



## Chemical & Product Regulation ADVISORY ■

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### CARB 2013 Consumer and Commercial Products Survey

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It's nearing time to add another reporting requirement to the list. At a public workshop in late May, the California Air Resources Board (CARB) unveiled details of its Draft 2013 Consumer and Commercial Products Survey ("Survey"). If enacted, this Survey would require parties dealing in consumer products to submit sales and formulation data through online reporting tools. Given CARB's increasing propensity for hitting entities with steep fines for minor violations, regulated parties should ready their compliance teams.

#### **An Overview of the Proposed Survey**

CARB's Consumer Products Program is designed to reduce the amount of smog-forming volatile organic compounds (VOCs), toxic air contaminants, and greenhouse gases emitted by chemically formulated consumer products. To assist CARB in its decision making, California law authorizes CARB to collect data about chemically formulated products.

This year, CARB will launch a comprehensive data-gathering initiative for consumer and commercial products. The last time CARB instituted a data-gathering program for consumer products on this scale was in 2006. Although the 2006 reporting program was met with much consternation from industry groups, 546 entities ended up participating in the survey. From this information, CARB created data summaries from product categories and proposed amendments to the Consumer Products Regulations.

#### ***Who will need to respond to the survey and supply information to CARB?***

To determine whether an entity must complete the Survey, there is a two-part test:

First, the entity must be listed on the label of a chemically formulated product sold or supplied to a household, business, commercial, and/or institutional consumer in California during 2013. In cases where multiple names appear on the label, the responsible party is the party that the product was "manufactured for" or "distributed by," as noted by the label.

Second, the entity must fall within a category listed on the [2013 Survey Category List](#). This list is expansive. It includes common, everyday items broken down into the following categories: adhesives; sealants and

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caulks; air fresheners; arts and crafts supplies; cleaners and degreasers; dishwashing products; fabric, carpet and upholstery care products; food-related sprays and aerosol products; fuels and lighter materials; garden and lawn care products; laundry products; office supplies; pool, spa, whirlpool, Jacuzzi and pond products; shoe and leather care products; waxes and polishes; antiperspirants and deodorants; body, hand and face cleaners; facial and body treatments; fragrance products; hair care products; health care products; cosmetics; products for nail care, oral care and shaving; anti-microbial agents; fungicides; herbicides; insecticides and repellents; electronic-related products; solvents; thinning, detailing, maintenance and repair products; general coatings; and specialty coatings. Due to the breadth of this list, several hundred—if not thousands—of companies will likely have to compete with the Survey.

### ***What information will a company need to report to CARB?***

The Survey will mandate the reporting of highly specific company and product information. For example, according to the May 21 workshop, CARB will seek sales and product-formulation data for three consecutive years. And, as part of this data, parties will need to report each product per its stock keeping unit and each ingredient in an amount nearest to 0.1 percent by weight. Even products with low or no VOCs will be subject to these reporting requirements.

Similar to its other reporting programs, CARB will ask regulated parties to submit information electronically. Regulated parties will have the option of entering all information interactively or importing product and formulation data from external data sources.

### **Comment Now; Comply This Fall**

CARB is accepting comments on the proposed Survey through June 13, 2014. Parties facing regulation should engage in the rulemaking process as soon as possible. Once the comment period closes, CARB intends to release the final Survey around August 1, 2014. After the release of the final Survey, regulated parties will have only months to submit completed surveys.

Gathering data will take time and resources. Companies should begin preparing now so as not to miss the reporting deadline. If CARB's recent enforcement efforts are any indication, penalties for inaccurate or late reports will likely be high. For instance, earlier this year, CARB slapped a petroleum exploration company with a \$328,500 fine for late and inaccurate submissions of greenhouse gas reports.

For more information, please contact our offices or visit CARB's Consumer Products Program [homepage](#).

*This advisory was written by [Maureen Gorsen](#) and [Geoff Rathgeber](#).*

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For more information on the detailed content of these regulations, to discuss compliance strategies or to begin preparing for what will be required, feel free to call any member of the Chemical & Product Regulation team listed below.

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