

State of California
AIR RESOURCES BOARD

**AMENDMENTS TO THE REGULATION FOR LIMITING OZONE EMISSIONS FROM
INDOOR AIR CLEANING DEVICES**

Resolution 19-33

December 12, 2019

Agenda Item No.: 19-12-5

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the California Air Resources Board (CARB or Board) to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, California Health and Safety Code, sections 41985, 41985.5 and 41986, grants CARB authority to regulate ozone emissions from indoor air cleaning devices;

WHEREAS, on September 27, 2007, CARB first approved the existing air cleaner regulation limiting ozone emissions from indoor air cleaning devices, with minor amendments approved in 2009, and fully implemented on October 1, 2012, as codified in California Code of Regulations, title 17, sections 94800 – 94810;

WHEREAS, the existing regulation requires all non-exempt air cleaners sold or supplied in California to meet certain electrical safety requirements, an ozone emissions limit of less than or equal to 0.05 parts per million (ppm), and other labeling, notification, and record-keeping requirements;

WHEREAS, the existing regulation exempts certain air cleaning devices, including air cleaners used in central heating, ventilation and air conditioning systems and ductwork (in-duct devices), as well as use of covered devices in specific industrial applications;

WHEREAS, a CARB-funded study documented in 2014 that the use of in-duct ozone-generating air cleaning devices can result in indoor air concentrations of ozone above 0.05 ppm;

WHEREAS, CARB staff have identified current market factors that could lead to increased exposure to ozone from indoor air cleaning devices; including the sale of over 250,000 in-duct air cleaning devices in California in 2017, and a projected increase of 32 percent in the number of in-duct air cleaners sold in California between 2017 and 2023;

WHEREAS, the exemption of in-duct air cleaning devices from the regulation has resulted in Californians not being afforded full protection from exposure to unhealthy levels of ozone emitted from ozone-generating in-duct devices;

WHEREAS, a test method has been developed and validated to measure ozone emission concentrations from electronic in-duct air cleaning devices;

WHEREAS, CARB staff identified sections of the regulation where the regulation could be further strengthened, including expanding the definition of indoor air cleaning devices subject to the regulation, eliminating the exemption for in-duct air cleaning devices and revising allowable industrial use applications;

WHEREAS, CARB staff identified sections of the regulation where the regulatory language could be streamlined; including reduced ozone testing requirements for specific devices, clarification of application requirements, and elimination of the notification requirement for manufacturers of certified air cleaners;

WHEREAS, CARB staff identified sections of the regulation where the regulatory language could be clarified, including when previously certified devices must be re-certified, how the California sales advisory should be displayed, and conditions under which CARB may withhold issuance of certification;

WHEREAS, CARB staff identified sections of the regulation where the regulatory language needs to be updated, including the listing of permissible test standards, auditing requirements for testing laboratories, regulatory definitions, and required device labeling;

WHEREAS, CARB staff worked with air cleaner manufacturers, trade associations, and testing laboratories to develop amendments that provide sufficient time and flexibility to allow compliance with minimal disruptions to the market;

WHEREAS, CARB staff conducted two public workshops on amendments to the regulation;

WHEREAS, the economic impact of eliminating the exemption for in-duct air cleaning devices is estimated to be \$1.89 million over a 10-year period, which would result in less than a one percent increase in the cost of an in-duct air cleaning device for California consumers;

WHEREAS, staff has proposed amendments to the Regulation for Limiting Ozone Emissions From Indoor Air Cleaning Devices, including eliminating the exemption for in-duct air cleaners and revising industrial exemptions to better protect public health, clarifying certification and compliance requirements, and updating test methods and definitions, as set forth in Appendix A to the Initial Statement of Reasons released to the public on October 22, 2019;

WHEREAS, CARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; California Code of Regulations, title 14, section 15251(d)), and CARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60007);

WHEREAS, staff has determined that the proposed amendments are exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) ("common sense" exemption) because the record evidence shows with certainty that there is no possibility that the proposed activity may result in a significant adverse impact on the environment, as described in Chapter VI of the Staff Report;

WHEREAS, a public hearing and other administrative proceedings have been held according to the provisions of Chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code; and

WHEREAS, the Board finds that:

The proposed amendments are authorized by California law and satisfy the requirements of Health and Safety Code sections 41985, 41985.5 and 41986;

The proposed amendments were developed in an open public process, in consultation with affected parties, through public workshops, individual meetings, and other outreach efforts, and these efforts are expected to continue;

There exist adequate data to support the adoption of the proposed amendments and to establish that the amendments are necessary;

The proposed amendments are a cost effective method of protecting public health from exposure to ozone from indoor air cleaning devices;

No reasonable alternatives to the amendments considered to date, or that have otherwise been identified and brought to the attention of CARB, would be more effective at carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected entities than the proposed regulation;

The proposed amendments are consistent with CARB's environmental justice policies and do not disproportionately impact people of any race, culture, or income;

The economic impacts of the proposed amendments have been analyzed as required by California law and the conclusions and supporting documentation for this analysis are set forth in the Initial Statement of Reasons; and

The proposed amendments are exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) because substantial evidence in the record shows with certainty that there is no possibility that the proposal may result in a significant adverse impact on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves for adoption amendments to sections 94800, 94801, 94802, 94803, 94804, 94805, 94806, 94807, 94808, and 94809, Title 17, California Code of Regulations, as set forth in Attachment A.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to determine if additional conforming modifications to the regulation are appropriate. If no additional modifications are appropriate, the Executive Officer shall take final action to adopt the regulation, as set forth in Attachment A. If the Executive Officer determines that additional conforming modifications are appropriate, the modified regulatory language shall be made available for public comment, with any additional supporting documents and information. The Executive Officer shall consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days. The Executive Officer may present the regulation to the Board for further consideration if warranted, and if not, the Executive Officer shall take final action to adopt the regulation after addressing all appropriate conforming modifications.

I hereby certify that the above is a true and correct copy of Resolution 19-33 as adopted by the California Air Resources Board.



Patricia Carlos, Board Clerk

Resolution 19-33

December 12, 2019

Identification of Attachments to the Board Resolution

Attachment A*: Proposed Amendments to the Regulation for Limiting Ozone Emissions From Indoor Air Cleaning Devices, California Code of Regulations, title 17, sections 94800, 94801, 94802, 94803, 94804, 94805, 94806, 94807, 94808, and 9480, as set forth in Appendix A to the Initial Statement of Reasons, released October 22, 2019.

*Attachment A is NOT attached to the proposed resolution; it is simply described on this page.