

# **Cleansing Product Information Disclosure Program Recommended Best Management Practices**

## **Purpose and Background:**

This document provides recommended best management practices (BMPs) for cleaning product information disclosure.

6 NYCRR Part 659.6, authorized by ECL Article 35, requires that “manufacturers of household cleansing products distributed, sold, or offered for sale” in New York State shall furnish to the Commissioner of the Department of Environmental Conservation “such information regarding such products as the Commissioner may require, in such form as may be prescribed by the Commissioner.” Information to be disclosed includes, but is not limited to, “a list naming each ingredient,” “the content by weight of each ingredient,” and “the nature and extent of investigations and research performed by or for the manufacturer concerning the effects on human health and the environment of such product[s] or such ingredients.” The regulation allows for Confidential Business Information (CBI) to be withheld from disclosure.

The NYS Supreme Court declared DEC’s Program Policy on Household Cleansing Product Information Disclosure, meant to implement the existing statute and regulation, null and void. The Department maintains these recommended BMPs as it moves forward to implement the statute and regulation.

DEC has determined that the most efficient, cost effective and accessible way for manufacturers to provide information regarding household cleansing products sold in New York State is on the manufacturer’s website in a manner that is obvious, noticeable and readily accessible, via the internet, to both DEC and the public.

## **Recommended BMPs:**

### **A. FORM OF DISCLOSURE**

#### **1. Posting Parameters**

All information should be posted on the manufacturer's main website, domain name or URL used to communicate with consumers, or on a separate website, domain name or URL. Such site should be no more than one “click” away from the home page of the manufacturer’s main website. In other words, the home page of the manufacturer’s main website should contain a direct link to the separate website.

The 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 or contain a direct, one “click,” link to the web page containing such disclosed information.

All information should be posted in a form that is readily accessible to all users. Users should not be required to register or provide personally identifiable information in order to gain access. Access to information should not be limited through the use of CAPTCHA or similar challenge-response test technologies, visual, auditory, or otherwise. Information disclosed should not be restricted from indexing by search engines, such as Google and Bing.

All information should 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. Research documents can be posted as PDFs but should strive to meet these recommendations to the maximum extent practicable.

All posted information should conform to the most current version of the Web Content Accessibility Guidelines (WCAG) adopted by the WCAG Working Group of the World Wide Web Consortium. Version 2.0 of the WCAG has been adopted as a standard by the International Organization for Standardization (ISO) (ISO/IEC 40500:2012). WCAG Guideline 4.1, “Maximize compatibility with current and future user agents, including assistive technologies,” describes how to validate conformance with the Guidelines. Technologies that prevent data from being machine read or browsed are not acceptable. Research documents can be posted as PDFs but should strive to meet these accessibility recommendations to the maximum extent practicable.

Information should be posted in English. Posting information in multiple additional languages, including Spanish and the other ten most common languages spoken in the United States, is encouraged.

Products with different ingredient formulations, for example, different fragrance ingredients, should be listed as separate products. Products with identical ingredient formulations, but in different size packages, can be listed as one product.

## **2. Covered Products and Definitions**

Pursuant to ECL §35-0103 and 6 NYCRR Part 659.1, cleansing products covered by the program include but are 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.”

Retail products which meet this definition and are classified under the GS1 global product classification (GPC) system brick codes listed in Appendix A are covered by the program, as well as any retail products, commercial products or institutional products

which meet this definition, and which would fall under those GS1 brick categories if they were classified under the system.

Pursuant to ECL §35-0103, commercial premises covered by the program include “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.”

Pursuant to 6 NYCRR Part 659.1, the program does not cover “foods, drugs and cosmetics, including personal care items such as toothpaste, shampoo and hand soap;” “products labeled, advertised, marketed and distributed for use primarily as pesticides, as defined in Article 33 of the Environmental Conservation Law;” or “cleansing products used primarily in industrial manufacturing, production and assembling processes.”

For purposes of this program, the following terms have the following meanings:

“Distributed, sold or offered for sale in New York State” includes 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, a catalog, or the internet from the manufacturer, its authorized distributors or representatives, or authorized third parties. It does not include products offered for re-sale at second hand stores, thrift shops or garage sales.

“Final domestic distributor” includes 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.

“Fragrance ingredient” means any intentionally added substance or complex mixture of aroma chemicals, natural essential oils, or any other functional ingredient or ingredients for which the sole purpose is to impart an odor or scent, or to counteract an odor.

