

January 9, 2007

Ms. Peggy L. Jenkins
California Air Resources Board
Research Division, Fifth Floor
1001 I Street, P.O. Box 2815
Sacramento, CA 95814

Dear Ms. Jenkins,

The Association of Home Appliance Manufacturers (AHAM) is the trade association representing the manufacturers of major, portable and floor care home appliances, and suppliers to the industry. As part of our portable division, AHAM represents roughly 20 manufacturers who produce air cleaners for sale in California. AHAM also operates a certification program for air cleaners, along with the Clean Air Delivery Rate web site (www.cadr.org) which helps consumers make informed choices when purchasing air cleaners. AHAM worked closely with Assemblywoman Pavley and the Air Resources Board (ARB) during the legislative process for Assembly Bill (AB) 2276 and we appreciate the opportunity to share our comments regarding the implementation of the regulations set forth in the law.

AHAM believes that the provisions stipulated in AB 2276 provide for a fair process for air cleaner manufacturers to test and certify their products to be in compliance with California's regulations. Accordingly, the ARB should draft regulations that closely follow the language in AB 2276 and enact them to ensure minimal economic manufacturer and market burden.

In reviewing the ARB's "Draft Concept" document, AHAM has several comments which are addressed here.

Exemption for "De Minimis" Emitters of Ozone

AHAM supports an exemption from testing and certification requirements for air cleaners that are technologically incapable of generating any significant amount of ozone. To achieve this, the ARB has proposed definitions of certain products that meet this profile. AHAM believes that these definitions are too narrowly focused and should be expanded to reflect all of these products that are currently being sold. Additionally the regulation should be broad enough to allow new products to be included should they emit only trace amounts of ozone as a by-product of their operation. AHAM believes the best way to ensure products are properly included in the scope of this provision is to base the definition on the operation of the product, rather than the filter type being utilized. In this regard, we propose that the ARB use the term "mechanical filtration." A definition of air

cleaners which utilize mechanical filtration should use the term “such as” in listing examples in order not to be restrictive. AHAM suggests the ARB use the following language:

“Air cleaners using mechanical filtration only shall be exempt from these regulations. Such air cleaners would include those that utilize a filter media and fan to move air through the filter media. Examples of such air cleaners would include those employing a fan and cloth, paper, activated carbon, including those treated with an electrically charged filter medium.”

Test Procedure

AHAM supports the inclusion of Section 37 of Underwriter’s Laboratories (UL) Standard 867 as the test procedure for air cleaners. AHAM has been working with UL and a group of stakeholders, including the ARB, to amend 867 to allow for the most appropriate and accurate testing of ozone concentration from air cleaners. AHAM also supports the additional provisions that the ARB has laid forth in its draft concept with the exception of the following provision which states:

“Acceptance of test chambers with walls/interiors constructed of stainless steel and fluoropolymers, and elimination of vinyl tile as a suitable a chamber construction material.”

AHAM would be concerned if this provision was the only allowable condition for a test chamber. Such design requirements would escalate costs for testing facilities while raising fees and could limit the number of available test chambers in the U.S. It is AHAM’s understanding that the ARB intends to include this as an “or” provision in addition to those laid forth in UL 867, we support this approach.

Lab Certification Procedures

The ARB’s draft regulations state that all air cleaners must be certified to meet the provisions of the ARB and Section 37 of UL Standard 867. As stipulated in AB 2276, the ARB may accredit testing labs to test air cleaners for certification of compliance. AHAM urges the ARB to establish a process for receiving accreditation which is simple and economical. Additionally, the ARB should strive to accredit as many labs as are able to meet the proposed regulations so as to not create a “backlog” for manufacturers wishing to have their products certified and brought to market in a timely manner.

Labeling Requirements

AHAM believes the packaging labeling requirements in AB 2276 clearly identify the regulations to be set by the ARB. All compliant models should have a label on their packaging stating: “This air cleaner complies with the federal ozone emissions limit.” We believe this statement satisfies all the labeling requirements set forth in the law including

distinguishing that the device is certified as meeting the California emission limit for ozone, since the California limit as stipulated in the law (0.05 PPM) is also the federal limit.

Our manufacturers wish to keep packaging costs to a minimum so that air cleaners can remain affordable to consumers. Manufacturers also distribute their products on a national level and California specific labeling would require additional costs in not just packaging design but also distribution. Should a manufacturer decide to incur the costs of producing the packaging required by California for national distribution, consumer confusion could result from products having state specific labeling. However, if a consumer sees a label stating that the product complies with federal law, they know they are getting a product that adheres to the federal ozone requirement as stipulated by the U.S. Food and Drug Administration.

Exemption Provision

As stated in AB 2276, air cleaners that are verified by the ARB and meet the labeling requirements of these regulations should not be subject to any further regulatory action in regards to ozone. AHAM believes that the regulations issued by the ARB should include this provision so as to effectuate the legislature's intent in the law. This will ensure that compliant models do not face further "burden of proof" regulations that could add additional costs for consumers.

Date of Enactment

AB 2276 provides the ARB until December 31, 2008 to develop the regulations stipulated in the law. It is clear that ARB has set an aggressive timetable to complete this objective. Air cleaner manufacturers should have ample time to have their products certified and to implement packaging changes. Inevitably, there will be a rush by manufacturers to have their products certified following the issuance of the regulations. In addition, as the current American National Standards Institute (ANSI)/UL standards are under revision, it is important that manufacturers have ample time to provide samples to the appropriate accredited testing laboratories from the time the California regulations are finalized and the provisions of the applicable UL 867 Section 37 test requirements are brought into alignment. Any changes made by manufacturers can not begin until the regulations are final. Additionally, testing and packaging redesigns historically take eighteen to twenty-four months to implement. AHAM asks that the ARB take these facts into consideration when issuing their final rules.

AHAM believes that the ARB should establish the date of manufacture as the enforcement date for the regulations. It is impossible for an appliance manufacturer to be responsible for the method of inventory control used by retailers. Any provision tied to date of sale could require manufacturers to recall products from the market which would only exacerbate the costs of implementing these regulations and would add costs for retailers as well.

AHAM Comments

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AHAM and its members thank the ARB again for the opportunity to express our comments. Should you have further questions please contact either Wayne Morris or Chris Hudgins at (202) 872-5955.

Sincerely,

A handwritten signature in black ink, appearing to read "CHUDGINS". The signature is stylized and cursive.

Chris Hudgins
Manager, Government Relations