

SUMMARY OF THE NEW YORK STATE HOUSEHOLD CLEANSING PRODUCT INFORMATION DISCLOSURE PROGRAM

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IMPORTANT UPDATE

On August 27, 2019, the New York State Supreme Court invalidated the New York Department of Environmental Conservation Household Cleaning Product Information Disclosure Program (“Program”). Consequently, industry has been granted a reprieve for now and manufacturers do not need to comply with the Program by the January 2, 2020 deadline. ISSA will provide the membership with more information as it becomes available. For now, we are waiting to see how NYS will react to the court’s decision, and will share that information as it becomes available. In the meantime, we continue to provide this summary of the Program as published on 6/6/18.

I INTRODUCTION

On June 6, 2018, the New York State Department of Environmental Conservation (DEC) finalized the State’s Household Cleansing Product Information Disclosure [Program](#) (hereinafter “Program”) that requires manufacturers to disclose via the Web the ingredients of household and commercial cleaning products that are sold or offered for sale in New York State.

While the focus is on the disclosure of ingredients, the Program also requires additional information to be disclosed in conjunction with the ingredients, and imposes very particular requirements on how the information is to be posted to a manufacturer’s website. This summary is prepared specifically for the members of ISSA, and provides an overview of the following:

- Scope of products subject to disclosure
- Entities responsible for disclosing ingredient information
- Ingredient and other information that must be disclosed via the Web
- The particular manner in which the information must be posted to the Web

This summary is not a substitute for the actual text of the Program, but rather is intended to supplement the information provided by DEC, and in so doing provide guidance to the industry. ISSA members and others reviewing this document should do so in conjunction with the actual text of the [Program](#).

II SCOPE OF COVERAGE

This section will: define the scope of cleaning products subject to the ingredient disclosure requirements of the NYS Program; describe those product categories exempt from the Program; and discuss the entities that are responsible for such disclosure.

A. Products Subject to Disclosure under the Program. A critical first step in your compliance journey is defining the cleaning products that are subject to the ingredient disclosure requirements of the Program.

A cleaning product is subject to the Program if: 1) it meets the statutory definition of a “household cleansing product”; and 2) it is distributed, sold or offered for sale in New York State.

1. Household Cleansing Product. Pursuant to New York State Environmental Conservation Law (ECL) §35-0103 and 6 NYCRR Part 659.1, a “household cleansing product” is defined as:

“...any product, including but not limited to soaps and detergents, containing a surfactant as a wetting or dirt emulsifying agent and used primarily for domestic or commercial cleaning purposes, including but not limited to, the cleansing of fabrics, dishes, food utensils and household and commercial premises.”

It is clear from this definition that a cleaning product meets the definition of “household cleansing product” if it meets all the following criteria:

- Contains a surfactant as a wetting or dirt emulsifying agent,
- Is intended for cleaning purposes,
- Is intended to be used in either household or commercial premises

Note: the term “**commercial premises**” is defined to mean any premises used for the purpose of carrying on or exercising any trade, business, profession, vocation, or commercial or charitable activity, including but not limited to laundries, hospitals, and food or restaurant establishments.

2. Distributed, Sold or Offered for Sale in New York State. To be subject to the disclosure requirements of the Program, a household cleansing product must also be “distributed, sold or offered for sale in New York State.”

In turn, this phrase is defined as “...products offered for sale at retail and wholesale or distributed for promotional purposes, including but not limited to products offered for sale via the phone, catalog, or the internet from the manufacturer, its authorized distributors or representatives, or authorized third parties.”

3. Examples of Covered Product Categories. The following list is illustrative (but not exhaustive) of the cleaning product categories that are subject to the Program’s ingredient disclosure requirements:

- Bleach (non-EPA registered)
- General purpose cleaners
- Descalers
- Detergent boosters
- Dishwashing detergent (automatic and hand)
- Drain treatments

- Laundry detergent
- Surface cleaners
- Stain removers
- Toilet bowl cleaners

B. Products Not Subject to Disclosure Requirements of the Program. The term, “household cleansing product” does not include: “...foods, drugs, cosmetics, insecticides, fungicides and rodenticides or cleansing products used primarily in industrial manufacturing, production and assembling processes as provided by the commissioner by rule and regulation.” As a consequence, these products are NOT subject to the ingredient disclosure requirements of the Program.

