

Environmental Developments to Watch in California in 2024

Article By:

Susan E. Smith

Jacob P. Duginski

Jeff D. Clare

Sharon Mathew

Claire S. McLeod Ruiz

California is an epicenter of environmental policymaking and often a harbinger of laws and regulations adopted throughout the country, and there's no reason to think this will change. Beveridge & Diamond closely tracks developments, upcoming deadlines, and business implications for companies with operations in California. Below we summarize key areas of activity we are tracking and what companies should expect in the coming months.

- Chemicals and Emerging Contaminants
- Prop 65 – Rulemakings
- Climate Regulation
- Stationary Source Regulation
- CalOSHA

Chemicals and Emerging Contaminants

Perfluoroalkyl and polyfluoroalkyl substances (PFAS)

To date, California's legislature has enacted several bills restricting the use of PFAS in the following types of products:

- Firefighting equipment and foam ([SB 1044](#)), effective January 1, 2022.
- Cosmetic products in California ([AB 2762](#)), effective January 1, 2025.
- Food packaging ([AB 1200](#)), effective January 1, 2023.
- Toys or child care products ([AB 652](#)), effective July 1, 2023.
- Personal care and beauty products ([AB 2771](#)), effective January 1, 2025.

-
- Textile articles and fabrics ([AB 1817](#)), effective January 1, 2025.

This year, the California legislature will also consider proposed legislation seeking to restrict PFAS in menstrual products ([AB 2515](#)) and a broader bill ([SB 903](#)) that would prohibit a person from distributing, selling, or offering for sale a product that contains intentionally added PFAS, as defined, unless the California Department of Toxic Substances Control (DTSC) has determined that the use of PFAS in the product is a currently unavoidable use. Products subject to federal laws regarding the presence of PFAS, and used products, would be exempted.

While the California legislature has enacted these single-product chemical bans, Governor Newsom has vetoed other PFAS regulations restricting laws, such as [AB 727](#) (PFAS in cleaning products), [AB 246](#) (PFAS in menstrual products), and [AB 1423](#) (PFAS in artificial turf), on the basis that they lacked adequate compliance and enforcement mechanisms.

6PPD and PPD Derivatives

On October 1, 2023, DTSC finalized the [regulation](#) listing motor vehicles containing N-(1,3-dimethylbutyl)-N'-phenyl-p-phenylenediamine (6PPD) as a Priority Product under the Safer Consumer Products (SCP) Regulations. This regulation triggered reporting requirements for domestic and foreign manufacturers of motor vehicles that contain 6PPD and requires them to undertake an analysis of the alternatives to 6PPD in motor vehicles. Based on the information submitted, DTSC may, by 2026, either impose restrictions on the use of 6PPD in tires or require manufacturers to fund green chemistry research for alternatives to 6PPD.

In October 2023, DTSC also proposed to add [para-phenylenediamine \(PPD\) derivatives](#) to the Candidate Chemicals List under the SCP Regulations. Briefly, this proposal includes para-phenylenediamine (also known as PPD, PPDA, benzene-1,4-diamine, 1,4-diaminobenzene, and 1,4-phenylenediamine) and its derivatives with a molecular weight less than 1,000 daltons. Some of these PPD derivatives are being considered as alternatives to 6PPD in motor vehicles.

AB 418 - Food Safety

The [California Food Safety Act](#), also known as AB 418, was passed into law in late 2023. The law prohibits the manufacturing, selling, delivering, distributing, holding, or offering for sale in commerce a food product for human consumption that contains brominated vegetable oil, potassium bromate, propylparaben, and Red No. 3. These four food additives are commonly used as preservatives and to enhance color, texture, and taste. In addition to banning these food additives, the law imposes a civil penalty for violating this law.

When proposed, the law also planned to ban titanium dioxide, a common additive used to make food appear white, and was supposed to go into effect in 2025. The law will now take effect on January 1, 2027, giving manufacturers a few years to phase out the use of these additives.