“Industrial manufacturing, production and assembling processes” include, but are not limited to, oil and gas production, steel production, heavy industry manufacturing, industrial water treatment, industrial textile maintenance and processing other than industrial laundering, and food and beverage processing and packaging.

“Intentionally added ingredient” means a chemical that a manufacturer has intentionally added to a covered product and that has a functional or technical effect in the finished product, including, but not limited to, the components of intentionally added fragrance ingredients and colorants, and the intentional breakdown products of an added chemical that also have a functional or technical effect on the finished product.

“Manufacturer” includes 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 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. In the case of a product imported into the United States, "manufacturer" includes the importer or first domestic distributor of the product if the entity who currently manufactures the product or whose brand name is affixed to the product does not have a presence in the United States.

"Nonfunctional ingredient" means an ingredient, impurity, or contaminant present in a covered product as an unintentional consequence of manufacturing and which has no functional or technical effect on the finished product. The term includes two mutually exclusive subcategories. (1) "Nonfunctional byproduct" is a chemical which (a) was added during the manufacturing process at any point in a product, a raw material, or an ingredient's supply chain, but which has no functional or technical effect in the finished product, or (b) was created or formed during the manufacturing process at any point in a product, a raw material, or an ingredient's supply chain, but which has no functional or technical effect in the finished product. It includes, but is not limited to an unreacted raw material, a breakdown product of an intentionally added ingredient or a byproduct of the manufacturing process. (2) "Nonfunctional contaminant" is a chemical present in the environment as a contaminant which was introduced into a product, a raw material, or a product ingredient at any point in a product, a raw material, or an ingredient's supply chain, as a result of the use of an environmental medium, such as a naturally occurring mineral, air, soil or water, in the manufacturing process.

"Practical quantification limit (PQL)" means the lowest concentration that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness, and comparability during routine laboratory operating conditions. This value is based on scientifically defensible, standard analytical methods. The value for a given chemical could be different depending on the matrix and the analytical method used.

### **3. Confidential Business Information and Extent of Disclosure**

Confidential business information (CBI) is any record(s) which would be exempt from disclosure as either a trade secret or confidential commercial information pursuant to 6 NYCRR 616.7. Where information is submitted to DEC and is to be withheld from the public as CBI, the extent of disclosure should be displayed as described under "Extent of Disclosure" below. A manufacturer that withholds information as CBI should maintain the justification for withholding consistent with 6 NYCRR 616.7. DEC will follow the procedures set forth at 6 NYCRR 616.7 concerning the evaluation of trade secrets and confidential commercial information exemptions when evaluating CBI claims.

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 maintain justification for withholding consistent with 6 NYCRR 616.7. The manufacturer should use the generic name provided by the supplier.

A manufacturer that protects an ingredient or a combination of ingredients as confidential business information by declining to disclose the specific name of the chemical or chemicals being protected should use the generic name for the ingredient or combination of ingredients as provided in the federal Toxic Substances Control Act (TSCA) Confidential Inventory.

If the ingredient or combination of ingredients is not included in the TSCA Confidential Inventory, the manufacturer should use a name for such ingredients that is only as generic as necessary to protect the confidential identity of such ingredient. In developing the generic name, the manufacturer should use the generic name framework provided by the federal Environmental Protection Agency (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 four surfactant ingredients are being withheld, the disclosure should list four repetitions of the word “surfactant.”

Any fragrance ingredient present in a product below a concentration of 100 parts per million (ppm), which does not appear on any of the lists of chemicals of concern named in Appendix B, can be grouped together with other such fragrance ingredients and disclosed as “fragrance ingredients” in lieu of listing each withheld ingredient separately. In such cases, 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.

Where fragrance ingredients are being withheld, 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.

Where fragrance ingredients are being withheld and 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. A link to IFRA’s website should also be provided.

Whether or not information about an ingredient is being withheld as CBI, the presence of an ingredient on one or more of the lists of chemicals of concern named in Appendix B should be disclosed, as described in more detail in “Presence on a List of Chemicals of Concern”.

All intentionally added ingredients in a covered product should be disclosed, including those present in trace quantities even when their Chemical Abstracts Service Registry

number (CASRN) and specific chemical name is withheld as CBI. For intentionally added ingredients, “trace quantity” is defined in 6 NYCRR Part 659.1(b)(1)(ii) as “an incidental amount which is part of the household cleansing product formulation, and does not exceed one tenth of one percent (0.1%) of the contents of the product by weight.”

