

## TITLE 17. CALIFORNIA AIR RESOURCES BOARD

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

The California Air Resources Board (CARB or Board) will conduct a public hearing at the time and place noted below to consider approving for adoption the proposed amendments to the regulation for limiting ozone emissions from indoor air cleaning devices:

DATE: December 12, 2019

TIME: 9:00 A.M.

LOCATION: California Environmental Protection Agency  
California Air Resources Board  
Byron Sher Auditorium  
1001 I Street  
Sacramento, California 95814

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m., December 12, 2019, and may continue at 8:30 a.m., on December 13, 2019. Please consult the agenda for the hearing, which will be available at least ten days before December 12, 2019, to determine the day on which this item will be considered.

#### **WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS**

In accordance with the Administrative Procedure Act, interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on October 25, 2019. Written comments not physically submitted at the hearing must be submitted on or after October 25, 2019, and **received no later than December 9, 2019**. Any written comments on the Environmental Analysis must be submitted on or after October 25, 2019, and **received no later than December 9, 2019**. Comments submitted outside that comment period are considered untimely. CARB may, but is not required to, respond to untimely comments, including those raising significant environmental issues. CARB requests that, when possible, written and email statements be filed at least 10 days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action. Comments submitted in advance of the hearing must be addressed to one of the following:

Postal mail: Clerk's Office, California Air Resources Board  
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

## **AUTHORITY AND REFERENCE**

This regulatory action is proposed under the authority granted in California Health and Safety Code, section 41985, 41985.5, and 41986. This action is proposed to implement, interpret, and make specific Health and Safety Code, sections 41985, 41985.5 and 41986, by amending California Code of Regulations, title 17, sections 94800-94819.

## **INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW (GOV. CODE, § 11346.5, subd. (a)(3))**

**Sections Affected:** Proposed amendments to California Code of Regulations, title 17, sections 94800, 94801, 94802, 94803, 94804, 94805, 94806, 94807, 94808, and 94809.

## **Documents Incorporated by Reference (Cal. Code Regs., tit. 1, § 20, subd. (c)(3)):**

The following test methods would be incorporated in the regulation by reference as specified in section 94805:

- Canadian Standards Association (CSA), 2015. "Standard for Electrostatic Air Cleaners," C22.2 no. 187-15, as revised by CSA on April, 2016. Copyrighted.
- American National Standards Institute/Underwriters Laboratory (ANSI/UL), 2018. "Standard 73 for Safety for Motor-Operated Appliances," as revised by ANSI/UL on August 8, 2018. Copyrighted.
- ANSI/UL, 2018. "Standard 153 for Safety for Portable Electric Luminaires," as revised by ANSI/UL on July 27, 2018. Copyrighted.
- ANSI/UL, 2018. "Standard 484 for Safety for Room Air Conditioners," as revised by ANSI/UL on September 6, 2018. Copyrighted
- ANSI/UL, 2018. "Standard 507 for Safety for Electric Fans," as revised by ANSI/UL on November 15, 2018. Copyrighted
- ANSI/UL, 2018. "Standard 867 for Safety for Electrostatic Air Cleaners," as revised by ANSI/UL on August 7, 2018. Copyrighted

- ANSI/UL, 2016. “Standard 998 for Safety for Humidifiers,” as revised by ANSI/UL on April 4, 2016. Copyrighted.
- ANSI/UL, 2018. “Standard 1017 for Safety for Vacuum Cleaners, Blower Cleaners, and Household Floor Finishing Machines,” as revised by ANSI/UL on July 19, 2018. Copyrighted.
- ANSI/UL, 2018. “Standard 1278 for Safety for Movable and Wall- or Ceiling-Hung Electric Room Heaters,” as revised by ANSI/UL on August 20, 2018. Copyrighted.
- ANSI/UL, 2018. “Standard 1993 for Safety for Self-Ballasted Lamps and Lamp Adapters,” as revised by ANSI/UL on August 6, 2018. Copyrighted.
- ANSI/UL, 2018. “Standard 1995 for Safety for Heating and Cooling Equipment,” as revised by ANSI/UL on August 17, 2018. Copyrighted.
- ANSI/UL, 2018. “Standard 1598 for Safety for Luminaires,” as revised by ANSI/UL on August 28, 2018. Copyrighted.
- ANSI/UL, 2017. “Standard 499 for Electric Heating Appliances,” as revised by ANSI/UL on February 23, 2017. Copyrighted.

