

REQUEST FOR AN EARLY EFFECTIVE DATE  
Amendments to the Regulation for  
Limiting Ozone Emissions from Indoor Air Cleaning Devices

**REQUEST FOR AN EARLY EFFECTIVE DATE**  
**Pursuant to Government Code Section 11343.4(b)**

The California Air Resources Board (CARB or Board) formally requests, under Government Code section 11343.4(b), that the Office of Administrative Law (OAL) prescribe an “earlier effective date” for the Proposed Amendments to the Regulation for Limiting Ozone Emissions from Indoor Air Cleaning Devices, title 17, California Code of Regulations, sections 94800 through 94809. Specifically, CARB requests that the amendments become effective on October 1, 2020. The Board approved the adoption of these amendments at its hearing on December 12, 2019 (Resolution 19-33). The following demonstrates good cause for OAL to allow the amendments to be effective on the date requested.

**DEMONSTRATION OF GOOD CAUSE**

In this rulemaking, the Board considered and adopted amendments to the Regulation for Limiting Ozone Emissions from Indoor Air Cleaning Devices (Regulation). The Regulation protects the California public by limiting the amount of ozone emitted by indoor air cleaning devices. Air cleaning devices sold in California are required to be certified by CARB for electrical safety and ozone emissions prior to sale in the state. The amendments are necessary to update applicable standardized testing protocols, eliminate the exemption for in-duct air cleaning devices, and revise allowable industrial exemptions to the regulation. The regulation was effective in 2008 and the current market for air cleaning devices has expanded and diversified to include a wide range of air cleaning devices that were not available at that time.

The regulation originally exempted in-duct air cleaning devices because there was a lack of data on their use by the California public and there was no standardized testing protocol to assess ozone emissions from in-duct air cleaners. Electronic air cleaning technologies are capable of generating large amounts of ozone and can increase the concentration of ozone in homes when used. There are many in-duct air cleaner models available and their use is rapidly expanding, particularly now in response to the coronavirus pandemic. CARB included a 24-month phase-in period for in-duct air cleaner manufacturers to obtain testing and certification of their devices, which is already a significant delay to full implementation and protection of the public from harmful effects of ozone emitted by in-duct devices. It is critical that the amendments go into effect as soon as possible to better protect the California public from health hazards posed by the use of ozone-producing in-duct air cleaning devices.

In public meetings held in March and June 2019, CARB staff verbally communicated to stakeholders that CARB was working towards an effective date of either April or July 2020, with a focus on the earlier date. Even though there were only minor changes made to the amended regulations text approved at the Board Hearing in December 2019, CARB decided to go out for a second 15-day Notice to incorporate

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the newest version of the in-duct ozone test method. This small delay meant CARB would not make the April 2020 effective date, and we began communicating this to manufacturers and affected laboratories. The testing laboratories affected by this delay in effective date re-tooled their labs and underwent oversight activities from CARB certified laboratories in preparation to conduct ozone testing on in-duct air cleaners. This is a new commercial endeavor for them and has required significant financial investment. At the same time, numerous large manufacturers, such as Carrier and Honeywell, are anxious to obtain CARB certification for their in-duct air cleaners in order to advertise this benefit to the large California consumer market base which is aggressively seeking such air cleaners to address indoor air issues related to COVID-19 and rampant wildfire smoke. The California public needs to know that the in-duct air cleaners they are purchasing do not emit harmful ozone because many of them do, but the only way they be assured of that is if the device is CARB certified.

The required certification of in-duct air cleaners has a 24-month phase in period, while less impactful amendments either go into effect on the effective date or have a 12-month phase in period. There are direct financial benefits to manufacturers by having an earlier effective date – for example, ozone tests will no longer be required for some portable air cleaners that use UVC lamps, which will save manufacturers over \$5,000 in certification costs. This type of UVC portable air cleaner is very popular right now because UVC is one of the disinfection technologies that FDA is encouraging people, businesses and hospitals to use right now against coronavirus. By requiring an expensive but unnecessary ozone test for such air cleaners, CARB is slowing the deployment of UVC portable air cleaners to the California public, which could have detrimental effects on public health.

The requested early effective date of October 1, 2020, would have been the normal effective date if the regulation was approved by OAL in the course of its standard review. With Executive Orders N-40-20 and N-66-20 allowing for additional time to review/approve by extending deadlines, it was necessary to take additional time to approve this regulation, which caused approval to surpass the original final determination date of August 31, 2020, which would have ensured a quarterly effective date of October 1, 2020. Approval of the Request for Early Effective Date would allow this regulation to keep its original effective date as if it were approved upon its original final determination date.

For these reasons, CARB hereby requests that OAL approve an early effective date of October 1, 2020.

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9/4/2020

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Date