

Proposed Regulation Order
REGULATION FOR LIMITING OZONE EMISSIONS FROM INDOOR AIR
CLEANING DEVICES

Subchapter 8.7 Indoor Air Cleaning Devices

Adopt Title 17, California Code of Regulations, Sections 94800, 94801, 94802, 94803, 94804, 94805, 94806, and 94807 as follows:

Article 1. Indoor Air Cleaning Devices

94800. Applicability

Except as provided in Section 94803, this article shall apply to any person who manufactures, sells, supplies or offers for sale indoor air cleaning devices in the state of California for use in occupied spaces.

NOTE: Authority cited: Section 41986, Health and Safety Code.
Reference: Sections 41985, 41985.5, Health and Safety Code.

94801. Definitions

(a) For the purpose of this article, the following definitions apply:

- (1) "Air exchange rate" means the rate at which outdoor air replaces the volume of indoor air within a given space.
- (2) "ANSI" means American National Standards Institute.
- (3) "ARB" means the California Air Resources Board.
- (4) "CCR" means the California Code of Regulations.
- (5) "CFR" means the U. S. Code of Federal Regulations.
- (6) "Commercial use" means any use that is connected with or engaged in trade or business, typically for the purpose of sales or profit.
- (7) "Concentration" means the amount of a specified substance in a unit amount of another substance.
- (8) "*de minimis*" refers to a quantity so little, small, miniscule or tiny that the law does not refer to it and will not consider it.

- (9) "Distributor" means any person to whom an indoor air cleaning device is sold or supplied for the purposes of resale or distribution in commerce; manufacturers and consumers are not distributors.
- (10) "Emission" means the release or discharge of a substance into the environment.
- (11) "Executive Officer" means the Executive Officer of the Air Resources Board or the Executive Officer's designee.
- (12) "Half-life" means the time required for the concentration of a substance to be reduced to half of its initial value.
- (13) "Indoor air cleaning device" means a product whose stated function is to reduce the concentration of airborne pollutants, including but not limited to allergens, microbes (e.g., bacteria, fungi, viruses, other microorganisms), dusts, particles, smoke, fumes, gases or vapors, and odorous chemicals, from the air inside an enclosed space. Such devices include, but are not necessarily limited to, portable devices of any size intended for cleaning the air nearest a person, in a room of any size, in a whole house or building, or in a motor vehicle; and stand-alone devices designed to be attached to a wall, ceiling, post, or other indoor surface. (Devices physically integrated into a central heating, cooling or ventilating system are currently exempted from this regulation...see section 94803 (c) below.)
- (14) "Industrial use" or "industrial application" means the use or application of air cleaner technology exclusively during the organized production, construction, and/or transport of goods or commodities, such as use to purify water in an industrial plant or to destroy microbes on produce in an agricultural processing plant or refrigerated transport truck.
- (15) "Manufacturer" means any person who imports, manufactures, assembles, produces, or packages an indoor air cleaning device.
- (16) "Mechanical filtration" means removal of suspended particles from air via filtration with non-electrostatic techniques, i.e. air is forced through a filter medium. Materials used in the construction of the filter media may include substances such as activated charcoal, paper, foam, synthetics, ceramics, or cotton.
- (17) "NIST" means the U.S. National Institute of Standards and Technology
- (18) "NRTL" means Nationally Recognized Testing Laboratory, as approved by U.S. OSHA per 29 CFR 1910.7.

- (19) "Occupied space" means area within a building that is physically occupied by human beings.
- (20) "OSHA" means U.S. Occupational Safety and Health Administration.
- (21) "Parent company" means the highest level company or group of companies that own or directly control the reporting facility.
- (22) "ppmv" is a unit of concentration measure meaning parts per million by volume. For the purposes of this regulation the volume considered is air and the substance of interest is ozone.
- (23) "Private labeler" or "re-labeler" means an individual or company that attaches a brand name or label to a product for use in the marketing of the product other than by the product manufacturers.
- (24) "Re-packager" means an individual or company that replaces the original manufacturer's packaging materials with packaging materials of a different style, design, size, etc.
- (25) "Retailer" means any person who sells, supplies, or offers for sale, indoor air cleaning devices, directly to consumers.
- (26) "Supply" means to make available for purchase or use.
- (27) "UL" means Underwriters Laboratories, Inc.
- (28) "U.S." means United States of America.

NOTE: Authority cited: Section 41986, Health and Safety Code.
Reference: Sections 41985, 41985.5, Health and Safety Code.

