments, non-government organizations, businesses, and individuals supporting policies and projects where producers share in the responsibility for managing problem products at end-of-life.

The action proposed under Item No. 23-9-3 on your agenda today is not the direction the Board should be going in when considering the impacts of small containers of automotive refrigerant on our environment. The current deposit system for these canisters ensures that most of the canisters will be recovered intact and properly managed at the end of their useful life. The staff presentation reflects a current 66% recovery rate at retailer stores. This is a good number for recovery when considering other programs that recover products at the end of life, such as the California Beverage Container Refund Value (CRV) program, that tends to also trend around this same percentage. While not perfect, the current deposit system for small canisters of refrigerant, the program is recovering the majority of those canisters sold to Do-It-Yourself (DIY) consumers.

When I learned of the proposed action by CARB staff back in January 2022 and attended the First Public Workshop on January 22, 2022, I expressed significant concerns regarding the proposal to remove the deposit system from the program to recover automotive refrigerants. I explained that while having a deposit system tied to the recovery of these canisters is not ideal due to the administrative burden of managing the system, the recovery rate at that time of 60% or higher indicated it was a successful in method to recovering those used canisters. I conveyed the success rate of CRV program which also is typically over 60% as well. There are alternative methods to incentivize consumers to return these used products, such as a bounty system, which I also recommended to CARB staff during that workshop that they consider implementing.

Removing the deposit system will have the following impacts:

1. The recovery rate of the used canisters will drop significantly, most likely to 25% or less, as I expressed at the workshops.

2. Most, if not all, recovered canisters will now become the financial burden of local governments through their operation of household hazardous waste (HHW) facilities and temporary collection events. At this time, the volume of canisters received as HHW is low and not a significant financial burden due to low quantities. However, these costs will increase significantly if canisters that were being returned to retailers are now brought to local government operations. As a comparison, single-use one pound propane cylinders cost local governments an average of \$5.00 per unit for residual gas recovery and cylinder recycling. This could result in a shift of costs to local governments statewide that would amount to millions of dollars each year.
3. Those canisters not brought to HHW facilities or events will now end up in either the blue recycling bin or the garbage bin at the curb. This is of significant concern, as any residual gas will be released to the atmosphere when the canisters are compacted in the back of the collection truck, or in the case of the blue bin, when the canisters are segregated out of the recycling stream and compacted in the material recovery facility (MRF) baler that is baling steel containers. If placed in the garbage bin by the consumer, those canisters will be compacted at the landfill and the refrigerant will be released.

According to the staff report, approximately 1.59M canisters were sold in 2021, with approximately 927K returned to the retailer. With the proposed changes of Item No. 23-9-3, most of those canisters currently recovered will now end up in HHW facilities, MRFs, or landfills as noted above.

CARB staff identified the number of unclaimed deposits as a significant problem with the program. There does not appear to be clarity as to the actual issues related to consumers getting their deposits back. Like the current Lead Acid Battery deposit/core charge system, there may be issues related to retention of receipts by the consumer, which would be proof to the retailer that the replacement battery was actually purchased at that retailer and the deposit/core charge was paid. There are simple solutions to this receipt retention issue for refrigerant canisters, such as a sticker being applied by the specific retailer at the point-of-sale that identifies that retailer. This could reassure the retailer that the deposit had been paid at their retail establishment and that the deposit could be returned to the consumer.

Considering the potential financial impacts to local governments and the environmental impacts related to the unintentional release of the refrigerants to the atmosphere, a high level of recovery is still essential. Other possible legislative solutions are currently in progress that could provide a viable replacement to the deposit system, but will not be implemented for at least 4 years if passed by the California Legislature.

For the reasons stated above, CPSC recommends that the Board delay the removal of the deposit system for at least a couple more years to allow other possible solutions to be considered by the Legislature.

Thank you for your attention to this matter. If you have any questions, please feel free to reach out to me at (916) 413-5262 or Doug@calpsc.org.

Respectfully,

A handwritten signature in blue ink, appearing to read 'DK', is positioned above the typed name.

Doug Kobold
Executive Director