All nonfunctional ingredients present above trace quantities should be disclosed where the manufacturer knows of such constituents even when their CASRN and specific chemical name is withheld as CBI. For nonfunctional ingredients, “trace quantity” is defined by 6 NYCRR Part 659.1(b)(1)(i) as “an incidental amount which is not part of the household cleansing product formulation, is present only as an unintentional consequence of manufacturing, and does not exceed one half of one percent (0.5%) of the content of the product by weight.”

Nonfunctional ingredients present in trace quantities should be disclosed where the manufacturer knows of such ingredients as follows:

- a. **Trace nonfunctional byproducts:** If a nonfunctional byproduct present below trace levels but at or above the practical quantitation limit appears on one or more of the lists of chemicals of concern named in Appendix B it should be disclosed even when its CASRN and specific chemical name is withheld as CBI.
- b. **Trace nonfunctional contaminants:** If a nonfunctional contaminant is present below trace levels but above the practical quantitation limit or the applicable threshold for disclosure (whichever is higher), and appears on one or more of the lists of chemicals of concern named in Appendix B, it should be disclosed even when its CASRN and specific chemical name is withheld as CBI. The applicable threshold for disclosure of a chemical should be chosen based on the following hierarchy of threshold sources. The highest ranked source with a threshold applicable to a chemical should be used.
  - (1) For any chemical for which the New York State Department of Health (DOH) has established a Maximum Contaminant Level (MCL) pursuant to Title 6 of the New York Code of Rules and Regulations, Subsection 5-1, the disclosure threshold is any value equal to or above the MCL listed in Tables 1, 3, 3A, and 7 of 6 NYCRR 5-1.52.
  - (2) Until such time as an MCL is issued for 1,4 dioxane, the disclosure threshold for that chemical is any value equal to or above 350 parts per trillion (ppt), which is EPA’s assessment of the drinking water concentration representing a  $1 \times 10^{-6}$  (or one-in-one million) cancer risk for that chemical.
  - (3) Until such time as an MCL is issued for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS), the disclosure level for these two chemicals *combined* is any value equal to or above 70 ppt, which is EPA’s

health advisory level for PFOA and PFOS where both chemicals are found in drinking water.

- (4) For any chemical which is present on the CA Prop 65 list named in Appendix B for which a MCL has not been issued by DOH (with the exception of 1,4 dioxane, PFOA and PFOS, as noted above), the disclosure threshold is any value equal to or above the concentration that triggers a product warning pursuant to the California Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20).
- (5) For any chemical for which is not covered by subparagraphs (1) - (4) of this paragraph, the disclosure threshold is any value equal to or above 50 parts per billion (ppb).

- c. Trace nonfunctional ingredients not present on a list.** If a nonfunctional ingredient present below trace levels does not appear on one or more of the lists of chemicals of concern named in Appendix B, it need not be disclosed.

Knowledge of the presence of nonfunctional ingredients in a product can be based on information received from the raw material suppliers used in the manufacture of the product. Absent extenuating circumstances, manufacturers or their raw material suppliers need not conduct chemical analyses of their products or raw materials against the lists of chemicals of concern provided in Appendix B. Additionally, nonfunctional ingredients can be labeled as CBI if appropriate justification exists. Justification for a CBI claim may include, but is not limited to, situations where revealing a chemical would be a definitive marker to a specific raw material, a raw material supplier, or the process that a raw material supplier used to create a raw material, and that such information is deemed confidential.

The extent of disclosure provided for a product's ingredients should be clearly indicated, as described under "Extent of Disclosure".

## **B. INFORMATION TO BE DISCLOSED**

Each category of information disclosed should be posted in close proximity to all other 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 can be used but should conform with the recommendations regarding accessibility and machine readability under "Posting Parameters". Marketing language can be posted on the same web page, but it should not be inserted between the statement regarding "Extent of Disclosure" and the list of product ingredients as described under "CAS Number and Chemical Name" and should not interfere with any other recommended information. If appropriate, a link to these recommendations can be provided to provide more

information on the meaning of commonly used terms, such as “CAS number” or “nanoscale material.”

A hazard communication safety data sheet can be used for disclosure but should be posted on the manufacturer’s website and meet all the recommendations described in this document, including but not limited to being fully accessible and machine readable.

