

THE CALIFORNIA AIR RESOURCES BOARD IS CONSIDERING FURTHER REDUCTIONS IN CONSUMER PRODUCTS' VOC CONTENT TO REDUCE CALIFORNIA'S EMISSIONS UNDER THE CALIFORNIA CLEAN AIR ACT

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At its April 12, 2019 public workshop to initiate rulemaking to meet these emission reduction commitments, the California Air Resources Board ("CARB") proposed to evaluate consumer product survey categories with more than 0.5 ("tpd") VOC emissions as part of its rule development process. Toward this end, CARB conducted its most comprehensive consumer products survey, with 491 survey categories addressed to 1400 companies and covering over a million products in order to collect information to use in its evaluation of lower VOC limits in certain consumer product categories.

The 2016 State Strategy for the State Implementation Plan ("SIP") required CARB to develop measures to reduce consumer product volatile organic compound ("VOC") emissions by 1 - 2 tons per day tpd by 2023 and 4 - 5 tpd by 2031, respectively, in the South Coast Air Basin, and 8 -10 tpd by 2031 Statewide. The current VOC percentage by weight limit for certain product categories in California is listed in the Table of Standards in the Regulation for Consumer Products, 17 CCR section 94509 (https://www.arb.ca.gov/consprod/regs/2019/article_2_final_2019.pdf).

Some of the products being considered for regulatory amendment include: hair finishing spray, no rinse shampoo, aerosol sunscreen (currently not regulated as a consumer product by CARB), laundry detergent (currently not regulated as a consumer product by CARB), and floor wax stripper. In addition, CARB intends to identify portions of the consumer products VOC regulation that may need updates or clarification, including definitions and reporting requirements.

CARB is holding public work group teleconferences to evaluate the following products:

- May 20, 2019 from 10 am to noon – hair finishing spray, no rinse shampoo, permanent dye;
- May 22, 2019 from 10 am to noon – laundry detergent, liquid fabric softener, dish soap, aerosol cooking spray;
- May 28, 2019 from 10 am to noon – air fresheners;
- May 30, 2019, 10 am to noon – nonaerosol general purpose cleaner, nonaerosol general purpose degreaser, aerosol bath and tile cleaner, aerosol glass cleaner; and
- June 2019 (date and time to be determined for an in-person meeting) – disinfectants, charcoal lighter, scented candle, antiperspirant, deodorant, body spray, personal fragrance with 20% or less fragrance, hand sanitizer, body wash, hand cleaner or soap, hand and body lotion or moisturizer, sunscreen, shampoo, conditioner, analgesics, rubbing alcohol, topical anti-fungal products, nail polish, mouthwash, pet care products such as pet litter, insecticide, denatured alcohol, paint remover/stripper, automotive windshield washer fluid and additive, auto body repair products, and brake cleaner.

In addition, in the Summer of 2019, CARB will convene meetings of the Regulatory Strategies Work Group and Regulatory Definitions Work

Group as needed to continue evaluation of promising categories, examine other possible approaches for achieving emission reductions, and improve program clarity, transparency, and effectiveness. These work group meetings will also consider whether this rulemaking will require product reformulation to meet CARB's emission reduction commitments.

CARB will hold a second public workshop in Fall 2019, and then CARB hopes to bring a regulatory amendment to the Board for its consideration by late 2020.

The California State Legislature adopted the California Clean Air Act of 1988, which required CARB to adopt regulations of consumer products that are chemically formulated products used by household and institutional consumers in five categories: personal care, automotive and industrial, household, pesticides, and miscellaneous. The California Clean Air Act requires that CARB assure that each new consumer product regulation is commercially and technologically feasible and does not eliminate a product form. To evaluate the feasibility, the Consumer Products Program staff conducts surveys to be completed by manufacturers that sell products in California. The purpose of these surveys is to gather current information on VOC emissions from consumer and commercial product categories. This information allows CARB to determine the feasibility of further reducing consumer product emissions and is used to update CARB's consumer products emission inventory. According to CARB, consumer products account for about 259 tons per day of VOC emissions in California. To prove that a product sold or distributed complies with CARB's regulations, CARB requires testing by qualified personnel of the product following the Standard Operating Procedure based on US EPA Method 24/24A and ASTM D2369-97.

The California Air Quality Lawyers at Bick Law LLP anticipate other states will follow CARB's lead. We will provide updates as CARB moves through the rulemaking process.