

RetailLawBCLP

## CALIFORNIA CONSIDERS REGULATING FOOD PACKAGING UNDER GREEN CHEMISTRY INITIATIVE

Mar 23, 2018

As part of its Green Chemistry Initiative and the Safer Consumer Products (SCP) implementing regulations, California's Department of Toxic Substances Control (DTSC) has released its Draft Three Year Priority Product Work Plan (2018-2020). The Plan indicates that for the first time it will "address exposures from harmful chemicals that migrate from consumer products into food."

DTSC selected a total of seven product categories to include in the Plan. Five categories have been carried over from the 2015-2017 Plan:

- Beauty, personal care, and hygiene products
- Cleaning products
- Household, school, and workplace furnishings and décor
- Building products and materials used in construction and renovation
- Consumable office, school, and business supplies

DTSC has also added two additional categories – food packaging and lead-acid batteries. Clothing products and fishing and angling equipment, two of the product categories from the prior Plan, will not be evaluated under this Plan.

The Plan states that food packaging has been included as a product category due to concerns regarding exposure to Candidate Chemicals, known to be harmful to people or the environment. It identifies as Candidate Chemicals in food contact materials (1) Bisphenol A and Bisphenol S as a "constituent in plastic resin lining food and beverage cans," (2) perfluoroalkyl and polyfluoroalkyl substances that "create grease-proof and water-proof coatings for food packaging," (3) phthalates as plasticizers, and (4) styrene as a "constituent of polystyrene and rubber products."

Five NGOs (the Center for Environmental Health (CEH), Environmental Working Group (EWG), Clean Water Action (CWA), Breast Cancer Prevention Partners, and UpStream) submitted comments supporting the inclusion of food contact materials in the Plan.

Lead-acid batteries were also included as a product category, as a result of a law passed in 2016 by Governor Brown and the California Legislature.

Listing a product category in the Plan does not mean it is subject to regulation, or create any new legal obligations, but means only that DTSC intends to evaluate products within that category as potential Priority Products.

To date, only children's foam-padded sleeping products containing tris (1,3-dichloro-2-propyl) phosphate (TDCPP) or tris (2-chloroethyl) phosphate (TCEP) have been officially regulated as a Priority Product, effective July 1, 2017. Two other products are under consideration for regulation: spray polyurethane foam with unreacted MDI, and paint stripper with methylene chloride.

Priority Products are consumer products identified by DTSC that contain one or more Candidate Chemicals. Listing as a Priority Product requires manufacturers to conduct an Alternatives Analysis, in which manufacturers must consider potential alternative chemicals.

For questions, contact the author, or any member of our [Retail](#) or [Agribusiness & Food](#) teams.

## RELATED PRACTICE AREAS

- Food & Agribusiness

## MEET THE TEAM



### **Merrit M. Jones**

San Francisco

[merrit.jones@bclplaw.com](mailto:merrit.jones@bclplaw.com)

[+1 415 675 3435](tel:+14156753435)

---

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and

should not be based solely upon advertisements. This material may be “Attorney Advertising” under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP’s principal office and Kathrine Dixon ([kathrine.dixon@bclplaw.com](mailto:kathrine.dixon@bclplaw.com)) as the responsible attorney.