

CLIENT ALERT

Draft List of Priority Products Announced for California's Safer Consumer Products Program

Mar.13.2014

On March 13, 2014, California's Department of Toxic Substances Control (DTSC) released its preliminary list of the first three "Priority Products" to be targeted by the Safer Consumer Products Program. This regulation, which is described in detail in a client alert we published when the regulations were enacted in [October 2013](#), requires manufacturers, retailers, importers and assemblers ("Responsible Entities") to determine whether certain chemistries are necessary, or if there are "safer" alternatives, for the identified Priority Products.

Also known as the California Green Chemistry Initiative, the regulation is intended to "require manufacturers to seek alternative ingredients in widely used products, offering California industry the opportunity to lead the way in producing safer versions of goods in demand around the world." The scope of the regulation is broad and applies across the life cycle of affected products, including their design, manufacture, use, and disposal.

The first Priority Products proposed for regulation are:

- Children's foam sleeping articles containing chlorinated tris (TDCPP).
- Spray polyurethane foam systems with unreacted diisocyanates.
- Paint strippers, varnish removers and industrial strength surface cleaners containing methylene chloride.

This list will be finalized only after a regulatory rulemaking process, including a standard notice and comment period that will likely last a year or more. However, once the list of Priority Products is finalized, Responsible Entities will have only a few months to inform DTSC if they make or use one or more of the products, and how they intend to comply with the regulation. If these first Priority Products are on the final list, Responsible Entities may be required to identify and use safer alternatives, or remove the products from California's stream of commerce entirely.

It is important to note that primary responsibility for compliance rests with the manufacturers of the products. But if a manufacturer fails to fulfill its regulatory obligations, compliance duties cascade down the supply chain to importers, assemblers, and retailers. At this time, DTSC has not indicated that these parties will receive any additional time to comply if and when a manufacturer misses the initial reporting deadline. Therefore, all companies with any touch in California consumer products should use the coming months to determine whether they are involved with any of the initially-identified

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- [Draft List of Priority Products Announced for California's Safer Consumer Products Program](#)

Priority Products and scrutinize the next product categories to be released in October 2014. Developing an action plan now—before your product is on a final Priority Product list—could save a company substantial financial and other resources.

For more information on how the Priority Products list and California's Safer Consumer Products Program could affect your business, please see our March 13, 2014 webinar, [available online here](#), or contact one of the listed professionals.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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