

State of California  
AIR RESOURCES BOARD

**Notice of Public Availability of Modified Text**

**PUBLIC HEARING TO CONSIDER THE ADOPTION OF A REGULATION FOR THE  
MANAGEMENT OF HIGH GLOBAL WARMING POTENTIAL REFRIGERANTS FOR  
STATIONARY SOURCES**

Public Hearing Date: December 9, 2009  
Public Availability Date: March, 17, 2010  
Deadline for Public Comment: April 1, 2010

At its December 9, 2009, public hearing, the Air Resources Board (ARB or Board) approved the adoption of title 17, California Code of Regulations (CCR), subchapter 10, article 4, subarticle 6, sections 95380 through 95398. This regulation is a greenhouse gas (GHG) reduction measure, as described in the California Global Warming Solutions Act of 2006 (Assembly Bill 32 (AB 32) Nuñez, Ch. 486, Stats. 2006), and will reduce emissions of high global warming potential (GWP) refrigerants from both stationary, non-residential refrigeration equipment and from the installation and servicing of refrigeration and air-conditioning appliances using high-GWP refrigerants.

At the hearing the staff presented, and the Board approved the regulation as originally proposed in the Initial Statement of Reasons released on October 23, 2009, with certain modifications as requested by Edwards Air Force Base and the Department of Defense to exempt military tactical support equipment. Based on public comments staff made additional modifications for clarity and consistency as detailed below.

Board Resolution 09-68 approved new sections 95380 through 95398 as modified. The resolution and all other regulatory documents for this rulemaking are available online at:

<http://www.arb.ca.gov/regact/2009/gwprmp09/gwprmp09.htm>

In accordance with Government Code section 11346.8, the Board directed the Executive Officer to adopt title 17, CCR, sections 95380 through 95398, with the modifications identified by the Board at the hearing, after the modifications are made available for public comment for at least fifteen days. The Board further directed the Executive Officer to consider written comments submitted during this period, to make appropriate modifications in light of the comments received, and to present the regulation to the Board for further consideration if warranted.

Attachment A to this notice contains the text of sections 95380 through 95398, title 17, CCR, with the proposed 15-day modifications to the original regulatory language. Additions to the original language are shown in underline and deletions are shown in ~~strikeout~~. Please note that the table in section 95384(f) includes terms that were underlined for emphasis in the original language. The underlined terms in that table do not indicate added language.

## Summary of Proposed Modifications to the Originally Proposed Text

The following is a summary of the proposed modifications to the originally proposed text. In addition to the modifications described below, the entire regulation will be placed in subarticle 5 instead of subarticle 6, because subarticle 6 is reserved for another regulation.

- A. Amend sections 95380 and 95381 to add the word “stationary” to clarify that the regulation only applies to stationary refrigeration and air-conditioning appliances.

The regulation applies only to stationary refrigeration and air-conditioning appliances, and these clarifications are necessary to make sure there is no confusion about this.

- B. Add subsection 95381(b) to specify that the regulation does not apply to tactical support equipment.

New subsection 95381(b) explicitly excludes tactical support equipment from the requirements of the regulation. Certain tactical support equipment will continue to be regulated under title 13, CCR, sections 2450-2465 as off-road mobile sources.

- C. Add a definition for “tactical support equipment” to section 95382(a).

A definition of “tactical support equipment” has been added to clarify the type of equipment outside the scope of this regulation under subsection 95381(b). The definition of “tactical support equipment” is consistent with the definition used in the Portable Equipment Registration Program (title 13, CCR, §2452).

- D. Amend subsection 95385(a)(1) to add provisions specifying two scenarios where subsection 95385(a)(1) applies.

Subsection 95385(a)(1) has been divided into two subsections, 95385(a)(1)(A) and 95385(a)(1)(B). Subsection 95385(a)(1)(A) now gives the two scenarios where it applies: (1) if the refrigerant circuit is located entirely within an enclosed building or structure; or (2) if the compressor, evaporator, condenser, or any other component of the refrigeration system(s) with a high potential for a refrigerant leak is located inside an enclosed building or structure. Subsection 95385(a)(1)(B) now gives an exception to the monthly leak inspection requirement if an automatic leak detection system meeting the specifications provided in subsections 95385(a)(5) or 95385(a)(6) is used to monitor the refrigeration system. These modifications are necessary to clarify the leak inspection requirements outlined in subsections 95385(a)(1) and 95385(a)(3) for a refrigeration system that does not operate with the refrigeration circuit located entirely within an enclosed building or structure.