94802. Standards for Indoor Air Cleaning Devices

- (a) Except as provided in Section 94803 (Exemptions), Title 17, California Code of Regulations, no person or business shall manufacture for use in California, sell, supply, offer for sale, or introduce into commerce in California after September 30, 2008 any indoor air cleaning device unless the device is certified by ARB to produce an emission concentration not exceeding 0.050 ppmv, as specified in Section 94804; is labeled as required in Section 94806; meets all requirements of this article; and continues to meet the ozone emissions limit as determined by the test procedure in Section 94805.

NOTE: Authority cited: Section 41986, Health and Safety Code.
Reference: Sections 41985, 41985.5, Health and Safety Code.

94803. Exemptions

- (a) Industrial use: The provisions of this article do not apply to indoor air cleaning devices manufactured, advertised, marketed, labeled, and used solely for industrial use, provided that they are marketed solely through industrial supply outlets or businesses and prominently labeled as “solely for industrial use”, or alternatively, “not for residential use”.
- (b) Commercial use in unoccupied spaces: The provisions of this article do not apply to indoor air cleaning devices manufactured, advertised, marketed, labeled, and used solely for commercial use in unoccupied spaces, provided they are prominently labeled as “solely for commercial use in unoccupied spaces”, or alternatively, “not for use in occupied spaces” and “not for residential use”.
- (c) Air cleaning devices designed, marketed, and used as a physically integrated part of a central heating, air conditioning, or ventilating system, such as an “in-duct system”, are exempt from this regulation at this time. They may be regulated in the future if data show that their ozone emissions pose a risk to human health.

NOTE: Authority cited: Section 41986, Health and Safety Code.
Reference: Sections 41985, 41985.5, Health and Safety Code.

94804. Certification Requirements

- (a) Each manufacturer of an indoor air cleaning device subject to Section 94802 is required to submit an application for certification to the ARB Executive Officer, P.O. Box 2815, Sacramento, CA 95812, Attn: Indoor Air Cleaning Device Certification. Upon verification of compliance with the test methods described in Section 94805, from a laboratory meeting the performance specifications in Section 94805(b), the ARB will issue an Executive Order that the indoor air cleaning device has completed certification for sale of the device within California.
- (b) Any indoor air cleaning device using only mechanical filtration for pollutant removal is exempt from the testing requirement for the ozone emission standard of 0.050 ppmv as determined in Section 94805, based on their known *de minimis* ozone emissions. Such devices would include those that utilize a filter media, such as cloth, paper or activated carbon, and a fan to move air through the filter media. Verification of this mechanical-filtration-only exclusion from ozone emission testing will be made by the ARB Executive Officer based on the

submission of product design specifications and documentation by the manufacturer, distributor or retailer. Documentation to the ARB shall include complete written and graphical materials that fully describe the final design and specifications of the model. To be certified under this regulation, manufacturers of such indoor air cleaning devices must submit the information required in sections 94804 c(1) to 94804 c(3) below. These products are still subject to the labeling requirements specified in Section 94806(b).

- (c) The application for certification must include the information in subsections (c)(1) through (c)(5), and any other information deemed necessary by the ARB Executive Officer. If information is not applicable to the indoor air cleaning device in question the applicant must indicate "not applicable". If the Executive Officer concurs with the applicant's judgment, the Executive Officer may waive the requirement to provide the information requested.

(1) Applicant name, mailing address, phone number, and email address;

(2) Manufacturer name, mailing address, and physical address;

(3) Indoor air cleaning device information:

- (A) Brand name
- (B) Model name
- (C) Model number
- (D) Discussion of the principles of operation and design
- (E) Device schematics depicting operation
- (G) Favorable operating conditions
- (H) Unfavorable operating conditions and associated reductions in performance
- (I) Maintenance requirements
- (J) Operations manual
- (K) Any available marketing materials

(4) Indoor air cleaning device test information:

- (A) Test facility identification and proof of current Nationally Recognized Testing Laboratory (NRTL) accreditation
- (B) Ozone emission concentrations for all units tested, as measured according to Section 94805, including both the 24-hour measurement as well as information regarding whether any transitory measurements exceeded 0.050 ppmv
- (C) Whether a device failed the ozone emission test for any reason, and if so, the reason (e.g., excess transitory excursions, motor failure during the test, device not received with packaging intact, electrical part overheated/unsafe to continue, etc.)
- (D) Chain of custody of test device(s)