All four banned additives and titanium dioxide have been banned in food in the European Union for some time. Citing this law, FDA [announced](#) in November 2023 that it proposed revoking the regulation authorizing the use of brominated vegetable oil in food and noted that it is currently reviewing the color additive regulations authorizing the use of Red No. 3 in food.

Prop 65 – Rulemakings

On October 27, 2023, the California Office of Environmental Health Hazard Assessment (OEHHA) published a [Notice of Proposed Rulemaking](#) to amend the existing safe harbor language businesses use to provide “clear and reasonable” warnings pursuant to Proposition 65 (Prop 65). OEHHA held a public hearing on the proposed amendments on December 13, 2023, and subsequently granted an extension of the public comment period until January 3, 2024. If adopted in 2024, the proposed amendments would need to be incorporated into safe harbor warnings within two years of the effective date.

For additional background, read B&D’s [alert](#) on Prop 65.

Proposed Amendments

1. Changes to the “short-form” warnings.

OEHHA proposed to revise the short-form warning option by:

- Requiring the name of a listed chemical for which the warning is being provided to be included in the warning—or the name of two chemicals, if the warning is being provided for both cancer and reproductive toxicity, unless the same chemical is listed for both endpoints;
- Modifying the wording of the warning to, according to OEHHA, better communicate its meaning to consumers; and
- Providing multiple wording options for the warnings.

The proposed amendments clarify that these short-form warnings may also be used to provide safe harbor warnings for food products. § 25607.2(b). The proposed amendments would allow for more flexibility in the type size of short-form warnings by removing the requirements that “the entire warning must be in a type size no smaller than the largest type size used for other consumer information on the product.” § 25602(a)(4). OEHHA proposes to retain, however, the provision stating that “[i]n no case shall the warning appear in a type size smaller than 6-point type.” *Id.*

2. Additional signal word options for safe harbor consumer product exposure warnings.

The proposed amendments would allow businesses to use the signal words “**CA WARNING:**” or “**CALIFORNIA WARNING:**” instead of “**WARNING:**” to clarify that the warning targets California consumers and is pursuant to California law.

3. Changes to the method of displaying warnings for internet or catalog purchases.

For both internet purchases and catalog purchases, the proposed amendments clarify (consistent with [OEHHA’s guidance](#) published in 2018) that the warning would need to be displayed *both* in the catalog or on the product display webpage and *also* be included on or with the product when delivered to the consumer. § 25602(b)(2) and § 25602(c)(2).

Additionally, for internet purchases, businesses would need to use one or more of the following methods:

- A warning on the product display page;
- A clearly marked hyperlink using the word “**WARNING**” or the words “**CA WARNING**” or “**CALIFORNIA WARNING**” on the product display page that links to the warning; or
- An otherwise prominently displayed warning was made to the purchaser prior to completing

the purchase. The warning is not prominently displayed if the purchaser must search for it in the general content of the website. § 25602(b).

4. *Safe harbor exposure warnings for passenger or off-highway motor vehicle parts and recreational marine vessel parts.*

The proposed amendments specific to off-highway motor vehicles and recreational marine vessels would clarify, with respect to replacement parts purchased and installed by consumers, that safe harbor warnings must include:

- The symbol in Section 25603(a)(1);
- The words “**WARNING:**,” “**CALIFORNIA WARNING:**,” or “**CA WARNING:**” in all capital letters and bold print; and
- The words: “Handling passenger or off-highway motor vehicle (or recreational marine vessel) parts can expose you to chemicals such as phthalates and lead, which can cause cancer and reproductive harm. To minimize exposure, service the vehicle in a well-ventilated area, wear gloves, and wash your hands. For more information see [here](#).” § 25607.50-53.

Implications

While OEHHA’s previous attempts to amend the safe harbor warning regulations as to “short-form” warnings have stalled, OEHHA appears determined to ensure that Prop 65 warnings ultimately specify chemical names. In addition to requiring businesses to revisit warning approaches that were only recently adopted in response to the 2016 amendments and adding further complexity, the proposed amendments may increase reputational and litigation risks.

Businesses should monitor OEHHA’s progress toward the adoption of the amendments and prepare to reevaluate their Prop 65 warning approaches, particularly if they rely on the use of the “short-form” warning option.

