

State of California
AIR RESOURCES BOARD

**Second Notice of Public Availability of Modified Text and
Availability of Additional Documents**

PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE
REGULATION FOR LIMITING OZONE EMISSIONS FROM INDOOR AIR CLEANING
DEVICES

Public Hearing Date: December 9, 2009
First Public Availability Dates: February 11, 2010 – February 26, 2010
Second Public Availability Date: April 08, 2010
Deadline for Public Comment: April 23, 2010

At its December 9, 2009 public hearing, the Air Resources Board (ARB or Board) approved amendments to sections 94801, 94804, 94805, and 94806, title 17, California Code of Regulations, the Regulation for Limiting Ozone Emissions from Indoor Air Cleaning Devices. The amendments include an extension of the certification package labeling deadline for one year, allowing the use of adhesive labels for one additional year, and several amendments relating mostly to testing protocols.

As described below, at the hearing the Board approved additional modifications to the originally proposed regulatory language which was released in the Staff Report: Initial Statement of Reasons on October 23, 2009. The modifications approved by the Board, and changes made by staff following Board approval, were made available for public comment through a notice dated February 11, 2010. By this second notice, one additional minor amendment and one additional reference are being made available for public comment, in addition to the modified regulatory language and documents recently released for review, prior to final action by the Board's Executive Officer.

The Board's Action

At the December 9, 2009 public hearing, the Board unanimously approved Resolution 09-65, which approved the proposed amendments originally described in the Staff Report: Initial Statement of Reasons released on October 23, 2009. Board Resolution 09-65 approved modifications to sections 94801, 94804, 94805, and 94806, title 17, California Code of Regulations (shown in Attachment A to the Resolution). The resolution and all other regulatory documents for this rulemaking are available online at the following ARB website: <http://www.arb.ca.gov/regact/2009/iacd09/iacd09.htm>.

At the hearing, the Board also approved several additional revisions to California Code of Regulations, title 17, sections 94801 and 94805 (shown in Attachment B to the Resolution). These additional revisions are being made available in this second notice for public comment, along with one additional amendment made to section 94805(d) and the addition of one new reference.

Summary of Proposed Modifications

The modified regulatory text being made available for public comment today is in California Code of Regulations, title 17, sections 94801 and 94805, and is shown as Appendix I to this notice. Appendix I shows staff's modifications to the originally proposed regulatory text from Appendix II to the Staff Report: Initial Statement of Reasons, released October 23, 2009. Only those portions of sections containing modifications are included in this notice.

The modified regulatory text being made available for public comment includes the modifications shown in Attachment B to Resolution 09-65 approved by the Board and additional conforming or related modifications prepared by staff after the December 9, 2009 public hearing. The text is printed in a style to indicate changes from the originally proposed regulatory language. All originally proposed regulatory language is shown in underline to indicate additions and ~~strikethrough~~ to indicate deletions. Staff's modifications to the original proposal that are available for public comment are shown in double underline to indicate additions and ~~double strikethrough~~ to indicate deletions. The modifications available for comment are described below.

Summary of Rationale for the Proposed Modifications

The following explains and identifies the proposed modifications by section number, and is provided to give stakeholders the opportunity to review the modifications and respond with comments.

1. In Section 94801(a)(3b), the November 23, 2009 date reference for the Filter Test Iterations Certification Requirement Decision (CRD) has been added to the definition of "ANSI/UL Standard 867". This CRD is for the Section 37 ozone test and was issued by Underwriters Laboratories, Inc. (UL) after the public notice and Initial Statement of Reasons were released in October 2009.
2. In Sections 94801(a)(3c) and (3d), minor corrections and clarifications have been made to the wording in the definitions.
3. In Sections 94801(a)(3e) and (3f), definitions have been added for ANSI/UL Standards 1017 (Vacuum Cleaners, Blower Cleaners, and Household Floor Finishing Machines) and 1993 (Self-Ballasted Lamps and Lamp Adaptors). A multi-function appliance (i.e. an appliance with a primary purpose other than air cleaning) that includes an air cleaning component and meets the definition of an indoor air cleaning device must be tested to the applicable ANSI/UL electrical safety standard for its primary purpose. During the rulemaking staff became aware of appliances in these two categories that include air cleaners. The applicable electrical safety standards are being added because Standards 507 and 867 are not appropriate for testing electrical safety of these multi-function devices. As noted below, references to the ANSI/UL Standards 1017 and 1993

are being added to the rulemaking record which the Board compiled for this rulemaking.

