

Client Alert

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Seller Beware: California Announces Draft Plan for New Consumer Product Categories Under Its Green Chemistry Initiative

By Peter Hsiao, William Tarantino, and Lois Miyashiro

California's toxics agency, the Department of Toxic Substances Control (DTSC), has released a draft three-year work plan identifying seven consumer product categories that may be the focus of the state's Green Chemistry Initiative. The innovative new law requires product manufacturers to examine whether they can replace existing chemical ingredients with alternatives that are deemed safer for consumers and the environment. For many consumer product companies, the regulations will require major investments in compliance and changes to product design planning and supply chain management. A more detailed description of these requirements can be found at Morrison & Foerster's [Green Chemistry web page](#).

On September 12, 2014, DTSC released its [Draft Priority Product Three Year Work Plan](#). The draft work plan identifies seven product categories from which priority products will be selected for regulation over the coming three years, as well as some of the considerations that resulted in DTSC's product category selections:

- **Beauty, Personal Care and Hygiene Products** (e.g., Body Wash and Soaps, Deodorants, Lip Balms and Gloss, Lotions, Ointments, Hair Care Products, Pomades, Cosmetics, and Nail Care Products)
- **Clothing** (e.g., Full Body Wear, Lower Body Wear, Upper Body Wear, Sportswear, Sleepwear, and Underwear)
- **Household, Office Furniture and Furnishings** (e.g., Bedding, Seating/Sofas, and Fabric and Textile Furnishings)
- **Building Products: Paints, Adhesives, Sealants, and Flooring** (e.g., Adhesives and Glues, Carpeting, Caulking, Paints and Primers, Paint and Graffiti Removers and Cleaners, Engineered Wood, Plywood Subfloors, Compressed Wood Flooring Products, Sealants, Stains and Varnishes, Vinyl Flooring, and Roof Coatings)
- **Cleaning Products** (e.g., Air Fresheners, Floor Cleaners, Oven Cleaners, Bathroom Cleaners, Carpet Cleaners, Floor Waxes, Detergents, General-Purpose Cleaners, Scouring Cleaners, Spot Removers, and Window Cleaners)
- **Office Machinery (Consumable Products)** (e.g., Printer Inks, Toner Cartridges, and Specialty Paper)
- **Fishing and Angling Equipment** (e.g., Fishing Weight and Gear)

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The draft work plan identifies the chemicals of concern in each product category. For example, for Beauty, Personal Care and Hygiene Products, DTSC has identified phthalates, toluene, aldehydes, alkyl phenols and azo dyes among other chemicals. A list of the chemicals for each product category can be found [here](#). However, DTSC states that it is not limiting itself to only regulate those product/chemical pairings. DTSC is expected to identify up to ten priority products annually for regulation over the next three years.

Before finalizing its work plan, DTSC will hold two public workshops to accept public comments and discuss the listing process for priority products. The workshops are scheduled for September 25 and 29, 2014 in Sacramento and Cypress, respectively. In addition to its rulemaking process, DTSC appears to be sending a message to the market to encourage manufacturers to reformulate their products before they are formally subject to regulation.

Morrison & Foerster has one of the largest Cleantech groups in the nation. We represent retailers, consumer product manufacturers, chemical companies and some of the leading biochemistry research and development companies. We are closely watching and participating in the development of green chemistry regulations and can provide additional information about this important topic upon request.

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