## **1. Manufacturer Information**

- The complete name of the manufacturer of the final product and the final domestic distributor of the product (if they are different) should be displayed as an <H1> or <H2> hypertext markup language (HTML) heading.<sup>1</sup> The name of a manufacturer or a distributor can be withheld as CBI, but the name of either the manufacturer of the final product or the final domestic distributor should be disclosed. Where a final domestic distributor is the entity disclosing information, the name of the manufacturer of the final product can be withheld as CBI, and such manufacturer does not need to disclose information regarding such distributor. If either type of company is a subsidiary, the name of the parent company should be included. If a subsidiary is the entity whose brand name appears on the website on which information is posted and whose brand name appears on the product label, the parent company need not be provided.
- 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. Answers to inquiries should be provided in no more than ten business days. This information can be provided on a separate webpage provided that a one-click link to the information is provided, and should contain clear direction regarding how the public can learn more about a product’s ingredients.

## **2. Product Information**

- 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 Universal Product Code (UPC), it should be displayed as an <H1> or <H2> HTML heading.
- If applicable, the product’s category, meaning the ‘brick’ level of the GS1 Global Product Classification (GPC) standard, which identifies products that serve a common purpose, are of similar form and material, and share the same set of category attributes.
- A description of the product, including its use and form (e.g. liquid, powder, foam, aerosol, etc.). A digital picture of the product packaging and label can be used

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<sup>1</sup> “HTML” stands for “hypertext markup language” and is used to describe web pages using HTML tags. Each HTML tag describes different document content.

instead, so long as it conforms with the recommendations regarding accessibility and machine readability in Section V.A under “Posting Parameters”.

### 3. Extent of Disclosure

The extent of disclosure provided for a product’s ingredients should 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,” and the extent of disclosure should be indicated by providing the number and title, indicated in bold in the hierarchy below, of the level achieved.

In addition, each level of disclosure above and equal to the extent of disclosure achieved should be displayed in the following hierarchy of disclosure format, using the numbers and titles indicated in bold below, with the highest level of disclosure that applies to the product indicated by checking off the appropriate box. “Pop ups” or one click links to a separate web page are acceptable for the display of the hierarchy of disclosure levels, as long as they conform with the recommendations regarding accessibility and machine readability in Section V.A under “Posting Parameters”.

A link to this Policy should also be provided in order for the public to learn more about what each level of disclosure means. For reference, all of the threshold reporting levels in New York are outlined in Appendix E.

#### *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 named in Appendix B.
- 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.

#### 4. Ingredients

All Information disclosed under this category should be posted in close proximity to each other. Displaying the information in some type of table is encouraged. "Pop ups" or one click links to a separate web page are acceptable if they conform with the recommendations in "Posting Parameters" above regarding accessibility and machine readability. A manufacturer can group ingredients separately in the following categories, so long as all ingredients are included in one list, or can intermingle the categories as appropriate: intentionally added ingredients; fragrance ingredients; nonfunctional byproducts; nonfunctional contaminants.

##### a. CAS Number and Chemical Name

The following information should be disclosed for all ingredients unless such information is 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 information is not provided, the reason for it not being provided should be indicated as follows: "not available," "not known," or "withheld as CBI."

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

In all cases where a CAS Registry number or chemical name is not being withheld as CBI, the name of an ingredient should be disclosed pursuant to the following hierarchy of nomenclature systems. If a name is available in the highest ranked system, 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.

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

## **b. Percentage of Content by Weight**

Intentionally added ingredients and nonfunctional ingredients should be listed in descending order of predominance by weight in the product, except that intentionally added ingredients or nonfunctional ingredients present at a weight below one percent may be listed following the other ingredients without respect to the order of predominance by weight. The actual weight percentages of any ingredient should not be disclosed.

## **c. 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 named in Appendix B, such information should be disclosed, whether or not the specific name or other information about the ingredient is being withheld as CBI. The fact that an ingredient appears on such a list should be clearly and unequivocally indicated where the ingredient appears on the list of ingredients provided as described under “CAS Number and Chemical Name”, 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 [provide short name] list;”
- “Present on list of chemicals of concern;”
- “Chemical of concern;” or
- “COC.”

A symbol, such as an asterisk (\*), should not be used as a substitute for one of these approaches, terms or phrases, nor should font appearance or color be used. If the abbreviation “COC” is used, a key providing a definition of what it means should 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.

Nothing here precludes a manufacturer from providing a disclaimer regarding the potential impact on human health and the environment of an ingredient which appears on a list of chemicals of concern.

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 provided. Manufacturers should use the short name provided and highlighted in bold in Appendix B, and a link to the list should be provided. “Pop ups” or one click links to a separate web page are acceptable as long as they conform with the recommendations regarding accessibility and machine readability listed in under “Posting Parameters”.

