

CHEMICAL INGREDIENT TRANSPARENCY IN PRODUCTS: Review of Existing Public Policies & An Industry Standard



BACKGROUND REPORT

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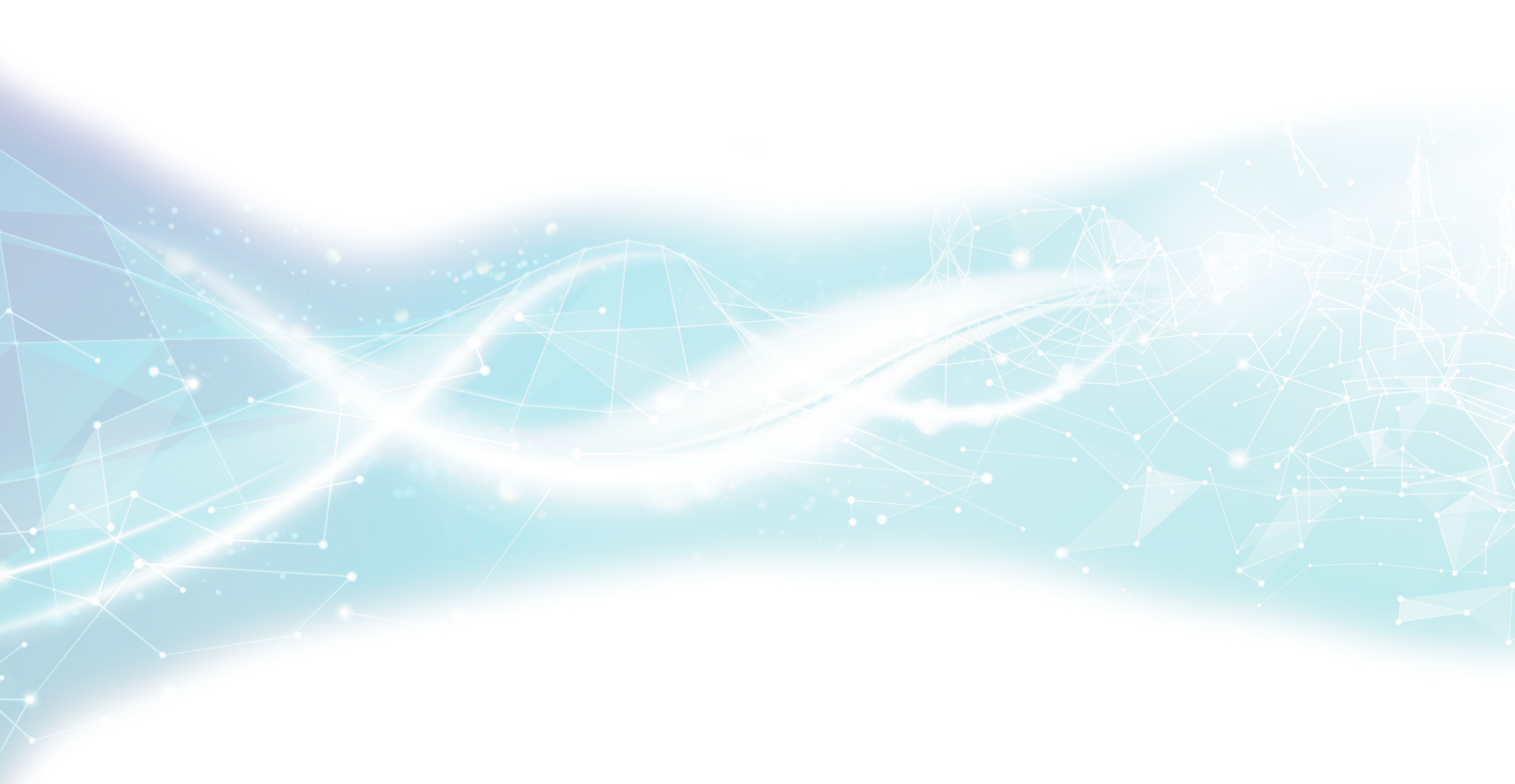


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ABOUT CPA

[Clean Production Action](#) designs and delivers strategic solutions for green chemicals, sustainable materials, and environmentally preferable products. CPA's unique role is to translate the systems-based vision of clean production into the tools and strategies, NGOs, governments, and businesses need to advance green chemicals, sustainable materials, and environmentally preferable products. Critical to CPA's success is working closely with existing networks across the globe, developing new partnerships, learning about emerging technological trends and associated environmental health problems, and developing and communicating essential solutions. It is this combination of collaboration, empowerment, and advocacy for a clearly defined vision that is key to achieving the fundamental transformations necessary in our economy.

ABOUT IC2

The [Interstate Chemicals Clearinghouse](#) is an association of state, local, and tribal governments that promotes a clean environment, healthy communities, and a vital economy through the development and use of safer chemicals and products. IC2 is a program of NEWMOA.

ABOUT NEWMOA

The [Northeast Waste Management Officials' Association](#) is a non-profit, non-partisan, interstate association whose membership is composed of the state environment agency programs that address pollution prevention, toxics use reduction, sustainability, materials management, hazardous waste, solid waste, emergency response, waste site cleanup, underground storage tanks, and related environmental challenges in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. NEWMOA provides a strategic forum for effectively solving environmental problems through collaborative regional initiatives that advance pollution prevention and sustainability,

promote safer alternatives to toxic materials in products, identify and assess emerging contaminants, facilitate adaption to climate change, mitigate greenhouse gas sources, promote reuse and recycling of wastes and diversion of organics; support proper management of hazardous and solid wastes, and facilitate clean-up of contaminant releases to the environment.

