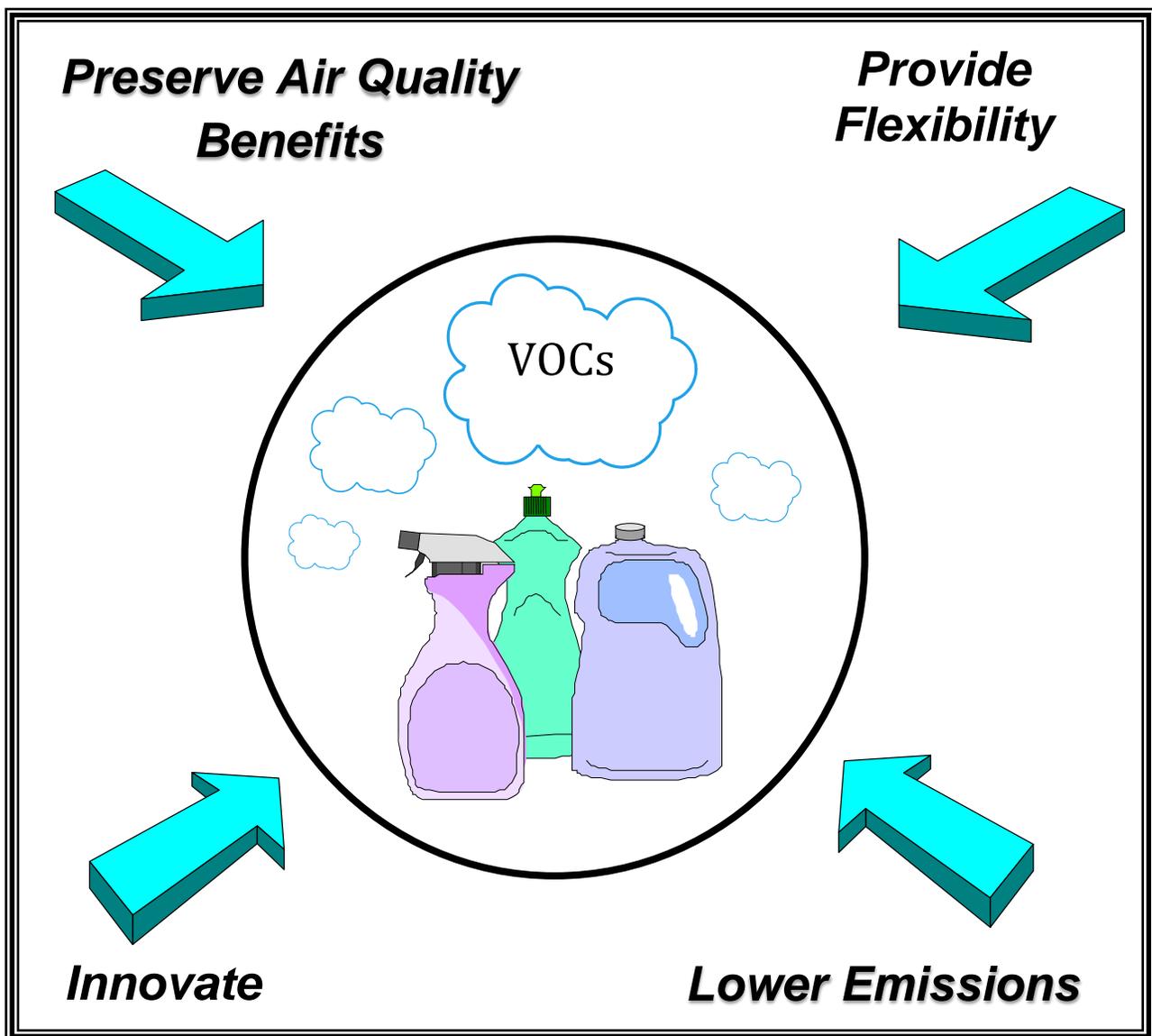


California Environmental Protection Agency



**PRODUCT CATEGORY DETERMINATION
GUIDANCE DOCUMENT**



Legal Disclaimer

The California Air Resources Board's (ARB or the "Board") Consumer Products Regulations, sections 94500-94575 (title 17, California Code of Regulations), is a series of regulations that sets volatile organic compound (VOC) limits for numerous product categories. For certain regulated categories, the regulation also sets prohibitions or limits on toxic compounds and compounds with high global warming potential (GWP) values. ARB staff has prepared the Product Category Determination Application Guidance Document (Guidance Document) to describe the application process in a user-friendly format. Unlike the regulation itself, the Guidance Document does not have the force of law. It is not intended to and cannot establish new requirements beyond those that are already in the regulation, and it does not supplant, replace or amend any of the legal requirements of the regulations. Conversely, any omission or truncation of regulatory requirements found within this Guidance Document does not relieve manufacturers of their legal obligation to fully comply with all requirements of the regulation.

