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June 30, 2009

Ms. Peggy Jenkins
Research Division, Fifth Floor
California Air Resources Board
1001 I Street, P.O. Box 2815
Sacramento, CA 95812

Subject: Written comments on Amendments to the Final Regulation Order for Ozone Emissions from Indoor Air Cleaning Devices

Dear Ms. Jenkins:

The Association of Home Appliance Manufacturers (AHAM) has been involved in the development of the original AB 2276 and 17CCR § 94801 Final Regulation Order For Limiting Ozone Emissions From Indoor Air Cleaning Devices for more than 4 years. We continue to support the development of sound policy on this issue, and we look forward to continuing to work with you and other officials at the Air Resources Board (ARB). Our members have been working diligently to comply with this regulation.

AHAM wishes to thank the ARB for its open dialogue and consultations throughout the development of the regulation to make sure the regulation is introduced in an efficient and appropriate manner.

In the early stages of both the draft legislation and the regulation, we commented that having an effective date based on the date of sale was very difficult in an electrical consumer products sector. While we understand the ARB's desire to use the date of sale, AHAM comments are even more prominent now given the current economic conditions in which our industry finds itself. The Air Cleaner industry has been very hard-hit by the current recession, and this has resulted in retail inventories of between 18 and 24 months in many retail channels.

We also want to express our appreciation to you for holding the June 12, 2009, workshop and web meeting. It was an excellent exchange of information and afforded many stakeholders the opportunity to provide input in the process. We recognize that you are trying to rectify the current situation with lack of a second laboratory and a rapidly approaching compliance date.

1. At the June 12, 2009, workshop and meeting, the ARB officials asked for comments on the possibility of extending the compliance date by 4 months from October 18, 2010, to February 18, 2011.

As you are fully aware, when this regulation was finalized in the autumn of 2008, it was anticipated that there would be two laboratories available for testing at least 100 units utilizing technologies that require ozone chamber testing. Because of the current interpretations of the testing requirements in ANSI UL Standard 867, Section 37, and the Certification Requirement Decisions (CRDs) UL issued, testing can take up to 1 week per unit. Eighteen months later, we still do not have a promised second facility. On June 12, 2009, AHAM requested that the ARB consider a delay of at least 6 months in the compliance date, or until April 18, 2011. This request is based on the continued belief that there will be a second laboratory facility available shortly, and that UL will issue new CRDs to clarify the testing requirements and allow for a more rapid flow of multiple unit testing by the end of June 2009.

2. On June 12, 2009, AHAM suggested another measure that will assist the Air Cleaner industry given the current retail situation. In the original legislation and regulation, the ARB allowed adhesive “stickers” bearing the new required language for units in the testing queue near the compliance date, and provided that these “stickers” would be allowed until April 1, 2011.

We understand the ARB’s interest in moving from the use of adhesive “stickers” on retail cartons to printing the required language in the actual carton artwork. It is certainly economically advantageous for our manufacturers to move away from “stickers” to direct carton artwork printing as rapidly as possible, but the combination of current economic conditions, backlogged inventory, and the lack of a sufficient number of testing laboratories has created major problems for the Air Cleaner industry.

With a fast-approaching compliance date, it is possible that retailers will choose to return air cleaner units to the manufacturers that are well within the regulatory ozone emission limit, but which do not bear the required label. This will cause unnecessary transportation of air cleaners and may possibly result in the unnecessary destruction and disposal of units and retail cartons. We should not add to the level of solid waste or squander precious transportation resources, which also impacts the environment, simply because a unit bears a “sticker” label and not a permanent marking (when both labels would contain the same information).

AHAM members believe that while it may not be the ideal solution, some flexibility in the use of adhesive “stickers” is necessary. While we believe that a mandatory date for transition from adhesive “stickers” to carton artwork printing is not necessary because companies will want to rapidly move to that, we understand that the ARB would like to have a fixed date. We suggest that the use of adhesive “stickers” be allowed until October 18, 2012.

We recognize that the use of adhesive “stickers” also was suggested to allow ARB compliance officials to quickly and easily know whether or not units in retail were certified. With the use of electronic hand-held communications and with the rapid processing of new applications for certification by the ARB officials, any compliance official can in fact quickly and easily check whether a model number is certified against

the numbers on the ARB web site. While we want to encourage consumers to look for the marking, it is highly unlikely that a consumer will care, or even notice if the required information is embedded on the carton artwork or on a “sticker” adhered to the carton. It is a distinction without a difference.

3. There are two other items that we believe need attention. First, we recognize that the dates in the retailer letters will need to be adjusted accordingly. Second, we believe a review of the program this autumn by the ARB Board is appropriate. We would like to participate in that review.

Thank you for the opportunity to comment on the implementation of the ARB regulations for ozone emissions of air cleaners. Again we thank you and officials at the ARB for working with the Air Cleaner industry.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne E. Morris". The signature is fluid and cursive, with a large initial "W" and "M".

Wayne E. Morris
Vice President, Division Services