1. Exemption for Foods, Drugs and Cosmetics. “Foods, drugs, cosmetics and personal care items” are excluded from the definition of “household cleansing product” and are therefore NOT subject to the ingredient disclosure requirements. This exemption applies to:

- Hand sanitizers or sanitizing body washes
- Toothpaste
- Shampoo
- Hand soap

2. Exemption for Pesticides. In addition, the Program specifically excludes “pesticides” from the definition of “household cleansing product” and therefore this product category is also exempt from the ingredient disclosure requirements. More specifically, the following categories of EPA registered pesticides are illustrative of those product categories that are exempt:

- Disinfectants intended for use on inanimate surfaces
- Sanitizers intended for use on inanimate surfaces
- Fungicides
- Algicides
- Mildewicides

3. Exemption for Products Used Primarily in Industrial Processes. Products that are intended to be used primarily in industrial manufacturing, production, and assembling processes are also excluded from the definition of “household cleansing product”, and therefore are not subject to the ingredient disclosure requirements. For example, a product that is intended primarily for use as a cleaner of the ink jets used in a packaging manufacturing process would be exempt from the NYS ingredient disclosure requirements.

C. Who Must Disclose. Under the Program the **manufacturer** has primary responsibility for disclosing ingredients in covered products. Please note, however, that the Program defines “manufacturer” in such a manner as to also include **private label distributors** in addition to “traditional” manufacturers.

Specifically, “manufacturer” is defined by the Program as:

- Any person, firm, association, partnership, limited liability company, or corporation which either **produces, prepares, formulates, or compounds** a covered product and whose name appears on the product label; or
- Any person, firm, association, partnership, limited liability company, or corporation which **distributes** a covered product, and is identified on the product label as the person or entity for whom the product is manufactured pursuant to the federal Fair Packaging and Labeling Act.

From the perspective of NYS DEC, if there is reason to question a product’s compliance with the disclosure requirements, the official inquiry will typically start with the entity whose name appears on the label (i.e., private label distributor, manufacturer).

D. Method of Disclosure. NYS DEC requires the ingredient and other information that must be disclosed under the Program to be disclosed on the manufacturer’s “main website” that is used to communicate with customers. The information must be posted in a manner that is “obvious, noticeable, and readily accessible.” See the §III below for a discussion regarding how the information must be posted to meet the Program’s requirements.

Please note that the Program does not require disclosure on the product label.

III HOW INFORMATION MUST BE DISCLOSED ON WEBSITE

In addition to very detailed requirements about the information that must be disclosed, the Program sets forth very specific requirements regarding how that information must be displayed on the manufacturer’s website. This section summarizes what NYS DEC refers to as the “posting parameters.”

A. Manufacturer’s Main Website. All required information must be posted on the manufacturer’s main website that it uses to communicate with its customers.

- In the alternative, the information may also be posted on a separate website provided such site is no more than one “click” away from the home page of the main website (i.e., the home page of main website should contain a direct link to the separate website).
- Web page on which information is posted should be no more than four “clicks” away from the home page of the website on which it is posted.
- The main web page used by the manufacturer to provide marketing information on a product should either contain the information disclosed under this program or include a direct link to the web page containing such information.

B. Readily Accessible. All information required to be disclosed under the Program must be posted in a form that is “readily accessible” to all users.

- Users must not be required to register or provide personally identifiable information in order to gain access.
- Access to information must not be limited through the use of CAPTCHA or similar challenge-response test technologies, visual, auditory, or otherwise.
- Information required to be disclosed under the Program must not be restricted from indexing by search engines such as Google or Bing.

C. Machine Readable. All information required to be disclosed under the Program must be machine readable by automated systems, including, but not limited to, web browsers, accessibility software to aid the disabled, automated scripts, and other software programs or applications. Studies or research required to be disclosed under “Effects on Human Health and the Environment” (See Section IV(E) of this document) are exempt from this requirement.

D. Web Content Accessibility Guidelines (WCAG). All information required to be disclosed under the Program must conform to the most current WCAG version adopted by the WCAG Working Group of the World Wide Web Consortium. Studies or research required to be disclosed under “Effects on Human Health and the Environment” are exempt from this requirement.

E. Language. Information required to be disclosed under the Program must be in English. Posting the information in additional languages is encouraged but not required.