- (E) Test chamber performance characteristics:
 1. Description of test chamber and analyzer configuration
 2. Background ozone measurements
 3. Air exchange rate
 4. Ozone half-life
 5. Documentation of any violations of the specified test conditions
 - (F) Quality assurance and quality control data including, but not limited to, ozone analyzer brand name, model number, most recent calibration date, and pre- and post-test ozone QC check data.
 - (G) Notification of compliance with the electrical safety provisions of Underwriters Laboratories Inc. (UL) Standard 867 for all units tested
- (5) Any additional information the laboratory needs to communicate.
- (d) Applications will be processed in accordance with the procedures and time periods set forth in 17 CCR section 60030 *et seq.* The time periods may be extended by the Executive Officer as deemed reasonable. *(The essence of section 60030 is that ARB will provide written notification of acceptance of a complete application within 30 days of receipt, and written notification of approval or disapproval for certification within 90 days after an application is accepted as complete.)*
 - (e) Notification must be provided to the Executive Officer if the indoor air cleaning device fails any follow-up testing conducted to verify compliance with UL Standard 867.
 - (f) ARB may revoke certification for any device deemed noncompliant in the future when tested according to procedures described in Section 94805, or if any other certification requirements are no longer met.

NOTE: Authority cited: Section 41986, Health and Safety Code.

Reference: Sections 41985, 41985.5, Health and Safety Code, 17 CCR Section 60030.

94805. Test Method

- (a) Testing to determine compliance with the requirements of this article, shall be performed following the UL Standard 867 in its entirety, which is hereby incorporated by reference.
- (b) Ozone emissions will be determined using the 2007 UL Interpretation of Section 37 of Standard 867, which is hereby incorporated by reference. See <http://www.arb.ca.gov/research/indoor/aircleaners/ozonecertbulletin.pdf> .

- (c) Testing of devices must be conducted by a laboratory currently recognized as an NRTL by the U.S. Occupational Safety and Health Administration (OSHA), and that is certified to perform testing for the entire UL Standard 867 and the 2007 UL Interpretation of Section 37.

NOTE: Authority cited: Section 41986, Health and Safety Code.

Reference: Sections 41985, 41985.5, Health and Safety Code, Standard 867 of Underwriters Laboratories Inc. for Electrostatic Air Cleaners, ANSI/UL 1980.

94806. Labeling Requirements

- (a) All indoor air cleaning devices for use in occupied spaces are required to display a certification label on the product packaging after completion of requirements of Section 95804 prior to sale in California, unless satisfying the requirements for exemption as specified in Section 94803.
- (b) The label shall be at least 0.5 inches by 2 inches in size, easily readable, and shall state "California Certified" in bold type whose uppercase letters are not less than 4 mm high, followed by "Under 0.050 ppmv Ozone" in type whose uppercase letters are not less than 3 mm high; recommended typographical font sizes are 12 and 9 point, respectively.
- (c) All indoor air cleaning devices for use in occupied spaces are required to display the UL 867 certification mark on the device, consistent with the UL requirements, after completion of requirements of Sections 94804 and 94805 and prior to sale in California, unless the device satisfies the requirements for exemption as specified in Section 94803. Devices qualifying as a "mechanical filtration only" device as described in Section 94804(b) shall be certified under UL standard 507 and display the UL 507 certification mark, or the mark of any UL standard that addresses electrical safety for mechanical air cleaners that succeeds UL 507.
- (d) Any indoor air cleaning device subject to Section 94802 and meeting the requirements of this regulation shall include the label contents under subsection (b) above in a prominent place on all Internet web pages, mail order catalogs, and related materials used for the advertising and sales of the device. Any indoor air cleaning devices that qualify for exemption under Section 94803 are required to display the appropriate exemption label on all internet web pages, mail order catalogs, and related sales materials.
- (e) Any indoor air cleaning device for use in occupied residential or commercial spaces that is advertised or sold via the Internet but that has not been certified according to 94804 must display the following advisory in a prominent place on the primary web pages, catalog pages, and related materials where such device

is advertised or displayed for sale: “This device does not meet California requirements and cannot be shipped to California addresses.”

NOTE: Authority cited: Section 41986, Health and Safety Code.
Reference: Sections 41985, 41985.5, Health and Safety Code.

94807. Severability

- (a) Each part of this article shall be deemed severable, and in the event that any part of this article is held to be invalid, the remainder of this article shall continue in full force and effect.

NOTE: Authority cited: Section 41986, Health and Safety Code.
Reference: Sections 41985, 41985.5, Health and Safety Code.