#### **d. Nanoscale Materials**

A nanoscale material is a chemical substance that meets the TSCA definition of a reportable chemical substance manufactured or processed at the nanoscale. That definition 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 range 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” (40 Code of Federal Regulations section 704.20(a)). For each ingredient that is a nanoscale material, a term describing the nanoscale material should be disclosed. For example, if the nanoscale material is carbon, the disclosure should use the term “nanoscale” carbon.

#### **e. Role**

For each intentionally added ingredient, a term describing its functional purpose should be disclosed. Such terms include, but are not limited to, “surfactant,” “colorant,” “fragrance,” “preservative,” etc. Nonfunctional ingredients should be labeled as “nonfunctional ingredient,” or may be labeled as “nonfunctional byproduct” or “nonfunctional contaminant,” as appropriate.

### **5. Effects on Human Health and the Environment**

Manufacturers should 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 covered products or the chemical ingredients of such products. Manufacturers should strive to satisfy the recommendations for machine readability and Web Content Accessibility as described in Section V.A under “Posting Parameters” to the maximum extent practicable. 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 disclosed. Such information should be grouped by ingredient where applicable, and should include, but is not limited to:

- Any health and safety study, as defined under TSCA §3(8) (15 U.S.C. 2602(8)), performed by or for the manufacturer and submitted to EPA pursuant to TSCA, unless EPA has determined that a study or portion of a study may be withheld as CBI, in which case any portion of a study not withheld as CBI should be posted, including documents that have specific information redacted (for example the name of a chemical or the type of manufacturing process in which a chemical or

chemicals is used. Studies in which the manufacturer or distributor's name has been redacted as CBI need not be posted.

- Any investigations or research performed by or for the manufacturer submitted to the European Chemicals Agency (ECHA) pursuant to the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH), unless ECHA has determined that a document or portion of a document may be withheld as CBI, in which case any portion of a document not withheld as CBI should be posted, including documents that have specific information redacted (for example the name of a chemical or the type of manufacturing process in which a chemical or chemicals is used). Studies in which the manufacturer or distributor's name has been redacted as CBI need not be posted.
- For any investigations or research not required to be submitted under TSCA or REACH, or which are withheld as CBI under TSCA or REACH, the following information should be provided: a list of the number and types of studies (for example animal tests, epidemiological studies, computational models, or alternatives assessments) done on a product or any of its ingredients; the entity who conducted the study; the entity who financed the study; and the year in which the study was commenced and the year it was completed. Where the CASRN and specific name of an ingredient is being withheld as CBI, or the name of the manufacturer has been withheld in relation to studies done on such an ingredient under TSCA or REACH, the information described in this paragraph should be listed in association with the generic name of the ingredient disclosed by the manufacturer, for example "fragrance," "surfactant," or "nonfunctional ingredient,"
- If a study has been published on the web and is available for review by the public without charge, the provision of a link to the study can substitute for posting.
- A link to the hazard communication safety data sheet for the covered product.
- A list of any of the Globally Harmonized System's hazard characteristics which apply to the covered product and are named in Appendix C. Each characteristic which a product meets should be listed together in a single location, using the short name provided and highlighted in bold in Appendix C, and a link to a description of the characteristic should be provided.
- A link to the American Cleaning Institute's Ingredient Safety Initiative, if applicable. The provision of such a link may be used in lieu of posting information regarding the nature and extent of investigations or research performed by or for the manufacturer as described in this section, to the extent that the content provided in the Safety Initiative meets the recommendations of this section.

## **6. Date of Disclosure**

The most recent date on which information was posted or updated should be provided.

## **C. EFFECTIVE DATE AND UPDATES**

### **1. Effective Dates**

If manufacturers feel a phased-in approach to disclosure is appropriate for their organization, the below schedule is recommended. The initial disclosure posted should contain:

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

By the following year, the following information should be added:

- a. Fragrance ingredients;
- b. Nonfunctional byproducts 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 of at or above 70 ppt;
- c. 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 of at or above 70 ppt

Within two and a half years of the initial posting, the following information should be added:

- a. Nonfunctional byproducts which appear on one or more of the lists of chemicals of concern named in Appendix B and are present at or above the practical quantitation limit; and
- b. Nonfunctional contaminants which appear on one or more of the lists of chemicals of concern named in Appendix B and are present at or above the thresholds described in Section V.A.3, "Confidential Business Information and Extent of Disclosure".