F. Similar Formulations. Products with similar but different ingredient formulations (i.e., different fragrance ingredients) should be listed as separate products. On the other hand, products with identical formulations, but in different size packages, may be listed as one product.

G. Miscellaneous.

- Each category of information required to be disclosed under the Program should be posted in close proximity to all other required categories on one web page, including but not limited to the manufacturer’s name and contact information.
- “Pop ups” or one click links to a separate web page are acceptable as long as they conform to the requirements regarding accessibility and machine readability describe above.
- Marketing language may be posted on the same web page, but it may not be inserted between the statement regarding “Extent of Disclosure” (discussed below in §IV(C)) and the list of product ingredients as described under “CAS Number and Chemical Name” discussed in the §IV(D)(2) below, and should not interfere with any required information entries.
- A link to the [Program](#) policy document should be provided in order to provide more context and information regarding commonly used terms.

IV INFORMATION TO BE DISCLOSED

In addition to ingredients, the Program requires other information to be disclosed on the manufacturer’s website including manufacturer information, product information, a declaration of the “extent of disclosure”, and certain studies or research related to environmental impact and human health effects. Moreover, the Program requires the disclosure of intentionally added ingredients as well as “nonfunctional ingredients” according to the particulars set forth in this section.

Please note that the Program provides manufacturers with the ability to protect the identity of certain ingredient information that is considered to be “confidential business information” (CBI) as discussed in §V of this document below.

In addition, the information required to be disclosed under the Program may be disclosed in a Safety Data Sheet (SDS) for the product provided it is posted on the manufacturer’s website and meets all the requirements of the Program including but not limited to being fully accessible and machine readable.

A. Manufacturer Information

1. Company Information. The Program requires that the complete name of the manufacturer and the “final domestic distributor” of the product be displayed as <H1> or <H2> hypertext markup language (HTML) heading.

“Final domestic distributor” is defined as “any person, firm, association, partnership, limited liability company, or corporation which distributes a covered product and is identified on the product label as the person or entity for whom the product is manufactured pursuant to the Federal Fair Packaging and Labeling Act.”

Please note that “manufacturer” is defined in the context of the Program as including private label distributors—Please see §II(C) of this document for definition of manufacturer.

Note further that the name of a manufacturer or a distributor may be withheld as confidential business information (CBI). However, the name of at least one (manufacturer or distributor) must be disclosed. This entity will be the one NYS DEC will consider responsible for the information disclosed.

If the company that is disclosed is a subsidiary, include the name of the parent company. However, the parent company need not be disclosed if the subsidiary is the entity whose brand name appears on the website on which information is posted pursuant to the Program, and whose brand name appears on the product label.

2. Responsible Individual. The company must disclose the name, title, email address, toll-free telephone number and mailing address of a staff person or customer service department trained to work with the public and help consumers obtain the most up to date ingredient information in the most efficient manner.

This information may be provided on a separate webpage provided that a one-click link to the information is provided with clear direction regarding how the public can learn more about a product’s ingredients. Answers to inquiries should be provided in no more than ten business days.

B. Product Information. The Program requires that the entity disclosing information provide the following information related to the product generally.

- The product name as it appears on the label of the product should be displayed as an <H1> or <H2> HTML heading.
- If the product has a unique UPC, it should be displayed as an <H1> or <H2> HTML heading.
- If applicable, the product’s category (i.e., the “brick” level of the GS1 Global Product Classification (GPC) standard—see Appendix A of the Program [Policy](#)).
- A description of the product, including its use and form (i.e., liquid, foam, aerosol, etc.). A digital picture of the product packaging and label may be used to satisfy this requirement provided it conforms with all of the requirements regarding accessibility and machine readability described in Section III above.

C. Level or Extent of Disclosure. The Program requires that manufacturers essentially declare the level or extent of their disclosure regarding a product’s ingredients in a unique manner as specified in the [Program](#) at p. 15, and discussed below in this paragraph C.

The level of disclosure provided for a product’s ingredients must be prominently and clearly displayed under the heading “Level of Disclosure” coded as an <H1> or <H2> HTML heading. It should appear just prior to and on the same web page as the heading “Ingredients”.

The [Program](#) specifies a particular “hierarchy of disclosure” format to be followed in communicating the level of disclosure for: i) non-fragrance ingredients (i.e., intentionally added ingredients and nonfunctional ingredients); and ii) fragrance ingredients.

