6 NYCRR Part 659 Amendments
Household Cleansing Product Information Disclosure

February 24, 2020
Agenda

• Welcome and Opening Remarks

• Presentations and Discussions of Specified Issues:
  ▪ Nonfunctional Ingredients
  ▪ Confidential Business Information
  ▪ Temporary Formulation Changes and Other Updates
  ▪ Updates to Definitions

• Discussion of Other Issues or Concerns Raised

• Wrap Up and Next Steps
Background - Authority

Environmental Conservation Law
Article 35

- Enacted in 1972
- § 35-0107 authorizes DEC to promulgate regulations that require manufacturers of household cleansing products sold in the state to furnish information regarding such products in a form prescribed by DEC

New York Code of Rules and Regulations Part 659
Household Cleansing Products

- Promulgated in 1976
- §659.6 currently requires manufacturers of household cleansing products sold in the state to furnish such information regarding such products as DEC may require, in a form prescribed by DEC
659.6 Disclosure of information.

(a) Manufacturers of household cleansing products distributed, sold or offered for sale in this State shall furnish to the commissioner for public record such information regarding such products as the commissioner may require, in such form as may be prescribed by the commissioner. For each household cleansing product, such information shall include, but shall not be limited to:

(1) the amount of elemental phosphorus by weight as measured to the nearest one-tenth of one percent;

(2) a list naming each ingredient which equals or exceeds five percent of the contents of the product by weight and specifying the content by weight of each ingredient to the nearest percent;

(3) a list naming each ingredient which does not equal or exceed five percent of the contents of the product by weight, provided that ingredients which are present in trace quantities need not be included on such list unless the commissioner specifically requests any such ingredient to be listed and provided further that the commissioner may require the listing of one or more of such ingredients by weight to the nearest percent;

(4) 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 or such ingredients, and

(5) a statement that the product does not contain nitrilotriacetic acid (NTA) in excess of a trace quantity.

Ingredients shall be listed using the generic chemical name which conforms with generally accepted rules of chemical nomenclature.

(b) Such manufacturers shall furnish such information semiannually or at such other times as may be required by the commissioner.

(c) Such information shall be available to the public at the offices of the Department of Environmental Conservation in Albany, with the exception of those portions which the manufacturer determines, subject to the approval of the commissioner, would be, if disclosed, seriously prejudicial to the manufacturer’s legitimate interest in trade secrets and economics of operation.
DEC decided to implement the authority granted by ECL 35-0107 and NYCRR § 659.6.


DEC worked to determine an acceptable form for disclosure of information

Program Policy declared null and void. The matter was remitted to DEC with the directive to comply with SAPA.

2010

June 2018

August 2019
Best Management Practices

Form of Disclosure

- Information posted on manufacturer or third party website in a form that meets accessibility criteria
- Certification to the Department*

Information to be Disclosed

- All intentionally added ingredients, which includes fragrances
- Nonfunctional byproducts to PQL
- Nonfunctional contaminants to applicable threshold
- CBI may be withheld
- Other manufacturer and product information
- Extent of disclosure achieved
- Date of disclosure

For each ingredient, list: name, CASRN, any applicable COC lists, function, nanoscale status

*Certification of disclosed information was not included in the best management practices
Best Management Practices (cont’d)

Human Health and Environmental Effects Studies

- TSCA
- REACH
- Others publicly available
- SDS
- GHS classifications

Updates

- Baseline every two years (certification and webpage)
- Within six months of a change to the COC lists (webpage)
- Within two months of a new product entering market (certification and webpage)
- Within two months of a webpage link change (certification)
- Information about discontinued products remains posted for two years (webpage)
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Disclosure of Nonfunctional Ingredients
Discussion of Nonfunctional Ingredients

Best management practices recommend:

Scope
All chemicals on a chemical of concern lists

Thresholds
Byproduct:
  • Practical quantification limit
Contaminant:
  1. NY drinking water MCL
     a. 1,4-dioxane above 350 ppt
     b. PFOA and PFOS combined above 70 ppt
  2. CA Prop 65 trigger level
  3. 50 ppb
Confidential Business Information
Discussion of CBI

Best management practices recommend:

• Standard for CBI: Section 87 of Public Officer’s Law and 6 NYCRR 616.7

• Provide justification to DEC

• If specific ingredient name is withheld, the generic name as provided in TSCA Confidential Inventory or other generic name should be provided.

• Fragrances can be withheld in groups.

• Presence of an ingredient on a COC list is not subject to CBI.

• Suppliers may independently claim CBI.
Break

Reconvene in 15 minutes
Temporary Formulation Changes and Other Updates
# Discussion of Updates

Best management practices recommendation:

<table>
<thead>
<tr>
<th>Ingredient</th>
<th>Update</th>
</tr>
</thead>
<tbody>
<tr>
<td>New product</td>
<td>De facto 2 months</td>
</tr>
<tr>
<td>Ingredients</td>
<td></td>
</tr>
<tr>
<td>Permanent</td>
<td>Immediately</td>
</tr>
<tr>
<td>Temporary</td>
<td><strong>Not covered</strong></td>
</tr>
<tr>
<td>COC identification</td>
<td>w/in 6 months of list change</td>
</tr>
<tr>
<td>UPC</td>
<td><strong>Not covered</strong></td>
</tr>
<tr>
<td>Legacy Information</td>
<td>For 2 years from discontinuation</td>
</tr>
<tr>
<td>Permanent</td>
<td><strong>Not covered</strong></td>
</tr>
<tr>
<td>Temporary</td>
<td><strong>Not covered</strong></td>
</tr>
<tr>
<td>Regular update</td>
<td>Every 2 years</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ingredient</th>
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</tr>
</thead>
<tbody>
<tr>
<td>New product</td>
<td>w/in 2 months</td>
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<tr>
<td>Webpage link</td>
<td>w/in 2 months</td>
</tr>
<tr>
<td>Contact</td>
<td><strong>Not covered</strong></td>
</tr>
<tr>
<td>Regular Update</td>
<td>Every 2 years</td>
</tr>
</tbody>
</table>
Definitions
Discussion of Definitions

Best management practices:

“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.
Break
Reconvene in 10 minutes
Discussion of Other Concerns
Next Steps

1. Drafting of express terms
2. Release draft express terms
3. Finalization or amendments
Thank You

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Website:
dec.ny.gov/chemical/109021.html