Table of Contents

| <u>Section</u> | <u>Page</u> |
|---|-------------|
| I. <u>Introduction</u> | 1 |
| II. <u>General Information</u> | 2 |
| 1. What is a product determination? | 2 |
| 2. Can I still email ARB staff if I have a general question about a product category? | 2 |
| 3. What happens when I submit a label for evaluation? | 2 |
| 4. Is a product determination considered a certification by ARB? | 2 |
| 5. Does ARB certify ingredients as VOC, exempt or toxic? | 2 |
| 6. May I request a product determination for a new delivery or or packaging system? | 3 |
| 7. When would I need to submit formula information? | 3 |
| 8. Does the product determination apply throughout California? | 3 |
| III. <u>Application Procedure</u> | 4 |
| 1. How do I apply for a formal product determination? | 4 |
| 2. Is there a cost to apply? | 4 |
| 3. What do I include in my application? | 4 |
| 4. May I include more than one product in my application? | 4 |
| IV. <u>Processing Requests</u> | 5 |
| 1. What happens after my application is received by ARB? | 5 |
| 2. When can I expect a response to my request? | 5 |
| 3. What about confidentiality? | 5 |
| V. <u>Post Approval</u> | 6 |
| 1. What if the formulation is changed? | 6 |
| 2. What if the label is changed? | 6 |
| 3. Can the product determination change? | 6 |
| 4. What if I disagree with the product determination? Is there an appeal process? | 6 |

SECTION I

INTRODUCTION

In order to expedite the process for evaluating product category determinations (product determinations), ARB staff is providing product determination guidance to stakeholders in addition to a product determination application form (see Section III). Below is a general overview of the consumer products regulatory programs, followed by more specific guidance with regards to product determinations.

ARB has adopted four consumer products regulations. These regulations are: the Regulation for Reducing Volatile Organic Compound Emissions from Antiperspirants and Deodorants (**Antiperspirants and Deodorants Regulation**, title 17, California Code of Regulations (CCR), sections 94500-94506.5); the Regulation for Reducing Volatile Organic Compound Emissions from Consumer Products (**Consumer Products Regulation**, title 17, CCR, sections 94507-94517); the Regulation for Reducing Volatile Organic Compound Emissions from Aerosol Coating Products (**Aerosol Coating Products Regulation**, title 17, CCR, sections 94520-94528); the Alternative Control Plan Regulation for Consumer Products and Aerosol Coating Products (**Alternative Control Plan Regulation**, title 17, CCR, sections 94540-94555). These regulations contribute to ARB's efforts to attain national ambient air quality standards for ozone by reducing the emissions of VOCs from consumer products. The regulations also contribute to the control of toxic air emissions from consumer products in order to meet California goals of reduction of public health risks from toxic air pollutants and greenhouse gases. Consumer products are regulated by product category with the limits determined by the category designation. The current regulations are available at <http://www.arb.ca.gov/consprod/regs/regs.htm>.

The regulations generally rely on the label claims to determine the product category and subsequent regulation requirements. In order to assist stakeholders, ARB staff offer product determinations to interested parties to clarify the regulations as they apply to their particular situation. From the perspective of ARB staff, there are two main types of product determinations. The first is a general attempt to address inquiries, by directing the stakeholder to the sections of the regulation relevant to the stakeholder's product. If further clarification is called for because the stakeholder does not find the response sufficient for their needs, or more information such as a label is submitted, a formal product determination can be requested. The following sections of the guidance document describe the submittal, processing and post-approval portions of the product determination process.

It is important to note that it is the responsibility of parties who sell, supply, offer for sale, or manufacture for sale consumer products in California to comply with the State regulations. If there are any questions about the product determination guidance, please email Robert Barrera of ARB at robert.barrera@arb.ca.gov for assistance .

SECTION II

GENERAL INFORMATION

1. **WHAT IS A PRODUCT DETERMINATION?**

A product determination is provided to the regulated community by ARB staff upon request. It is provided in order to encourage and assist stakeholders with compliance to the California Consumer Products Regulations. A product determination is one of several forms of guidance that ARB staff can provide to stakeholders. ARB staff will begin by directing the stakeholder to relevant sections of the regulation which pertain to the specific products or raw material components of products for which they are responsible.

2. **CAN I STILL EMAIL ARB STAFF IF I HAVE A GENERAL QUESTION ABOUT A PRODUCT CATEGORY?**

Yes. ARB staff is always available to respond to general questions about product categories or any other questions regarding the regulations.