- E. Modify subsections 95385(a), 95385(b), 95385(c), and 95385(d) to remove language specifying required actions if oil residue is observed and inserting language in new subsection 95385(g) to be applicable to the entire section.

Subsections 95385(a), 95385(b), 95385(c), and 95385(d) have been modified to delete

language specifying required actions if oil residue is observed. The deleted language regarding required actions when oil residue is observed is now made applicable to the entire section via subsection(g). These modifications are necessary to clarify that a leak inspection is required any time oil residue is observed indicating a potential refrigerant leak.

- F. Modify subsection 95385(a)(3) to change the effective date from January 1, 2012, to January 1, 2011, and to clarify that all refrigeration system components are subject to either subsection 95385(a)(1) and 95385(a)(2) or subsection 95385(a)(3).

Subsection 95385(a)(3) has been modified to change the effective date of the subsection from January 1, 2012, to January 1, 2011 and to specify that a leak inspection is required once every three months for any refrigerant circuit component that is not monitored using an automatic leak detection system. The modification to the effective date is necessary for consistency between: (1) the effective date of leak inspection requirements for a refrigeration system with a full charge equal to or greater than 2,000 pounds with a refrigerant circuit that is not located entirely within an enclosed building or structure, and (2) the effective date of leak inspection requirements for a refrigeration system with a full charge equal to or greater than 2,000 pounds with a refrigerant circuit that is located entirely, or partly, within an enclosed building or structure. The modification requiring a leak inspection once every three months for any refrigerant circuit component not monitored using an automatic leak detection system is necessary to clarify that all refrigeration system components are none the less subject to either subsection 95385(a)(1) and 95385(a)(2) or subsection 95385(a)(3).

- G. Modify subsections 95385(a) and 95385(b) to add the word “once” to the term “every three months.”

Subsections 95385(a)(3) and 95385(b) have been modified to clarify that a leak inspection is required “once every three months” instead of “every three months.” The term “every three months” could be interpreted to mean on the same date every three months; such a requirement would be unduly restrictive and was not staff’s intention. The modification is necessary to clarify that a leak inspection is not required on the same date every third month, so long as it is performed at least once every three months.

- H. Delete subsection 95385(a)(8) specific to a refrigeration system that does not operate or is not intended to be operated year round and add the same language in new subsection 95385(e).

Subsection 95385(a)(8) has been deleted and the same language has been inserted in new subsection 95385(e). This was done to clarify that the provision is not specific only to refrigeration systems with a full charge greater than or equal to 2,000 pounds, as specified in subsection 95385(a), but applies to all applicable refrigeration systems that do not operate or are not intended to be operated year round.

- I. Delete subsection 95386(c)(3) providing a 45-day allowance for a refrigerant leak repair if the refrigeration system owner or operator has received an exemption, or submitted a request for an exemption, and add subsection 95386(j) providing that a leak repair is not required if the refrigeration system owner or operator has received an exemption or submitted a request for an exemption.

Subsection 95386(c)(3), which provides that a 45-day allowance for a refrigerant leak repair if the refrigeration system owner or operator has received an exemption or submitted a request for an exemption, has been deleted and the same language has been added under new subsection 95386(j). This is necessary to clarify that the provision is not specific to the 45-day allowance specified in subsection 95386(c) and that refrigerant leak repair pursuant to section 95386 is not required if the owner or operator has been granted an exemption of the leak repair requirements in accordance with section 95397, or submitted a request for an exemption.

- J. Modify subsections 95386(c) and 95386(d) to clarify the conditions when a refrigerant leak repair 45-day or 120-day allowance is applicable specific to an industrial process shutdown.

Subsections 95386(c) and 95386(d) have been modified to clarify that either a 45-day or 120-day allowance for industrial process shutdowns applies in situations where the industrial process shutdown results in a process temporarily ceasing to manufacture the intermediate or final product that is produced when the industrial process refrigeration appliance is in operation, and that this includes situations where an industrial process remains in operation to manufacture a different product that does not rely on the operation of an industrial refrigeration appliance within the overall production process.

- K. Add subsection 95387(c) to clarify that a retrofit or retirement plan is not required if the refrigeration system owner or operator has received an exemption or submitted a request for an exemption.