The format for disclosure is reprinted below, and should be displayed in a similar fashion by the manufacturer on its website. In addition, the “box” representing the “highest level of disclosure” that applies to the product must be “checked”.

Hierarchy of Non-Fragrance Ingredients Disclosure Levels

- **Level 1: Full Disclosure of All Intentionally Added and Nonfunctional Ingredients.** All known intentionally added ingredients are disclosed, including those present in trace quantities. All known nonfunctional ingredients are disclosed, including any present in trace quantities that appear on one or more of the “lists of chemicals of concern” set forth in Appendix B of the [Program](#).
- **Level 2: Full Disclosure of All Intentionally Added Ingredients.** All intentionally added ingredients are disclosed, including those present in trace quantities. One or more nonfunctional ingredients are withheld as confidential business information.
- **Level 3: Partial Disclosure of Intentionally Added Ingredients.** One or more intentionally added ingredients are withheld as CBI. All nonfunctional ingredients are disclosed, or one or more are withheld as confidential business information.

Hierarchy of Fragrance Ingredients Disclosure Levels

- **Level 1: Full Disclosure of All Fragrances.** All fragrance ingredients are disclosed, including those present in trace quantities.
- **Level 2: Partial Disclosure of Fragrances; Master List Provided.** One or more fragrance ingredients are withheld as confidential business information, but a master list of either all fragrance ingredients used by the manufacturer, or of all fragrance ingredients used in a category of the manufacturer’s designated consumer products is provided which includes all ingredients withheld.
- **Level 3: Partial Disclosure of Fragrances; No Master List Provided.** One or more fragrance ingredients are withheld as confidential business information, and no master list of fragrance ingredients used by the manufacturer is provided.
- **Level 4: No Disclosure of Fragrances; Master List Provided.** All fragrance ingredients are withheld as confidential business information, but a master list of either all fragrance ingredients used by the manufacturer, or of all fragrance ingredients used in a category of the manufacturer’s designated consumer products is provided which includes all ingredients withheld.
- **Level 5: No Disclosure of Fragrances; No Master List Provided.** All fragrance ingredients are withheld as confidential business information, and no master list of fragrance ingredients used by the manufacturer is provided.

D. Ingredients. In general, all “**intentionally added ingredients**” in a covered product must be disclosed including those present in trace quantities, unless their Chemical Abstracts Service Registry Number (CASRN) and specific chemical name are withheld as Confidential Business Information (CBI)—see discussion at Section V. “Trace quantity” of an intentionally added ingredient is defined as an incidental amount which is part of the cleaning product formulation, and does not exceed 0.1% of the contents of the product by weight.

All “**nonfunctional ingredients**” present above trace quantities must be disclosed if the “manufacturer knows of such constituents”, unless their CASRN and specific chemical names are withheld as CBI. For nonfunctional ingredients, “trace quantity” is defined as an incidental amount which is not part of the cleaning product formulation, is present only as an unintentional consequence of manufacturing, and does not exceed 0.5% of the content of the product by weight.

Nonfunctional ingredients present in trace quantities must be disclosed if the manufacturer “knows of such ingredients” as follows:

- **Trace nonfunctional byproducts** that are present below trace levels but at or above the practical quantitation limit must be disclosed if it appears on one or more of the lists of chemicals of concern in Appendix B of the [Program](#). (CASRN and specific chemical name may be withheld as CBI.)
- **Trace nonfunctional contaminants** that are present below trace levels but at or above the practical quantitation limit or the applicable threshold for disclosure (whichever is

higher) must be disclosed if it appears on one or more of the lists of chemicals of concern in Appendix B of the [Program](#). (CASRN and specific chemical name may be withheld as CBI.) (See p.12 of the [Program](#) for a discussion of “applicable threshold for disclosure”.)

- **Trace nonfunctional ingredients not present on a chemical of concern list** that are present below trace levels do NOT need to be disclosed.
- **Trace nonfunctional contaminants present in a public water supply system** that is regulated by the federal Safe Drinking Water Act and which serves more than 10,000 people need NOT be disclosed if it is present in a product solely due to its presence in water drawn from the public water system, AND the name of such water system, its location, and its unique facility identification code is provided to NYS DEC.

Disclosure. All information required to be disclosed under the ingredient category should be “posted in close proximity to each other”, and posted consistent with the guidance provided below.