Climate Regulation

In 2023, California passed a number of significant climate laws, including two major climate disclosure laws (SB 261 and SB 253) and a law requiring public reporting by companies utilizing voluntary carbon offsets (SB 1305).

SB 261 and SB 253

While neither of the climate disclosure laws impose any requirements in 2024, the California Air Resources Board ([CARB](#)) [was expected to begin work on drafting and implementing regulations](#). However, CARB’s ability to draft any regulations relating to SB 261 and SB 253 was thrown into question in early January 2024 by Governor Newsom’s proposed [2024-2025 Budget](#), which pauses funding to implement newly passed laws until the state’s financial forecast is more certain later in 2024. The bill sponsors of each law released a [public statement](#) urging that the implementation of these laws be included in the upcoming budget to be passed by the legislature, which by law must be passed by June 15, 2024.

The drafting process for these regulations offers an opportunity for the regulated community to provide context to CARB on how the law as written leaves significant questions unanswered, including what the exact scope of each law is and how closely CARB’s regulations will track the

recently released [European Sustainability Reporting Standards](#).

SB 1305

The requirements of SB 1305, discussed in greater detail [here](#), came into effect on January 1, 2024. The law requires that entities involved in the buying, selling, and marketing of voluntary carbon offsets in California make certain public disclosures on their public-facing websites. Similarly, the law requires that businesses that make certain climate-related claims (such as that a product is “carbon neutral”) disclose how such claims are calculated and if a third party has validated the claims. Businesses that fail to disclose as required, or whose disclosure is found to be inaccurate, may be subject to civil penalties of up to \$2,500/day.

Stationary Source Regulation

The headline here is that AB 617 continues to result in demanding emissions regulations and enforcement priorities, particularly in the South Coast Air Basin.

CARB Blueprint 2.0

On October 26, 2023, CARB adopted its first five-year update to its Community Air Protection Plan, also known as Blueprint 2.0. The initial Blueprint was designed to assist communities and air districts in implementing AB 617, a landmark piece of environmental justice legislation that required CARB and air districts to identify certain disadvantaged communities for focused assistance to reduce air pollution. AB 617 also requires CARB and air districts to provide such communities with resources and assist in developing of Community Emission Reduction Plans through Community Steering Committees. Blueprint 2.0 includes new tools for these communities, such as expanded access to funding and the development of enforcement priorities and investigative plans concentrated on areas of concern identified by communities.

South Coast AQMD Rule 2305 – Warehouse ISR

San Bernardino, East L.A., and Wilmington were all AB 617 disadvantaged communities that developed Community Emission Reduction Plans that were adopted by South Coast Air Quality Management District (South Coast AQMD)—the regional agency responsible for emissions from stationary sources of air pollution in the South Coast Air Basin, comprising Orange County and portions of Los Angeles, Riverside, and San Bernardino counties. Each of these communities included calls for a warehouse indirect source rule as part of their emission reduction plans.

On May 7, 2021, the South Coast AQMD adopted an “Indirect Source Rule” (ISR). While the South Coast typically has responsibility over stationary sources of air pollution within the geographic limits of the district, the Warehouse ISR includes within its covered emissions those from mobile sources (which is traditionally in CARB’s realm). EPA has a pending rulemaking that seeks to approve the Warehouse ISR as part of the California State Implementation Plan under the Clean Air Act.

South Coast AQMD Rules 2305 and 2306 – New Intermodal Railyard Facility ISR (Q3 2024), Port ISR (Q4 2024)

Similar to the Warehouse ISR, various Community Emission Reduction Plans (e.g., Wilmington’s)

requested continued efforts for indirect source rules for railyards and ports. Moreover, the claimed success of the Warehouse ISR has invigorated environmental NGOs to demand elevated efforts in the goods transport sector through the development of a “New Intermodal Facility ISR” and Port ISR.