3. **WHAT HAPPENS WHEN I SUBMIT A LABEL FOR EVALUATION?**

ARB staff can provide a general response by directing the interested party to the relevant portion(s) of the regulation which would apply to the product label submitted. If further clarification is needed, a formal product determination application may be submitted. (See section III)

4. **IS A PRODUCT DETERMINATION CONSIDERED A CERTIFICATION BY ARB?**

Except for Charcoal Lighter Material products, ARB does not certify consumer products and their ingredients as meeting or not meeting a given VOC standard or definition in the regulation. It is up to the responsible party to determine the category/definition of a given product by consulting the regulation. A product determination is not a certification, but rather an informed evaluation of a product based on the submitted information.

5. **DOES ARB CERTIFY INGREDIENTS AS VOC, EXEMPT OR TOXIC?**

No. Ingredients are not certified as meeting or not meeting any regulatory definition or category. It is up to the responsible party to determine the category/definition of a given product component by consulting the regulation.

6. MAY I REQUEST A PRODUCT DETERMINATION FOR A NEW DELIVERY OR PACKAGING SYSTEM?

Yes. If a determination is requested for a product “form” for a new delivery or packaging system, please provide all information regarding the intended use of the packaging system.

7. WHEN WOULD I NEED TO SUBMIT FORMULA INFORMATION?

Submittal of formula data is only necessary when the product determination is dependent upon a formula component(s). Most product category definitions are not determined by specific product ingredients.

8. DOES THE PRODUCT DETERMINATION APPLY THROUGHOUT CALIFORNIA?

Product determinations clarify which category a product is regulated as under the California Consumer Products Regulations. The product determination sets the VOC, GWP and toxic limits. Responsible parties should also be aware of District Rules that may also apply to the product in question. Contact information for all of the California Air Districts can be found here:

<http://www.arb.ca.gov/capcoa/roster.htm>.

SECTION III

APPLICATION PROCEDURE

1. HOW DO I APPLY FOR A FORMAL PRODUCT DETERMINATION?

A responsible party must apply for the product determination by submitting the application along with the required materials to ARB. The application form is located here:

http://www.arb.ca.gov/consprod/regact/prod_determine/pd_app.docx

Submit the application in writing to:

Joe Calavita, Manager
Consumer Products and Air Quality
Assessment Branch, AQPSD
California Air Resources Board
P. O. Box 2815
Sacramento, CA 95812
ATTN: Product Determination Application

2. IS THERE A COST TO APPLY?

There is no cost to apply.

3. WHAT DO I INCLUDE IN MY APPLICATION?

Enclose:

1. Completed application form.
2. Cover letter detailing request.
3. Copy of the product's camera-ready label, and other available marketing materials.
4. Product formula data, if necessary.

Please refer to the application instructions available on the ARB website at

http://www.arb.ca.gov/consprod/regact/prod_determine/pd_app.docx.

4. MAY I INCLUDE MORE THAN ONE PRODUCT IN MY APPLICATION?

It is suggested that separate applications be provided per product. However, in the case of a group of products which are sufficiently similar in formulation (for example, differing only by fragrance, color etc.), a single application is acceptable. The guiding principle is that the more specific the information submitted, the more specific a response is possible from ARB.

SECTION IV

PROCESSING REQUESTS

1. WHAT HAPPENS AFTER MY APPLICATION IS RECEIVED BY ARB?

Consumer Products staff will evaluate the application and make a product category recommendation to management.

2. WHEN CAN I EXPECT A RESPONSE TO MY REQUEST?

In order to complete the formal process, the average time is estimated to be three months. For informal requests (for example, a general inquiry by email), ARB staff will respond as soon as possible, usually within two to three business days.

3. WHAT ABOUT CONFIDENTIALITY?

Confidential material supplied to ARB in the application process will be handled in accordance with title 17, California Code of Regulations (CCR), sections 91000 to 91022, and the California Public Records Act (Government Code Sections 6250 et seq).

SECTION V**POST APPROVAL****1. WHAT IF THE FORMULATION IS CHANGED?**

Product determinations are based on the information received at that time; any change in this information could potentially change the outcome of the original product determination. Consult the category definition to see if the original product determination is still applicable.

2. WHAT IF THE LABEL IS CHANGED?

ARB's product determination applies only to the label materials submitted with the application. Changes to product claims, including claims implied by label graphics, can affect how the product is categorized. Please consult the product category definition to see if the original product determination is still applicable.

3. CAN THE PRODUCT DETERMINATION CHANGE?

Yes. Amendments to the regulation can change the status of a product's category. Responsible parties should be aware of changes to the regulation as amendments are proposed and approved. Regulatory developments will be posted on the ARB website as they occur at:
<http://www.arb.ca.gov/consprod/regs/regs.htm>.

4. WHAT IF I DISAGREE WITH THE PRODUCT DETERMINATION? IS THERE AN APPEAL PROCESS?

There is no appeal process.