1. General. NYS DEC encourages the use of “some type of table” in displaying the ingredient information, but it is not required. In addition, NYS offers the following guidance:

- “Pop ups” or one click links to a separate web page are acceptable methods provided they conform with all of the requirements set forth in §III above related to “posting parameters” regarding accessibility and machine readability.
- Manufacturers may group ingredients separately in the following categories, provided all ingredients are included in one list (or may intermingle the categories as appropriate): i) intentionally added ingredients; ii) fragrance ingredients; iii) nonfunctional byproducts; and iv) nonfunctional contaminants.

2. CAS Number and Chemical Name. The following information must be disclosed for all ingredients unless such information is not available, not known, or withheld as Confidential Business Information (CBI). (NOTE: If information is not provided because of these reasons, the reason for it not being provided should be indicated as follows: “not available”; “not known”; or “withheld as CBI”).

All such information should be provided under the phrase “ingredients” displayed as an <H1> or <H2> HTML heading.

If an ingredient has a Chemical Abstracts Service Registry Number (CASRN), it should be disclosed, unless withheld as CBI. If multiple CASRNs are associated with an ingredient, all known CASRNs should be listed.

NYS DEC has indicated that ingredient disclosure is to be made consistent with a hierarchy of nomenclature systems as described below.

- Prior to July 1, 2020: a name from any one of the nomenclature systems listed below may be used for disclosure.
- On or after July 1, 2020: The name of an ingredient **must be disclosed pursuant to the following hierarchy of nomenclature systems** (unless the ingredient info

is being withheld as CBI)—i.e., if a name is available in the “highest ranked system”, then that name should be used; if a name is not available in a higher ranked system, a name should be used from the next highest ranked system.

- Consumer Specialty Products Association Consumer Product Ingredients Dictionary, or the International Nomenclature of Cosmetic Ingredients
- International Union of Pure and Applied Chemistry nomenclature
- Chemical Abstracts Index
- Common chemical name, or genus and species for biobased ingredients

3. Percentage of Content by Weight. Actual weight percentages of any listed ingredient do NOT need to be disclosed. Instead, intentionally added ingredients and nonfunctional ingredients should be:

- Listed in descending order of predominance by weight in the product, EXCEPT
- Intentionally added ingredients or nonfunctional ingredients present at a weight below one percent (1%) may be listed following the other ingredients without respect to the order of predominance by weight.

4. Presence on a List of Chemicals of Concern. If an ingredient in a product is present on one or more of the lists of chemicals of concern set forth in Appendix B of the [NYS Program](#), then the manufacturer must disclose this fact regardless if the specific ingredient name or other information about the ingredient is being withheld as CBI.

Manufacturers must “clearly and unequivocally” disclose the fact that an ingredient appears on a list of chemicals of concern in the same location where the ingredient appears on the list of ingredients provided in the section on “CAS Number and Chemical Name” (discussed above) using one of the following approaches, terms or phrases:

- Presentation of ingredients and any lists they appear on in table form, with the short name of the list provided in a column next to the ingredient column with the heading “Lists of Chemicals of Concern”, “Chemicals of Concern”, or “COC”.
- “Present on [SHORT NAME OF COC LIST] list.”
- “Present on list of chemicals of concern.”
- “Chemical of concern”
- “COC”

If the abbreviation COC is used, a key providing a definition of what it means must be provided between the heading and the start of such ingredient list so that the meaning of the term is apparent to a reader prior to list review.

The above referenced formats are the only methods that may be used to denote a chemical is on such a list of concern—no other formats may be used such as asterisks, or distinctive font appearances or colors.

The fact that an ingredient appears on the CA Prop 65 list referenced in Appendix B of the [Program](#) need not be disclosed until January 1, 2023.

Each list of chemicals of concern on which an ingredient appears should be listed together in a single location for each ingredient in close proximity to the ingredient as it appears on the list of ingredients posted by the manufacturer pursuant to the Program. Manufacturers should use the “short name” of the list of chemicals of concern provided and highlighted in bold in Appendix B of the [Program](#), and a link to the referenced list should be provided. “Pop ups” or one click links to a separate web page are acceptable provided they conform with all of the requirements regarding accessibility and machine readability listed in Section III.

