

State of California
AIR RESOURCES BOARD

Addendum to the Final Statement of Reasons for Rulemaking

PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE REGULATION FOR
LIMITING OZONE EMISSIONS FROM INDOOR AIR CLEANING DEVICES

Public Hearing Date: December 12, 2019
Agenda Item No.: 19-12-5
Addendum Prepared: September 4, 2020

I. Non-Substantial Modifications

The non-substantial modifications, described below, clarify and do not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the amendments as adopted by the California Air Resources Board (CARB) and approved by the Office of Administrative Law (OAL). (See Cal. Code Regs., tit. 1, § 40)

After the July 20, 2020, submission to OAL, the following non-substantial modifications were made:

Final Regulation Order

- In section 94802(b), added, “effective October 1, 2020,” between, “the amendments,” and “shall be” to clarify that the implementation schedule in the following subsections (1), (2), and (3), is determined by the effective date of October 1, 2020. Having this date in the regulation text should dispel any confusion for future amendments that this timeline is tied to the amendments in this rulemaking (and not necessarily the effective date of future amendments, unless specified). Adding the date here does not alter the requirements of the regulation text as this would be its normal effective date upon final approval of OAL.
- In section 94805(e), underlined the period, “.” at the end of, “perform the ozone emissions testing procedure.” The period was added in the regulation text but was erroneously not underlined previously.
- In section 94806(d), added, “-20” to end “CSA C22.2 no. 187” to accurately cite the test procedure incorporated and make it consistent with how the test procedure is cited throughout the regulation text.
- In section 94807, underlined “annually” to accurately reflect that this word is being added with these amendments. This word was added to the regulation text during the Notice phase (but was erroneously not underlined), was discussed in

the Initial Statement of Reasons, and was further mentioned in the Final Statement of Reasons.

- In section 94809, updated Authority citations, adding Health and Safety Code sections 41985 and 41985.5, and removing sections 42300 et. seq.

II. Supplemental Rationale Applicable to the Final Regulation Order

Section 94805(e)

CARB chose to use the language “may be required” for potential subsequent audits instead of specifying criteria to determine whether a follow-up audit would be required so that it has the flexibility to conduct a follow-up audit as necessary, including in circumstances that may not be foreseeable at the time of these amendments. For example, a further audit may be necessary due to changes in a standardized test protocol that necessitates different testing procedures or changes in equipment, or alterations in the testing environment that could affect laboratory functioning. In practice, CARB has certified only three testing laboratories in ten years, and has re-audited the laboratories every 4-6 years depending on changes in circumstances that are communicated to CARB by the laboratories. CARB’s decision to initiate a re-audit could be based on a number of circumstances that may arise in the future, some of which may not be foreseeable at this time. CARB is in close contact with our certified laboratories, and audits are a collaborative process. CARB does not charge a fee for auditing and certifying laboratories, although the laboratories do pay the travelling expenses of CARB staff. It is important that CARB maintain flexibility in being able to initiate an audit because CARB does not control the conditions that could directly lead to changing test conditions and the reliability of test results, such as changes in the test protocols or laboratory equipment.

Section 94806(b)

CARB chose to use the words “very small” to indicate those air cleaner packages that are so small they cannot accommodate a 1 inch by 2 inch label, as described in the regulation. This is an accommodation for the small number of air cleaning devices that are packaged in a way that the required label cannot easily fit. Because such devices can be packaged in odd-sized plastic packaging rather than square boxes, we used the words “very small” to capture a variety of packaging types on which the label would not reasonably fit. In the past, CARB made allowances for the use of smaller labels on a case-by-case basis. The inclusion of this language in the amendments was intended to make clear to all manufacturers that the use of smaller labels is permissible if the packaging cannot accommodate the regular sized label. CARB also requires that

manufacturers receive approval from CARB for use of the smaller label, to ensure that packaging really is too small to accommodate the required label. In practice, this amendment impacts very few manufacturers because the vast majority of air cleaners have packaging large enough to accommodate the regular sized label. In 2020, CARB has certified over 100 air cleaning devices and received only one request for use of a smaller label, which was approved.