

PCPC meets with California legislators By Eric S. Engel

The Personal Care Products Council recently organized a lobbying day in California to advance the legislative interests of the industry. Led by PCPC Senior Vice President Government Affairs **Mike Thompson** and PCPC Director of Government Affairs **Karin Ross**, personal care product industry members, lobbyists and advisers heard presentations by pivotal regulatory agencies and then met with key legislators and their staffs to address issues of importance to the industry. Among the industry members in attendance were **Eric Schwartz**, vice president, legal, of **Coty Professional Beauty Division**; **Beth Percynski**, senior manager of state government relations at **The Procter & Gamble Company**; **Brian Heindl**, director of public affairs & government relations for **Henkel**; **Axelle Jeanneau**, regulatory affairs director for **Ivmh US Perfumes & Cosmetics**; and **Eric S. Engel** and **Aleen Tomassian** of **Conkle, Kremer & Engel, Professional Law Corporation**.

PCPC hosted a luncheon at which it presented its first Legislator of the Year Awards to congresspersons who have been the most effective in advancing the important interests of both business and consumers in relation to personal care products. Legislative staff also received an educational presentation from PCPC's new Chief Scientist, **Alex Kowcz**, to help bring to legislators the most current scientific information about issues affecting personal care products.

Highlights included a presentation by **Meredith Williams**, deputy director of the Department of Toxic Substances Control, and **Rick Brausch**, chief of DTSC's Policy and Program Support Division, Hazardous Waste Management. Dr. Williams advised that DTSC's SCP program intends to focus over the next three years on nail salon products, particularly to assure a safe working environment for salon employees and clients by assuring adequate ventilation and safety equipment. She also noted that Volatile Organic Compounds (VOCs) are not only within the ambit of California's Air Resources Board as to their effect on the environment, but they are also within the



from left: PCPC Senior Vice President Government Affairs Mike Thompson; Assembly member Rocky Chavez; Coty's Eric Schwartz.

scope of DTSC's authority when regulation can meaningfully protect human health.

In the DTSC's current draft 2018-2020 Priority Product Work Plan, "Beauty, Personal Care and Hygiene Products" are identified as targets for possible regulation. **Of concern to PCPC, the Priority Product Work Plan includes DTSC's interest in broad classifications of chemicals without defining exactly which chemicals in what formulations are of concern.** For example, DTSC's Priority Product Work Plan identifies oxybenzone, BPA, DEA, formaldehyde, phthalates, parabens, triclosan, titanium dioxide, toluene and VOCs as classes of chemicals being considered for regulation.

PCPC expressed its concern that broad classifications can cause confusion among manufacturers and consumers, and unnecessarily inhibit product development and sales. DTSC's **Richard Brausch** spoke of the hazardous waste logistics issues facing the personal care product industry, affecting the entire supply chain from manufacturers to retailers. The issue often occurs when products are returned from retailers, and questions arise as to whether they may be regarded as hazardous waste if they are no longer considered fit for regular sale. For example, when new product labeling is introduced, issues can arise as to who has responsibility for proper transportation and disposal of the products, whether by sale in secondary markets, repair or refurbishment, donation to charities or recycling. Improper transportation

and disposal have led some local authorities to sue retailers and wholesalers for failing to use hazardous waste transporters. That, in turn, has caused retailers to impose anticipatory disposal charges on manufacturers and wholesalers for a wide range of products. **PCPC supports legislation to place the onus on the disposal company, not the retailers, to determine the correct method of transportation.**

The overriding hazardous waste concern is that California uses an "aquatic toxicity" (aka "fish kill") test that is grossly out of alignment with federal law, and which results in most cosmetic products being characterized as hazardous under California law. The "fish kill" test presents a significant problem for the personal care products industry, which has taken a strong stand against animal testing. **PCPC therefore advocates a more modern approach to accomplish the same goal, by use of a more recently developed fish embryo test (FET)**, in which live fish are not killed. Further, the PCPC has been working to balance the strong interest in avoiding animal testing with balancing regulations to conform to those of the European Union and to make sure products remain acceptable for sale in countries that require testing on animals.

PCPC's first Legislator of the Year Awards were presented to **Senator Ed Hernandez**, **Assembly Member Bill Quirk** and **Senator Cathleen Galgiani**. Assemblyman Quirk addressed the need for common sense limitations on legislation such as Proposition 65.

Senator Hernandez emphasized, "We want business to stay here in California. We want businesses to be successful. There's a lot of people here who purchase your products."

Finally, Senator Galgiani observed, "It's not about having a proposal that's just good for the environment or just good for business. We can meet in the middle and have regulations and policies that work for both sides. All of you [at PCPC] have done a great job."

Eric S. Engel practices law with Conkle, Kremer & Engel, PLC in the Los Angeles area. Reach Eric at e.engel@conklelaw.com. For more details, visit conklelaw.com.