All other information should be posted with the initial disclosure, except for the following, which should be posted the following year:

- a. Information regarding investigations and research concerning effects on human health and the environment.
- b. Information regarding Category 3 GHS Skin Irritants and GHS Aquatic Toxins.

### **2. Updates**

Manufacturers should update their disclosures 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 in a list of chemicals of concern should be made no later than six months after the adoption of the revised list by its authoritative body. Legacy data for discontinued products should be posted for two years after the product is discontinued.

All other disclosed information, including information regarding investigations and research concerning effects on human health and the environment, should be reviewed, at a minimum, once every two years, and disclosures updated as necessary.

## **VI. Related References:**

Environmental Conservation Law §35  
6 NYCRR Part 659.6

## APPENDIX A

### GS1 GPC Brick Codes Covered by the Program

NOTE: Pursuant to ECL §35-0103 and 6 NYCRR §659.1, cleansing products covered by the program include but are 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.” Retail products classified under the GS1 global product classification (GPC) system brick codes listed below are covered by the program if they meet the above definition, as are any retail, commercial and institutional products which are not classified under the GPC system but which meet the above definition and would fall under the brick codes listed below if they were classified under the system.

10000531	Bleach (Non-FIFRA regulated)
10000746	Cleaners Other
10000698	Cleaners Variety Pack
10000442	Descalers
10000406	Dish Cleaning/Care – Automatic
10000636	Dish Cleaning/ Care – Hand
10000445	Dish Care/ Protection
10000423	Drain Treatments/ Pipe Unblockers
10006233	Food Treatments
10000443	Stain Removers
10000405	Surface Cleaners
10000426	Toilet Cleaning Products
10000743	Detergent Boosters/ Laundry Bleaches
10000741	Fabric Protectors
10000427	Laundry Color Care
10000424	Laundry Detergents
10000444	Laundry Dry Cleaning
10000747	Laundry Other
10000699	Laundry Variety Packs
10000749	Surface Care Other
10000701	Surface Care Variety Pack
10000434	Surface Care/ Protection
10000694	Cleaning/ Hygiene Products Variety Packs

## APPENDIX B

### Lists of Chemicals of Concern

**CA Prop 65.** Chemicals known to the State of California to cause cancer or reproductive toxicity (including developmental, female and male toxicity) that are listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 (California Code of Regulations, Title 22, Division 2, Subdivision 1, Chapter 3, Sections 1200 *et seq.*, also known as Proposition 65).

**EU CMRs.** Chemicals classified by the European Union as carcinogens, mutagens, and/or reproductive toxicants in Category 1A and 1B in Annex VI to Regulation (EC) 1272/2008.

**EU Endocrine Disruptors.** Chemicals included in the European Union candidate list of Substances of Very High Concern in accordance with Article 59 of Regulation (EC) 1907/2006 on the basis of Article 57(f) for endocrine disrupting properties.

**IRIS Neurotoxicants.** Chemicals for which a reference dose or reference concentration has been developed based on neurotoxicity in the United States Environmental Protection Agency's Integrated Risk Information System.

**IRIS Carcinogens.** Chemicals that are identified as "carcinogenic to humans", "likely to be carcinogenic to humans", or Group A, B1, or B2 carcinogens in the United States Environmental Protection Agency's Integrated Risk Assessment System.

**EU PBTs.** Chemicals included in the European Union candidate list of Substances of Very High Concern in accordance with Article 59 of Regulation (EC) 1907/2006 on the basis of Article 57(d), Article 57(e), or Article 57(f) for persistent bioaccumulative and toxic, or very persistent and very bioaccumulative properties.

**Canada PBTs.** Chemicals that are identified as Persistent, Bioaccumulative, and Inherently Toxic to the environment by the Canadian Environmental Protection Act Environmental Registry Domestic Substances List.

**EU Respiratory Sensitizers.** Chemicals classified by the European Union as respiratory sensitizers Category 1 in Annex VI to Regulation (EC) 1272/2008.

**IARC Carcinogens.** Group 1, 2a, or 2b carcinogens identified by the International Agency for Research on Cancer, World Health Organization, in Monographs on the Evaluation of Carcinogenic Risks to Humans.

**ATSDR Neurotoxicants.** Neurotoxicants that are identified in the United States' Department of Health and Human Services' Agency for Toxic Substances and Disease Registry's Toxic Substances Portal under "Health Effects of Toxic Substances and Carcinogens, Nervous System."