5. Nanoscale Materials. For each disclosed ingredient that meets the definition of a nanoscale material, the manufacturer must describe the ingredient as nanoscale material. For example, if the nanoscale material is carbon, the disclosure should use the term “nanoscale” carbon.

A nanoscale material is a chemical substance that meets the TSCA definition of a “reportable chemical substance” manufactured or processed at the nanoscale. The TSCA definition of nanoscale provides, in part, that a “...reportable chemical substance is a chemical substance as defined in Section 3 of TSCA that is solid at 25°C and standard atmospheric pressure, that is manufactured or processed in a form where any particles including aggregates and agglomerates, are in the size of 1 – 100 nanometers in at least one dimension, and that is manufactured or processed to exhibit unique and novel properties because of its size. A reportable chemical substance does not include a chemical substance that is manufactured or processed in a form where less than 1% of any particles, including aggregates and agglomerates, measured by weight are in the size range of 1 – 100 nanometers.” (See 40 CFR §704.20(a))

6. Role or Function of the Ingredient. Manufacturers must describe the functional purpose of its intentionally added ingredients. Such descriptors include, but are not limited to, “surfactant”, “colorant”, “fragrance”, “preservative”, etc. Nonfunctional ingredients should be labeled as “nonfunctional ingredient”, or may be described as “nonfunctional byproduct” or “nonfunctional contaminant”, as appropriate.

E. Effects on Human Health and the Environment. Manufacturers must post information on their websites regarding the “nature and extent of investigations and research performed directly by or at the direction of the manufacturer concerning the effects on human health and the environment” of the covered products or the chemical ingredients of such products.

The “machine readability” and Web Content Accessibility requirements (discussed in Section III) do not apply to the posting of such information.

Such information should be provided under the phrase “Effects on Human Health and the Environment” displayed as an <H1> or <H2> HTML heading and be posted in close proximity to all other categories of information required under this § IV.

This information should be grouped by ingredient where applicable and must include:

- Any health and safety studies as defined by TSCA
- Any investigations or research performed by or for the manufacturer and submitted to the European Chemicals Agency pursuant to REACH
- A link to the SDS for the product
- A list of any of the GHS hazard characteristics which apply to the covered product

F. Date of Disclosure. Lastly, manufacturers should provide the most recent date on which the information was posted or provided.

V CONFIDENTIAL BUSINESS INFORMATION

The New York State Department of Environmental Conservation's Household Cleansing Product Information Disclosure Program (Program) allows manufacturers to withhold certain ingredient information if it is considered to be a trade secret or confidential business information (CBI).

Where information is withheld from the public as CBI, it must be indicated or otherwise displayed as part of the obligation to communicate the "extent of disclosure" as discussed in Section IV(C) of this document. However, the information being withheld should not be submitted to NYS DEC or posted on a manufacturer's website.

A manufacturer that withholds information as CBI should maintain the justification for withholding such information consistent with 6 NYCRR 616.7 (i.e., if the CBI were disclosed it would cause substantial injury to the manufacturer's competitive position, etc.). Manufacturers must provide DEC with that justification upon request.

Suppliers to manufacturers may also raise a CBI claim. A supplier to a manufacturer that protects an intentionally added ingredient or nonfunctional ingredient as CBI should also maintain its justification for withholding such information. In this event, the manufacturer should use the generic name provided by the supplier and provide the supplier's contact information to DEC upon request.

A. What Must Be Disclosed When Protecting Ingredient Information as CBI. While the Program is intended to protect CBI, certain information must still be disclosed by the manufacturer.

A manufacturer may protect the identity of an ingredient or a combination of ingredients as CBI by not disclosing the specific name of the chemical or chemicals being protected. However, in this event, the manufacturer must still disclose the **generic name** for the ingredient(s) as provided in the federal Toxic Substances Control Act (TSCA) Confidential Inventory.

If the ingredient(s) is not included in the TSCA Confidential Inventory, the manufacturer should use a name for such ingredient(s) that is only as generic as necessary to protect the confidential identity of such ingredient(s). In developing the generic name, the manufacturer should use the generic name framework provided by the U.S. EPA guidance for the TSCA Confidential

Inventory, the European Chemicals Agency guidance for alternative chemical names, the New Jersey Trade Secret Registry Number system, or the Canadian Hazardous Materials Information Review Act Registry Number system, if applicable.

