

## Product Regulation & Liability - USA

### New consumer product categories under California's Green Chemistry Initiative

Contributed by **Morrison & Foerster LLP**

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On September 12 2014 California's toxics agency, the Department of Toxic Substances Control (DTSC), released its draft [Priority Product Three-Year Work Plan](#) identifying new consumer product categories that may be the focus of the state's [Green Chemistry Initiative](#). Because of the size of California's market, the new rules will affect the global supply chain for manufacturers and retailers of consumer products. The innovative 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.

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 the DTSC's product category selections:

- beauty, personal care and hygiene products (eg, body wash and soaps, deodorants, lip balms and gloss, lotions, ointments, haircare products, pomades, cosmetics and nail care products);
- clothing (eg, full body wear, lower body wear, upper body wear, sportswear, sleepwear and underwear);
- household, office furniture and furnishings (eg, bedding, seating/sofas and fabric and textile furnishings);
- building products: paints, adhesives, sealants and flooring (eg, 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 (eg, 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) (eg, printer inks, toner cartridges and specialty paper); and
- fishing and angling equipment (eg, fishing weights and gear).

The draft work plan identifies the [chemicals of concern](#) in each product category. For example, for beauty, personal care and hygiene products, the DTSC has identified phthalates, toluene, aldehydes, alkyl phenols and azo dyes, among other chemicals. However, the DTSC states that it is not limiting itself to regulating only those product or chemical pairings. It is expected to identify up to 10 priority products annually for regulation over the next three years.

In addition to its rulemaking process, the DTSC appears to be sending a message to the market to encourage manufacturers to reformulate their products before they are formally subject to regulation.

*For further information on this topic please contact [Peter Hsiao](#) at Morrison & Foerster LLP's Los Angeles office by telephone (+1 213 892 5200), fax (+1 213 892 5454) or email ([phsiao@mfo.com](mailto:phsiao@mfo.com)). Alternatively, contact [William F Tarantino](#) at Morrison & Foerster LLP's San Francisco office by telephone (+1 415 268 7000), fax (+1 415 268 7522) or email ([wtarantino@mfo.com](mailto:wtarantino@mfo.com)). The Morrison & Foerster website can be accessed at [www.mfo.com](http://www.mfo.com).*

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#### Authors

**Peter Hsiao**



**William F Tarantino**



**Lois Miyashiro**

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**Online Media Partners**



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