**US EPA Priority Chemicals List.** Persistent, Bioaccumulative and Toxic Priority Chemicals that are identified by the United States Environmental Protection Agency's National Waste Minimization Program.

**US NTP Reproductive or Developmental Toxicants.** Reproductive or developmental toxicants identified in "Monograph on the Potential Human Reproductive and Developmental Effects" published by the United States Department of Health and Human Services' National Toxicology Program, Office of Health Assessment and Translation.

**US EPA PBTs.** Chemicals identified by the United States Environmental Protection Agency's Toxics Release Inventory program as Persistent, Bioaccumulative and Toxic Chemicals that are subject to reporting under Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986.

**WA PBTs.** The Washington Department of Ecology's Persistent, Bioaccumulative, Toxic (PBT) Chemicals identified in the Washington Administrative Code, Title 173, Chapter 173-333.

**US NTP Carcinogens.** Chemicals that are identified as "known to be" or "reasonably anticipated to be" human carcinogens in the 13<sup>th</sup> Report on Carcinogens and any subsequent revisions prepared by the United States Department of Health and Human Services' National Toxicology Program.

**CA NLS.** Chemicals for which notification Levels, as defined in Health and Safety Code Section 116455, have been established by the California Department of Public Health or the State Water Resources Control Board.

**CA MCLs.** Chemicals for which primary Maximum Contaminant Levels have been established and adopted under Sections 64431 or 64444 of Chapter 15 of Title 22 of the California Code of Regulations.

**CA TACs.** Chemicals identified as Toxic Air Contaminants under Sections 93000 or 93001 of Title 17 of the California Code of Regulations.

**CA Priority Pollutants.** Chemicals that are identified as priority pollutants in the California Water Quality Control Plans under Section 303(c) of the federal Clean Water Act and in Section 131.38 of Title 40 of the Code of Federal Regulations, or identified as pollutants by California or the United State Environmental Protection Agency for one or more water bodies in California under Section 303(d) of the federal Clean Water Act and Section 130.7 of Title 40 of the Code of Federal Regulations.

**CA Non-Cancer Hazards.** Chemicals that are identified with non-cancer endpoints and listed with an inhalation or oral Reference Exposure Level by the California Office of

Environmental Health Hazard Assessment under Health and Safety Code Section 44360(b)(2).

**CA Priority Chemicals.** Chemicals identified as priority chemicals by the California Environmental Contaminant Biomonitoring program pursuant to Section 105449.

**Marine Priority Action Chemicals.** Chemicals that are identified on Part A of the list of Chemicals for Priority Action prepared by the Oslo and Paris Conventions for the Protection of the Marine Environment of the North-East Atlantic.

**EU Fragrance Allergens.** Chemicals identified as fragrance allergens in Annex III of the EU Cosmetics Regulation 1223/2009, as required to be labeled by the European Detergents Regulation No. 648/2004.

**AOEC Asthmagens.** Chemicals designated as asthmagens by the Association of Occupational and Environmental Clinics.

**US EPA TSCA Chemicals of Concern.** A chemical for which the United States Environmental Protection Agency has issued a Chemical of Concern Action Plan pursuant to the federal Toxic Substances Control Act.

**US EPA Ozone Depletors.** Chemicals identified as a Class I or Class II Ozone-Depleting Substance by the United States Environmental Protection Agency.

**NY DOH MCLs.** Chemicals for which Maximum Contaminant Levels have been established and adopted in Tables 1, 3, 3A, and 7 of Subpart 5-1.52 of Title 10 of the New York Code of the Rules and Regulations (10 NYCRR Subpart 5-1.52).

**GLWQA Chemicals of Mutual Concern.** Chemicals identified as Chemicals of Mutual Concern developed under the 2012 U.S./ Canada Great Lakes Water Quality Agreement (GLWQA) Annex 3.

**NY Air Toxics.** Chemicals identified as high toxicity air contaminants in Part 212 of Title 6 of the New York Codes of Rules and Regulations (6 NYCRR Subpart 212-2.2, as defined in Subpart 212-1.2 (b)(9)).

## APPENDIX C

### Globally Harmonized System of Hazard Characteristics

**GHS Skin Irritant.** A product classified according to the Globally Harmonized System for Classification and Labeling of Chemicals (GHS) Chapter 3.2, Skin Corrosion/Irritation, as a Category 1, 2 or 3 skin corrosive or skin irritant. A product should be classified as corrosive to the skin if it has a pH of 2 or less or a pH of 11.5 or greater, unless tested or proven otherwise.