4. In Section 94801(a)(17), the definition of “listing mark” has been modified to reflect that nationally recognized standards applicable to appliances other than air cleaning devices also contain safety criteria.
5. Section 94805(b) states that testing to determine compliance with the regulation must be performed following the ANSI/UL Standards 867 or 507, whichever is applicable. At the December 9, 2009 hearing, the Board approved adding ANSI/UL Standards 484 and 1278 as the applicable standards to address room air conditioners and portable heaters as multi-function appliances. Section 94805 is being further modified to add ANSI/UL Standards 1017 (vacuum cleaners) and 1993 (self-ballasted lamps), for the reasons described in number (3) above.
6. Section 94805(d) - At the December 9, 2009 hearing, the Board approved allowing additional test facilities to perform electrical safety testing if they were recognized under Supplemental Programs 2 through 6 of the Occupational Safety and Health Administration’s (OSHA’s) Nationally Recognized Testing Laboratory (NRTL) Program. In 2009, OSHA added a ninth supplemental program (Program 10, Satellite Notification and Acceptance Program, or “SNAP”), allowing additional facilities with a majority NRTL ownership, or that are “organizationally encompassed” by an NRTL, to perform the electrical safety testing if they are qualified to do the testing as determined by the NRTL and approved by OSHA (“organizationally encompassed” means that a site is within the NRTL’s organizational structure and subject to the NRTL’s control). This added supplemental program was announced by OSHA on January 9, 2009 in the Federal Register (74 Federal Register 923-927) and became effective on May 11, 2009. This amendment to section 94805(d) allows electrical safety testing to be conducted at approved Program 10 (“SNAP”) facilities as long as the testing is conducted by the SNAP facility itself, or under Programs 2 through 6 testing arrangements overseen by the SNAP facility. Utilization of a SNAP facility permits a faster processing time for testing and issuance of the authorization to mark, while maintaining NRTL control.

Additions to the Rulemaking Record

1. The original regulatory proposal included the incorporation into the regulation of three CRDs to the ozone test protocol contained in Section 37 of ANSI/UL Standard 867. The CRDs are written clarifications or interpretations that address specific questions or relatively minor issues relating to testing procedures and are intended to provide guidance to testing laboratories. At the time the initial statement of reasons and public hearing notice were released on October 23, 2009, the third CRD was pending but had not yet been issued by UL. The initial statement of reasons provided a general summary of the expected CRD. The CRD (relating to testing of devices with multiple filter

options) was issued by UL on November 23, 2009. It is included in this 15-day notice as Appendix II, and is being made available for public comment.

2. The following references are being added into the rulemaking record which the Board has compiled for this rulemaking action, including all the information upon which the proposal is based. This material is available for inspection at the offices of the Air Resources Board, 1001 I Street, Sacramento, California, 95814 upon request to the following contact persons from 8:00 am to 5:00 pm Monday through Thursday: Ms. Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit (BARCU), (916) 322-4011; or Ms. Trini Balcazar, Regulations Coordinator, BARCU, (916) 445-9564. The references are as follows:

ANSI/UL, 2001. UL 1017 Standard for Safety for Vacuum Cleaners, Blower Cleaners, and Household Floor Finishing Machines. Seventh Edition, December 7, 2001, with revisions through June 15, 2006, and most recently approved by ANSI on June 15, 2006.

ANSI/UL, 2009. UL 1993 Standard for Safety for Self-Ballasted Lamps and Lamp Adaptors. Third Edition, dated August 28, 2009.

U.S. OSHA, 2009. United States Occupational Safety and Health Administration, Department of Labor. "Nationally Recognized Testing Laboratories: Satellite Notification and Acceptance Program," Federal Register, Vol. 74, pages 923-927, January 9, 2009.

<http://edocket.access.gpo.gov/2009/pdf/E9-163.pdf>

Comments and Subsequent Action

In accordance with the Government Code, section 11346.8, the Board directed the Executive Officer to adopt the proposed modifications to sections 94801 and 94805, California Code of Regulations, title 17, after making them available to the public for comment for a period of at least fifteen days. The Board further provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if warranted.

Written comments will only be accepted on the additional documents identified in this notice, and the additional modifications summarized in this notice and modifications shown in double underline and double strikethrough in Appendix I to this notice.

Comments 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 and the third UL CRD shall 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.

Appendices (2)

I – Modified regulatory text

II – Underwriters Laboratories, Inc. Certification Requirement Decision, Filter Test Iterations, November 23, 2009

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.