#### **Background and Effect of the Proposed Regulatory Action:**

The California Air Resources Board (CARB) proposes to amend the California Code of Regulations, title 17 Subarticle 1, Sections 94800 – 94809 to reduce the potential for Californians to be exposed to ozone from indoor air cleaning devices. Assembly Bill (AB) 2276 (Pavley, Stats. 2006, ch. 770) directed CARB to adopt regulations to protect public health from ozone emitted by indoor air cleaning devices. CARB approved a regulation, which became effective in 2008, that requires all portable indoor air cleaners sold in California after October 18, 2010, to be tested, certified, and labeled as complying with electrical safety standards, and have an ozone emission concentration limit of 0.050 parts per million. Besides the testing requirement, the regulation requires manufacturers to notify all of their known distributors, retailers, and sellers about the regulation, provide them with a copy of the regulation, and send documentation of this notification and contact information for their distributors, retailers, and sellers to CARB. Finally, manufacturers, distributors, retailers, sellers, and testing laboratories are required to update and maintain production, quality control, sales, and testing records for at least three years, and make them available to CARB upon request. Several minor amendments to the regulation were approved in 2010 and manufacturers were required to meet all provisions of the regulation by October 1, 2012.

The current regulation addresses air cleaning devices designed for rooms, whole houses, buildings, vehicles, and personal use (i.e. are carried or worn). Currently exempted devices include in-duct air cleaners that are an electrically connected component of a heating, air conditioning, and ventilation (HVAC) system and a subset

of ozone-producing devices that are used for specific industrial purposes. Industrial-use devices, as defined in the regulation, are exempt as long as specified labeling and point-of-purchase requirements are met.

Since the regulation was adopted in 2007, nearly 2,500 air cleaning devices from more than 330 manufacturers have been certified by CARB. CARB also maintains an online list of certified devices, which is widely used by consumers around the United States, leading to additional public health benefits outside of the state. Although the air cleaner regulation has been successfully implemented for over a decade, the California market has diversified and expanded, with changes in air cleaner technology and increasing sales driven by California-specific market drivers such as widespread smoke impacts from wildfires, public concern about health effects from air pollution, and the use of air cleaners to address cannabis-related (marijuana) odors. Amendments are needed to address market changes as well as to make corrections, updates, and other small changes.

### **Objectives and Benefits of the Proposed Regulatory Action:**

**Objectives:** The proposed amendments would strengthen the regulation by requiring the certification of electronic in-duct air cleaning devices and modifying industrial use exemptions. The proposal also streamlines the certification process by reducing the testing required to certify certain devices, and eliminating the requirement for manufacturers of certified devices to complete the notification requirement. The amendments also clarify requirements manufacturers need to meet prior to certification and to maintain certification of their device(s). CARB also proposes to update the regulation text to the latest versions of the approved test standards and incorporate additional test standards for dual-function devices and electronic in-duct devices.

**Benefits:** Eliminating the exemption from the existing regulation for in-duct air cleaners and requiring their ozone testing and certification will reduce the potential for exposure to harmful ozone to the California public. A TechSci Research market report commissioned by CARB states that 103,200 electronic in-duct air cleaners were purchased by Californians in 2017, with a projected 30% increase to 146,620 by 2023. Electronic air cleaners are capable of producing ozone so requiring the certification of in-duct air cleaners meets the legislative requirement in AB 2276 to protect public health by restricting ozone emissions from indoor air cleaning devices.

The California Legislature found, in Section 1. Article 8. of the enabling legislation, that exposure to ozone results in significant numbers of hospitalizations due to respiratory and cardiac illnesses and significant numbers of premature deaths. At the time the regulation was drafted, language was included in some of the exempted industrial uses that limited the application of ozone to times when people were not present in the space to be treated. Amendments to the regulation clarify that ozone-generating air cleaners used for exempted industrial applications can only be used when people are not present. These amendments are intended to benefit workers in those industries where ozone is intentionally used, as well as bystanders and members of the public.



These clarifications may also result in environmental justice-related benefits. Several commercial sectors where uncertified ozone-producing devices are permitted for industrial uses typically employ people of color and are low-wage jobs – such as in agricultural processing, hotel maintenance, property remediation, and motor vehicle detailing. For example, ozone-producing air cleaners are used for an industrial purpose in fruit and vegetable sorting and packing facilities. Clarifying that industrial use exemptions apply if the ozone-generating air cleaners are used when people are not present could lead to health benefits for workers in this sector, who are disproportionately low-income workers of color, working in the fruit and vegetable sorting and packing rooms. Similar benefits could be derived for other low-income workers in the hotel, remediation services, and vehicle detailing and reconditioning employment sectors.