**GHS Eye Irritant.** A product classified according to GHS Chapter 3.3, Serious Eye Damage/Eye Irritation, as a Category 1 or 2 eye irritant. A product should be classified as capable of causing serious eye damage if it has a pH of 2 or less or a pH of 11.5 or greater, unless tested or proven otherwise.

**GHS Respiratory or Skin Sensitizer.** A product classified according to GHS Chapter 3.4, Respiratory and Skin Sensitization, as Category 1A - High frequency of occurrence or sensitization rate in humans; or Category 1B – Low to moderate frequency of occurrence or sensitization rate in humans.

**GHS Mutagen.** A product classified according to GHS Chapter 3.5, Germ Cell Mutagenicity, as Category 1A - Chemicals known to induce heritable mutations in the germ cells of humans; or Category 1B - Chemicals which should be regarded as if they induce heritable mutations in the germ cells of humans.

**GHS Aquatic Toxin.** A product classified according to GHS Chapter 4.1, Hazardous to the Aquatic Environment, as a Category 1, 2 or 3 acute or chronic aquatic toxin with a median lethal concentration (LC<sub>50</sub>) of less than 100 milligrams per liter.

## APPENDIX D

### Short List of Chemicals of Concern

1. 1,4 dioxane.
2. 1,1 dichloroethane.
3. Acrylic acid
4. Benzene
5. Benzidine
6. 1,3 butadiene
7. Carbon tetrachloride
8. Chloroform
9. Ethylene oxide
10. Nitilotriacetic acid
11. Butyl benzyl phthalate
12. Butyl decyl phthalate
13. Di(2-ethylhexyl) phthalate
14. Diethyl phthalate
15. Diisobutyl phthalate
16. Di(n-octyl) phthalate
17. Diisononyl phthalate
18. Dioctyl phthalate
19. Butylparaben
20. Ethylparaben
21. Isobutylparaben
22. Methylparaben
23. Propylparaben
24. Formaldehyde
25. 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride
26. DMDM hydantoin
27. Diazolidinyl urea
28. Glyoxal
29. Imidazolidinyl urea
30. Polyoxymethylene urea
31. Sodium hydroxymethylglycinate
32. 2-Bromo-2-nitropropane-1,3-diol
33. N-Nitrosodimethylamine
34. N-Nitosodiethylamine
35. Perfluorooctanoic acid (PFOA)
36. Perfluorooctane sulfonic acid (PFOS)

## APPENDIX E

### Table of New York Disclosure Levels:

Type of Disclosure	Threshold
<b>Intentionally added ingredients</b>	<b>Chemical of Concern:</b> No threshold limit. <b>Other:</b> No threshold limit.
<b>Fragrance ingredients</b>	<b>Chemical of Concern:</b> No threshold limit. <b>Other:</b> No threshold limit; provided, however, that fragrance ingredients present below 100 ppm which are not chemicals of concern may, if withheld as CBI, be grouped together and disclosed as “fragrance ingredients” with a range of the number of ingredients withheld provided.
<b>Nonfunctional ingredients</b> above trace	<b>Chemical of Concern:</b> 5,000 ppm <b>Other:</b> 5,000 ppm
<b>Nonfunctional byproducts</b> below trace	<b>Initial – Appendix D Chemicals:</b> 100 ppm <ul style="list-style-type: none"> <li>• 1,4 dioxane: 350 ppt</li> <li>• PFOA and PFOS <i>combined</i>: 70 ppt</li> </ul> <b>Final – Appendix B Chemicals:</b> Practical Quantitation Limit (PQL). <b>Other:</b> No disclosure required.
<b>Nonfunctional contaminants</b> below trace	<b>Initial – Appendix D Chemicals:</b> 100 ppm <ul style="list-style-type: none"> <li>• 1,4 dioxane: 350 ppt</li> <li>• PFOA and PFOS <i>combined</i>: 70 ppt</li> </ul> <b>Final - Appendix B Chemicals:</b> <i>Hierarchy of:</i> <ul style="list-style-type: none"> <li>○ NY MCLs for drinking water.</li> <li>○ CA Prop 65 trigger level.</li> <li>○ 50 ppb</li> </ul> <i>Special exceptions:</i> <ul style="list-style-type: none"> <li>○ 1,4 dioxane: 350 ppt</li> <li>○ PFOA and PFOS <i>combined</i>: 70 ppt</li> </ul> <b>Other:</b> No disclosure required.

For the purposes of this table: “Other” means any chemical not covered by the previous categories listed.