Ingredients for which a more specific name is being withheld as CBI should each be listed separately using their **functional name**. For example, if the specific identity of four surfactant ingredients are being withheld as CBI, the disclosure should list four repetitions of the word “surfactant”.

B. What Must Be Disclosed When Protecting Fragrance Information as CBI. In regard to fragrances, one or more fragrance ingredients may be withheld as CBI in order to protect a proprietary blend of such ingredients.

In addition, any fragrance ingredient that is being withheld as CBI and that is present in a product below a concentration of 100 ppm (and which is not on a list of chemicals of concern named in Appendix B of the Program), may be grouped together with other fragrance ingredients meeting such criteria and disclosed as “**fragrance ingredients**” instead of listing each withheld ingredient separately. In this event, the range of the number of fragrance ingredients withheld should be indicated as follows: 1-5; 5-10; 10-25; 25-50; 50-100; or over 100.

If the identify of fragrance ingredients is being withheld as CBI, it is recommended that manufacturers disclose a master list of ingredients found in the fragrances used in their products or a category of their products. Where such a list is provided, the disclosure should indicate that the fragrance ingredients whose specific names are being withheld are included on the list.

If the identify of fragrance ingredients is being withheld as CBI but a master list of fragrances used by a manufacturer is not provided, manufacturers should disclose whether a fragrance ingredient being withheld as CBI is included in the list of fragrance ingredients created by the International Fragrance Association (IFRA) and available on IFRA’s website (along with a link to such website).

Note: If the specific identify of an ingredient or fragrance is being withheld as CBI, if such an ingredient is present on any of the lists of chemicals of concern in Appendix B of the Program, the manufacturer must disclose that information.

VI EFFECTIVE DATES AND UPDATES

A. July 1, 2019. Effective **July 1, 2019**, manufacturers must post all required information listed below. Please note that the effective date is **July 1, 2020** for manufacturers that are independently owned and operated and employ 100 or less persons.

- Intentionally added ingredients other than fragrance ingredients; and
- Nonfunctional ingredients present above trace quantities.

NOTE: NYS DEC announced that it will NOT enforce the July 1, 2019 milestone date for disclosure until January 2, 2020. The delay in enforcement is due to a lawsuit filed by industry groups against this rulemaking by NYS DEC.

B. July 1, 2020. Effective July 1, 2020, manufacturers must post the following ingredient information:

- Fragrance ingredients; and
- Nonfunctional byproducts listed in Appendix D of the [Program](#) present at or above 100 ppm, except for 1,4 dioxane, which should be reported at or above 350 ppt, and PFOA and PFOS, which should be reported at a combined level at or above 70 ppt; and
- Nonfunctional contaminants listed in Appendix D present at or above 100 ppm, except for 1,4 dioxane, which should be reported at or above 350 ppt, and PFOA and PFOS, which should be reported at a combined level at or above 70 ppt

C. January 1, 2023. Manufacturers must post all required information for the following ingredients by January 1, 2023:

- Nonfunctional byproducts which appear on one or more of the lists of chemicals of concern named in Appendix B and which are present at or above the practical quantitation limit; and
- Nonfunctional contaminants which appear on one or more of the lists of chemicals of concern in Appendix B and are present at or above the thresholds described in Section V(A)(3) of the [Program](#).

D. All Other Information. All other required information should be posted by July 1, 2019 with the following exceptions:

- Information regarding investigations and research concerning effects on human health and the environment should be posted by July 1, 2020.
- Information regarding Category 3 of GHS Skin Irritants and GHS Aquatic Toxins should be posted by July 1, 2020.

E. Updates. Manufacturers should update their disclosure each time the ingredients in a product are changed, a new product is introduced to the market, or a list of chemicals of concern is changed to include an ingredient present in any of their products. Disclosure updates related to a change to a list of chemicals of concern should be made no later than 6 months after the adoption of the revised list.

Legacy data for discontinued products should be posted for two years after the product is discontinued.

All other disclosed information, should be reviewed at a minimum once every two years and disclosures updated as necessary.

A Disclosure Certification Form must be submitted to DEC on-line, in machine readable format, upon the effective dates listed above and every two years thereafter.

In addition, an updated Disclosure Form must be submitted on-line in machine readable format to DEC within two months of a new product entering the market, or a URL change for a current disclosure. In this case, the Form may be an update and only needs to include information on the new product or revised URL.