This modification is necessary to clarify that a retrofit or retirement plan is not required pursuant to section 95387 if the owner or operator has been granted an exemption of the retrofit or retirement plan requirements in accordance with section 95397, or submitted a request for an exemption

- L. Modify section 95389 to include a new subsection 95389(a)(6) clarifying the requirement to maintain records specific to an exemption application, approval, denial, revocation, or modification.

The regulation currently requires maintaining records for all refrigeration system service and refrigerant leak repairs as well as documentation of any conditions that would allow a repair of a refrigerant leak to be conducted more than 14 days after detection. Subsection 95389(a)(6) was added, it provides that records supporting an exemption allowing a refrigerant leak repair to be conducted more than 14 days after detection must be maintained. Such records would include notice of any exemption approval, denial, revocation, or modification under section 95397.

- M. Modify subsection 95390 to include the word “stationary” in the title and in subsection 95390(a) to clarify that the provision is applicable only to stationary refrigeration and air-conditioning appliances.

Subsection 95390 applies only to stationary refrigeration and air-conditioning appliances, and these clarifications are necessary to make sure there is no confusion about this.

- N. Modify subsection 95397(a) by deleting language from subsection 95397(a)(1), deleting subsection 95397(a)(2)(B) and renumbering subsection 95397(a)(2)(D) to subsection 95397(a)(4).

Section 95397 currently provides those criteria that must be met for the consideration of an economic hardship exemption from the refrigerant leak repair requirement. These criteria are: 1) compliance would result in extraordinary economic hardship to the applicant, 2) the extraordinary hardship would be without a corresponding benefit in reducing combined direct and indirect emissions, and 3) the applicant has prepared a compliance report that can be implemented and will achieve compliance as expeditiously as possible. There was concern that the second criterion could be broadly interpreted to mean that an exemption could not be approved if the economic hardship resulted in an emissions reduction benefit. As an example of the concern, some believed the provision could be interpreted to mean that an exemption could not be approved if emissions were reduced by ceasing operations at a facility. In response to this concern, the second criterion has been removed. Subsections 95397(a)(1) and (a)(2)(D) include identical language allowing that any exemption granted may be extended for one or more additional periods of up to three years. To clarify that subsection 95397(a)(2)(D) is not a criterion for approval of an economic hardship exemption and that any exemption granted pursuant to section 95397 may be extended, this regulatory text has been deleted from subsections 95397(a)(1) and (a)(2)(D) and the same language has been inserted in new subsection 95397(a)(4).

- O. Modify subsection 95397(e) by clarifying the due date for a refrigerant leak repair and a retrofit and retirement plan if an exemption is denied or revoked, including a required time frame to implement a retrofit and retirement plan, and changing the reference to section 95387 to subsection 95387(a)(2).

Section 95397 currently requires leak repair “in accordance with section 95386” and a retrofit or retirement plan “in accordance with section 95387.” Sections 95386 and 95387 require a leak repair and retrofit or retirement plan within a specified number of days from the initial detection of a refrigerant leak, which may conflict with the time requirements to submit a request for an exemption or a denial or revocation of an exemption. To provide clarity a time-frame has been included for situations where an exemption from the leak repair and retrofit or retirement plan requirements are denied or revoked based on the date of the notice of the exemption denial or revocation. For the retrofit or retirement plan requirements, the reference to section 95397 has been changed to subsection 95387(a)(2) to refer only to the information required in the retrofit or retirement plan. Subsections 95397(e)(1) and 95397(e)(2) have also been added to clarify that if an exemption is denied or revoked, 1) the time frame for a

required refrigerant leak repair allowable under section 95386 remains applicable and is not reduced, and 2) the time frame for preparation and implementation of a required retrofit or retirement plan allowable under subsection 95387(a) remains applicable and is not reduced.

Written comments on the proposed modifications may be submitted by postal mail or electronic mail submittal as follows:

Postal mail: Clerk of the Board, Air Resources Board  
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

In order to be considered by the Executive Officer, comments must be directed to ARB in one of the two forms described above and received by ARB by 5:00 p.m., on the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulations will be considered by the Executive Officer.

If you need this document in an alternate format (i.e., Braille, large print, etc.) or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alternativo (por decir, sistema Braille, o en impresión grande) u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

## Attachments

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see ARB's website at [www.arb.ca.gov](http://www.arb.ca.gov).*