

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, 94807, 94808, 94809, and 94810 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) "Concentration" means the amount of a specified substance in a unit amount of another substance.
 - (7) "*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.

- (8) "Distributor" means any person to whom an indoor air cleaning device is sold or supplied for the purposes of resale or distribution in commerce.
- (9) "Emission" means the release or discharge of a substance into the environment.
- (10) "Executive Officer" means the Executive Officer of the Air Resources Board or the Executive Officer's designee.
- (11) "Half-life" means the time required for the concentration of a substance to be reduced to half of its initial value.
- (12) "Indoor air cleaning device" means an energy-using product whose stated function is to reduce the concentration of airborne pollutants, including but not limited to allergens, microbes (e.g., bacteria, fungi, viruses, and 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.
- (13) "Industrial use" or "industrial application" means the purification of water in an industrial plant, water treatment facility, municipal water facility, or similar facility; the destruction of microbes on produce in an agricultural processing plant, refrigerated transport truck, or related facility; and bleaching and other processing purposes in the pulp and paper industry.
- (14) "Manufacturer" means any person who imports, manufactures, assembles, produces, or packages an indoor air cleaning device.
- (15) "Medical device" means any indoor air cleaning device intended or advertised for the cure, mitigation, treatment, or prevention of disease in humans or other animals.
- (16) "Mechanical filtration" means removal of suspended particles from air via filtration with physical barrier, non-electronic 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 natural fibers.
- (17) "Model group" means indoor air cleaning devices sharing the same design, operational features, device output, and performance characteristics, and manufactured by the same manufacturer. Units in the same model group may be marketed under different brand names. Units that differ only in decorative

treatments such as color, remote control, or other cosmetic features not related to ozone output would belong to the same model group.

- (18) "NIST" means the U.S. National Institute of Standards and Technology
- (19) "Non-medical device" means any indoor air cleaning device that does not meet the definition of "medical device" above.
- (20) "NRTL" means Nationally Recognized Testing Laboratory, as recognized by U.S. OSHA per 29 CFR 1910.7.
- (21) "Occupied space" means an area within a building, structure, enclosure, or vehicle that is, or may be, physically occupied by a human being.
- (22) "OSHA" means U.S. Occupational Safety and Health Administration.
- (23) "Parent company" means the highest level company or group of companies that own or directly control the reporting facility.
- (24) "ppm" 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.
- (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) "Unoccupied space" means an area within a building, structure, enclosure, or vehicle that is not, or may not be, physically occupied by a human being.
- (29) "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; 29CFR 1910.7, 21CFR 801.415.

94802. Standards for Indoor Air Cleaning Devices

Except as provided in Section 94803 (Exclusions and Exemptions), Title 17, California Code of Regulations, no person or business shall manufacture for use in California after September 30, 2008, or sell, supply, offer for sale, or introduce into

commerce within California after March 30, 2009, any indoor air cleaning device unless the device is certified by ARB to produce an emission concentration not exceeding 0.050 ppm, as specified in Section 94804; is labeled as required in Section 94806; meets all requirements of this article; and continues to meet all requirements of this article, including 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. Exclusions and 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 as defined in Section 94801(a)(13) above, provided that they are marketed solely through industrial supply outlets or businesses and prominently labeled as "Solely for industrial use. Potential health hazard: emits ozone".
- (b) Air cleaning devices designed, marketed, and used solely 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. Information submitted on the certification application must be true and correct. Applications may be submitted by a professional association or certification organization on behalf of a manufacturer, as long as all required information and signatures from the manufacturer and test lab representatives are included. Upon verification of compliance with the test methods described in Section 94805, from a laboratory meeting the performance specifications in Section 94805(d), the ARB will issue an Executive Order that the indoor air cleaning device has completed certification for sale of the device within California. Certification will be granted to manufacturers, who have the responsibility to comply with all provisions of this article.

- (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 ppm as determined in Section 94805, based on their known *de minimis* ozone emissions. 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 a description of the air cleaning performance technology employed, as well as a block diagram and schematic of the model. Indoor air cleaning devices qualifying as a “mechanical filtration only” device shall be certified under ANSI/UL Standard 507. 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) and 94806(d).
- (c) The application for certification must include the information in subsections (c)(1) through (c)(5) below, and any other information deemed necessary by the ARB Executive Officer. If the requested 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) Manufacturer name, mailing address, physical address, phone number, email address, and website;
 - (2) Applicant or representative name, mailing address, physical address, phone number, and email address, if different from manufacturer;
 - (3) Indoor air cleaning device information:
 - (A) Brand name
 - (B) Model name
 - (C) Model number
 - (D) Model group, and other models included in model group, where applicable
 - (E) Discussion of the principles of operation and design
 - (F) Device schematics depicting operation
 - (G) Maintenance requirements
 - (I) Operations manual, if available
 - (J) Marketing materials, if available
 - (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 ppm
- (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) Statement from the testing laboratory that the ozone emissions were determined in accordance with the protocols in the March 2007 UL Certification Bulletin.
- (F) Notification of compliance with the electrical safety provisions of ANSI/UL Standard 867 or 507, where applicable, for all units tested.