While South Coast AQMD started rulemaking efforts on the New Intermodal Facility ISR back in 2021, rulemaking efforts were stayed in favor of negotiating a memorandum of understanding (MOU) between South Coast AQMD and the Class 1 Railroads. However, the MOU did not come to fruition, and South Coast AQMD forecasts the adoption of a New Intermodal Railyard Facility ISR in Q3 2024. A similar MOU was sought related to Ports but ended with a similar fate, with South Coast AQMD forecasting the adoption of a Port ISR in Q4 2024.

Cal/OSHA

California Supreme Court – Kuciemba v. Victory Woodworks, Inc.

On July 6, 2023, the California Supreme Court held that employers do not owe a duty of care under state tort law to prevent the spread of COVID-19 to employees’ household members. Read more on the background and ruling [here](#).

COVID -19

Cal/OSHA has significantly eased its [COVID-19 Non-Emergency Standards](#) concerning prevention and outbreak requirements for employers in the state. The standards came into force early last year and will remain effective until early 2025. However, as of January 9, Cal/OSHA revised the isolation and testing of close contacts requirements for COVID-19 cases in response to the California Department of Public Health’s [State Public Health Officer Order for the Control and Prevention of COVID-19](#) as follows:

- “Infectious period” for COVID-19 cases with symptoms is now defined as a minimum of 24 hours from the day of symptom onset. COVID-19 cases with no symptoms do not have an infectious period for the purpose of isolation or exclusion.
- Testing for COVID-19 is only recommended for people with new symptoms and high-risk close contacts. Employers must continue to make free COVID-19 testing available to all employees with a close contact and to exposed employees in instances of a workplace or major outbreak.

Find further information on this guidance on Cal/OSHA’s COVID-19 Non-Emergency Standard [FAQ Revisions and Updates page](#).

Silica Emergency Temporary Standard

In the last week of 2023, the silica emergency temporary standard adopted by the Cal/OSHA Standards Board went into effect. The silica emergency temporary standard [requirements](#) implement new protections for workers engaged in high-exposure tasks involving artificial stone with greater than 0.1% crystalline silica and natural stone with greater than 10% crystalline silica. Similarly, federal warnings related to respirable crystalline silica were issued by the Occupational Safety and Health Administration last year.

2024 Forecast

In 2024, Cal/OSHA will continue to bolster its workplace violence prevention standard under [SB 553](#), which requires California employers to take certain steps to prevent workplace violence, adopt comprehensive workplace violence prevention plans by July 1, 2024, and amends the state's Code of Civil Procedure to streamline restraining orders for workplace violence threats. The workplace violence prevention plan requirements and SB 553's additional requirements for employers are outlined [here](#).

On March 21, the highly anticipated outcome of Cal/OSHA's [proposed indoor heat illness prevention standard](#) took an unprecedented turn when the Cal/OSHA Standards Board adopted the rule despite the state Department of Finance's objection based on revised estimates of the rule's potential cost impacts, lodged just the day before. The dispute between the agencies creates uncertainty: the California Office of Administrative Law will either approve the rule or disapprove it and return it to Cal/OSHA before the end of April.

It is anticipated that the standard, if approved, will replace Cal/OSHA's approach to regulating and enforcing limits on heat in indoor places of employment, a topic that has garnered substantial engagement through each of its public comment periods over the last year. The proposed standard applies to indoor work areas that reach temperatures at or above 82 degrees Fahrenheit, with limited exceptions. It requires employers to maintain a Written Indoor Heat Illness Prevention Program, provide training, allow access areas at temperatures below 82 degrees Fahrenheit, permit and encourage employee rest periods, and observe acclimatization of new employees and all employees during heat wave periods. The most recent proposed modification to the Standard was issued on December 22, 2023. While Cal/OSHA continues to push for adoption of this rule, the federal Occupational Safety and Health Administration has signaled that a similar heat illness prevention standard for outdoor and indoor work settings is expected in 2024.

The Cal/OSHA Standards Board is also set to vote on amendments to the lead emergency temporary standard this year. If adopted, these would decrease the mandated employee blood lead level from 40 ug/dl to below 10 ug/dl.

© 2025 Beveridge & Diamond PC

National Law Review, Volume XIV, Number 107

Source URL: <https://natlawreview.com/article/environmental-developments-watch-california-2024>