### **Comparable Federal Regulations:**

There is no federal regulation that limits ozone emissions from indoor air cleaning devices, as defined in the air cleaner regulation. There is a federal regulation on allowable levels of ozone emitted from medical devices, which is 0.050 parts per million (ppm).<sup>1</sup> Indoor air cleaning devices are intended to remove pollutants from the air, and, in most cases, do not meet the definition of a medical device.

### **An Evaluation of Inconsistency or Incompatibility with Existing State Regulations (Gov. Code, § 11346.5, subd. (a)(3)(D)):**

During the process of developing the proposed regulatory action, CARB conducted a search of any similar regulations on this topic and concluded these regulations are neither inconsistent nor incompatible with existing state regulations.

### **MANDATED BY FEDERAL LAW OR REGULATIONS (Gov. Code, §§ 11346.2, subd. (c), 11346.9)**

The proposed regulatory action is not mandated by federal law or regulations.

### **DISCLOSURE REGARDING THE PROPOSED REGULATION**

#### **Fiscal Impact/Local Mandate Determination Regarding the Proposed Action (Gov. Code, § 11346.5, subds. (a)(5)&(6)):**

The determinations of the Board's Executive Officer concerning the costs or savings incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

Under Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Executive Officer has determined that the proposed regulatory

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<sup>1</sup> U.S. Food & Drug Administration. Code of Federal Regulations Title 21. Special Requirements for Specific Devices. Accessed at: <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?fr=801.415>

action would not create un-absorbable costs or savings to any State agency, would not create costs or savings in federal funding to the State, would not create costs nor a mandate to any local agency or school district, whether or not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

**Housing Costs (Gov. Code, § 11346.5, subd. (a)(12)):**

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

**Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete (Gov. Code, §§ 11346.3, subd. (a), 11346.5, subd. (a)(7), 11346.5, subd. (a)(8)):**

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

**Results of The Economic Impact Analysis/Assessment (Gov. Code, § 11346.5, subd. (a)(10)):**

**NON-MAJOR REGULATION: Statement of the Results of the Economic Impact Assessment (EIA):**

- (A) The creation or elimination of jobs within the State of California.  
The proposed amendments are not expected to have a direct job impact in manufacturing; however, a few jobs may be created for technicians in testing laboratories and in research and development.
- (B) The creation of new business or the elimination of existing businesses within the State of California.  
The proposed amendments are not expected to result in creation of new businesses or the elimination of existing businesses within the State of California.
- (C) The expansion of businesses currently doing business within the State of California.  
The proposed amendments are not expected to result in the expansion of businesses within the State of California.
- (D) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.  
The proposed amendments are intended to benefit public health by restricting ozone emissions from in-duct air cleaning devices and by limiting the use of ozone for exempted purposes to times when people are not present. This could lead to improved public health overall, and a reduction in medical-related expenses associated with exposure to ozone.

Effects on Jobs/Businesses:

The Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing business within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impact Analysis in the Initial Statement of Reasons (ISOR).

Economic Benefits of the Proposed Regulation to Manufacturers:

Manufacturers of certified air cleaning devices will also benefit from the elimination of the notification requirement for these manufacturers. This amendment will directly benefit more than 330 manufacturers of currently certified air cleaners, with an estimated annual cost savings of approximately \$57,000, or \$570,000 over the 10-year time period of this analysis.

Manufacturers of portable air cleaners that use a UV lamp emitting light  $\geq 240$  nanometer (nm) in wavelength and a spectral peak of 254 nm, with or without mechanical filtration, will also experience cost savings because they are no longer required to test their devices for ozone emissions. This amendment is projected to result in an annual cost savings of \$35,000 for these manufacturers, with 10-year cost savings of \$350,000.

These benefits will result in total cost savings for manufacturers of certified air cleaning devices of \$920,000 over the next 10 years.