(5) Any additional information the laboratory needs to communicate.

- (d) Notification must be provided to the Executive Officer within 30 days if the indoor air cleaning device fails any post-certification testing conducted to verify compliance with ANSI/UL Standard 867 or Standard 507, whichever is applicable.
- (e) 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 ARB certification requirements are no longer met.

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

94805. Test Method

- (a) For the purpose of compliance with this regulation only a single model of indoor air cleaning device within a model group, if one exists, must be evaluated under the test methods.
- (b) Testing to determine compliance with the requirements of this article, shall be performed following the ANSI/UL Standard 867 or 507, where applicable, in their entirety, which are hereby incorporated by reference.
- (c) Ozone emissions will be determined using the March 2007 UL Certification Bulletin for Section 37 of ANSI/UL Standard 867, which is hereby incorporated by reference. See <http://www.arb.ca.gov/research/indoor/aircleaners/ozonecertbulletin.pdf> .

- (d) Testing of indoor air cleaning devices must be conducted by a laboratory currently recognized as an NRTL by the U.S. Occupational Safety and Health Administration (OSHA), to perform testing for the entire ANSI/UL Standard 867 or 507, where applicable. Laboratories also must pass an ARB audit to verify their ability to accurately perform the ozone emissions testing procedure as described in the March 2007 UL Certification Bulletin. The ARB audit may include, and is not necessarily limited to, review of written test protocol operating procedures, test chamber and analyzer configuration, background ozone measurements, air exchange rate, ozone half-life test results, equipment calibration and maintenance records, and other related information; and an onsite review.

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 an ozone emissions 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) For non-medical devices, the ozone certification label shall be at least 1 inch by 2 inches in size, easily readable, and shall state "This air cleaner complies with the federal ozone emissions limit. ARB certified for sale in California" in bold type whose uppercase letters are not less than 4 mm high; recommended typographical font size is 12 point.
- (c) For medical devices, the ozone certification label shall be in compliance with federal law, including Section 801.415 of Title 21 of the Code of Federal Regulations.
- (d) All indoor air cleaning devices for use in occupied spaces (both medical and non-medical) are required to display the ANSI/UL Standard 867 safety certification mark on the device, consistent with the Standard 867 requirements of the appropriate NRTL safety certification organization, 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 94801(a)(16) and Section 94804(b) shall display the ANSI/UL Standard 507 certification mark, or the mark of any ANSI/UL Standard that addresses electrical safety for mechanical air cleaners that succeeds Standard 507.

- (e) 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.
- (f) 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."
- (g) Indoor air cleaning devices that are designed, manufactured, advertised, and sold solely for commercial use in unoccupied spaces must be prominently labeled on the package as "Solely for commercial use in unoccupied spaces. Potential health hazard: emits ozone." This label also must appear on all marketing and advertising materials, and on all Internet web pages and mail order catalogue pages where advertised for sale.

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

Reference: Sections 41985, 41985.5, Health and Safety Code; 21CFR 801.415.

94807. Notice to distributors, retailers and sellers

By September 30, 2008, manufacturers of indoor air cleaning devices manufactured, sold, supplied, offered for sale, or introduced into commerce in California must submit documentation that they have provided to all of their known distributors, retailers, and sellers true and accurate copies of the final regulation approved by the ARB and the California Office of Administrative Law. Additionally, manufacturers must submit to the ARB Executive Officer contact information (name, street and mailing address, phone, and email address), for all of their California distributors, retailers, and sellers. Such information may be kept confidential upon request as specified in Sections 91000 *et seq.* of Title 17, Subchapter 4 (Disclosure of Records) of the California Code of Regulations. For new distributors, retailers and sellers who become known to manufacturers after September 30, 2008, manufacturers must provide similar notice to them and provide contact information to the ARB. Non-compliance with this provision may result in rejection or revocation of certification.

Reference: Sections 91000 *et seq.* of Title 17, Subchapter 4 (Disclosure of Records) of the California Code of Regulations.

94808. Recordkeeping Requirements

Manufacturers, distributors, retailers, sellers, and test laboratories are required to maintain production, quality control, sales, and testing records, as appropriate, for at least three years, and to make them available to the ARB upon request.

94809. Rejection, Revocation, Recall, and Penalties

An application for certification may be denied, or a certification may be revoked or suspended, for failure to comply with any provision of this article. If the Executive Officer determines that a violation of this article has occurred, he or she may order that the products involved in or affected by the violation be recalled and replaced with products that comply with this article. In the event of a violation of this article, all other penalties authorized by law apply as well.

94810. Severability

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.