Benefits of the Proposed Regulation:

The objective of the proposed regulatory action is to further reduce Californians' exposure to ozone emitted from indoor air cleaning devices. By requiring the certification of in-duct air cleaners not exempted for an industrial purpose, CARB is ensuring that air cleaners that emit unhealthy levels of ozone are excluded from the California marketplace. When ozone-producing air cleaners are used for an exempted industrial purpose, the amendments stipulate that the exemption applies if the devices are used when people are not present, therefore seeking to ensure that people are not exposed to unhealthy levels of ozone. These amendments could lead to improved public health overall, and a reduction in medical-related expenses associated with exposure to ozone.

A summary of these benefits is provided, please refer to "Objectives and Benefits", under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code 11346.5(a)(3) discussion on page four.

**Business Report (Gov. Code, §§ 11346.5, subd. (a)(11); 11346.3, subd. (d)):**

In accordance with Government Code sections 11346.5, subdivisions (a)(11) and 11346.3, subdivision (d), the Executive Officer finds the reporting requirements of the



proposed regulatory action which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

**Cost Impacts on Representative Private Persons or Businesses (Gov. Code, § 11346.5, subd. (a)(9)):**

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. Only manufacturers of electronic in-duct air cleaners are newly required to comply with the proposed amendments by having their air cleaners tested for ozone emissions prior to sales in California, at a one-time cost of \$5,000 per ozone test. Over the initial 10-year period following implementation of the amended regulation, it is predicted that total costs to manufacturers of electronic in-duct air cleaners are estimated to be \$1,350,000. Manufacturers may also incur negligible incidental costs to comply with minor changes in labeling requirements and to marketing materials.

The total cost of the amended regulation is anticipated to be approximately \$1,890,000 over a ten-year period. This represents the cost to California consumers if manufacturers are able to pass along fully their ozone testing costs and mark-up. This cost increase would represent less than one percent increase in the average price of an electronic in-duct air cleaners for California consumers.

**Effect on Small Business (Cal. Code Regs., tit. 1, § 4, subds. (a) and (b)):**

The Executive Officer has also determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect one manufacturer of in-duct air cleaners that is considered a small business and is located in California. This small business is expected to incur initial costs of \$15,000 to comply with the ozone testing requirement of the proposed amendments.

**Consideration of Alternatives (Gov. Code, § 11346.5, subd. (a)(13)):**

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

The Executive Officer analyzed two alternatives to the proposed amendments and determined that these would be less effective in carrying out the purpose for which the action is proposed. Further description of the alternatives considered can be found in Chapter IX of the ISOR.

## **ENVIRONMENTAL ANALYSIS**

CARB, as the lead agency for the proposed amendments to the Regulation for Limiting Ozone Emissions From Indoor Air Cleaning Devices, has prepared an environmental analysis (EA) under its certified regulatory program (California Code of Regulations, title 17, sections 60000 through 60008) to comply with the requirements of the California Environmental Quality Act (CEQA; Public Resources Code section 21080.5). The EA determined that the proposed amendments would not result in any significant adverse impacts on the environment. The basis for reaching this conclusion is provided in Chapter VI of the ISOR. Written comments on the EA will be accepted during the 45-day public review period starting on October 25, 2019, and ending on December 9, 2019.

## **SPECIAL ACCOMMODATION REQUEST**

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; and
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alternativo u otro idioma; y
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

## **AGENCY CONTACT PERSONS**

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative, Julia Gress, Air Pollution Specialist, Indoor Exposure Assessment Section, at (916) 324-9233 or Patrick Wong, Manager, Indoor Exposure Assessment Section, at (916) 323-1505 (the designated back-up contact).



## **AVAILABILITY OF DOCUMENTS**

CARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Public Hearing to Consider the Proposed Amendments to the Regulation for Limiting Ozone Emissions from Indoor Air Cleaning Devices.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on CARB's website listed below, or may be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, on October 22, 2019.

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed is Chris Hopkins, Regulations Coordinator, (916) 445-9564. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

## **HEARING PROCEDURES**

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may take action to approve for adoption the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also approve for adoption the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action. If this occurs, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15-days before final adoption.

The public may request a copy of the modified regulatory text from CARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.


## **FINAL STATEMENT OF REASONS AVAILABILITY**

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on CARB's website listed below.

## **INTERNET ACCESS**

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at <https://ww2.arb.ca.gov/rulemaking/2019/aircleaner2019>

CALIFORNIA AIR RESOURCES BOARD

  
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Richard W. Corey  
Executive Officer

Date: October 8, 2019

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at [www.arb.ca.gov](http://www.arb.ca.gov).*