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DISCLAIMER

The information contained in this report is intended for general information purposes. CPA and NEWMOA/IC2 have sought to ensure the accuracy of this information but make no guarantees, implied or expressed. The views expressed in this paper do not necessarily reflect the views of NEWMOA/IC2 and BizNGO members.

INTRODUCTION

Clean Production Action (CPA) and the Northeast Waste Management Officials' Association's (NEWMOA) Interstate Chemicals Clearinghouse (IC2) have launched a partnership to find common ground among key stakeholders on chemical ingredient transparency policies and programs. This report provides context and summary information to help inform this initiative. The Review:

- Discusses the purposes of chemical ingredient disclosure initiatives.

- Examines many of the existing state ingredient disclosure initiatives, a voluntary standard, and their reporting requirements with the intent of identifying their similarities and differences.
- Identifies and discusses key issues regarding existing public and voluntary disclosure programs.

The Appendix provides a matrix outlining key elements of the existing state mandatory disclosure requirements.

PURPOSES OF CHEMICAL USE DISCLOSURE

Demand for chemical ingredient transparency is on the rise. Non-governmental organizations (NGOs), including the Breast Cancer Prevention Partners, Center for Environmental Health, Clean and Healthy New York, Clean Water Action, Environmental Defense Fund, Health Product Declaration, Mind the Store, Natural Resources Defense Council, Safer States, Toxic-Free Future, and Voices for the Earth are advocating for greater disclosure in products and across supply chains. Retailers, including Walmart and Target, have established requirements for ingredient disclosure by their suppliers. Walmart, for example, has told suppliers of cleaning products that it has a strong preference that they disclose hazardous chemicals on packaging and online (including asking suppliers to align with the 2017 California Cleaning Product Right to Know Act). The Grocery Manufacturers Association's (GMA) Smart Label provides a disclosure platform for grocers and other retailers. Ecolabels, such as the Safer Choice by the U.S. Environmental Protection Agency (EPA), and the Declare Label for building products require chemical ingredient transparency to meet their criteria.

State legislatures have responded to public demand for greater chemical transparency by enacting laws that establish disclosure or reporting requirements. Companies and trade associations have created voluntary initiatives to address the pressure they experience from their customers and from environmental and public health advocates. The States of California and New York enacted requirements for public disclosure of all chemicals in cleaning products. Voluntary standards, such as the Health Product Declaration® (HPD) Open Standard, specify disclosure requirements for chemicals in building products (HPD Open Standard). Maine, New York, Oregon, Vermont, and Washington have enacted requirements for public disclosure of priority chemicals in children's products. Connecticut, Louisiana, Maine, Massachusetts, Minnesota, New Hampshire, New York, North Carolina, Rhode Island, Vermont, and Washington have established requirements for disclosing products containing mercury and mercury compounds as well as labeling those products. New York State passed legislation in 2019 covering all intentionally added ingredients in menstrual products. These laws, regulations, and standards are briefly described below.

¹ Note: NYSDEC's guidance on compliance with its cleansing products disclosure law was successfully challenged in the courts in 2019, largely on procedural grounds. As of February 2020, the Agency is pursuing a rulemaking to implement its program.

The overall goals of these efforts include:

- Provide public access to chemical ingredient information on the products people purchase and use—similar to food-product ingredient labels—to support consumers in making informed purchasing decisions.
- Promote wider awareness of the presence of chemicals of concern in consumer products.
- Inform policies and programs designed to reduce chemicals of concern in products and the associated potential for exposure, particularly of workers and vulnerable populations.
- Inform efforts to promote safer substitution efforts for chemicals of concern.
- Enable programs to understand trends in targeted uses of high priority chemicals.
- Inform end-of-life management of the products that contain chemicals of concern.
- Hold companies accountable for claims made in their sustainability reports, chemicals management policies, and advertising.

Users of chemical ingredient data include:

- Government agencies
- Policy makers
- Non-governmental organizations (NGOs)
- Researchers
- Businesses, including brands and retailers and their supply chains
- Recyclers, waste managers, wastewater treatment facilities, and others who manage wastes, discharges, and releases
- Public/consumers
- Medical practitioners (i.e., to help identify possible sources of allergies and other adverse health impacts)

Understanding the interests and goals of the users of chemical ingredient data is important as laws are drafted and government programs implement their authorities and develop reporting forms and data systems. Understanding how people intend to use the data, including how they plan to analyze and share it, is a critical aspect of designing any program and data system.

The following section provides a narrative summary of the major U.S. state laws mandating ingredient disclosure and the voluntary reporting HPD Open Standard. The Appendix presents a matrix that summarizes key features of the mandatory chemical disclosure laws, regulations, and standards.

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THREE TYPES OF CHEMICAL INGREDIENT DISCLOSURE REQUIREMENTS

Chemical ingredient disclosure initiatives vary depending on who is required to collect and disclose the data, the products reported on, and the chemicals covered in the reporting. Three common types of chemical ingredient disclosure initiatives include:

1. Disclosure of all chemical ingredients in a product category, with possible exceptions for confidential business information (CBI).

These initiatives require companies to disclose chemical ingredient information in products to the public, either on packaging or online; and in some cases, require companies to provide information on the hazards of those chemicals. Examples of this type of disclosure are the California Cleaning Product Right to Know Act, the New York Household Cleansing Product Information Disclosure Program, the New York Menstrual Product Ingredient Disclosure, and the HPD Open Standard.

2. Disclosure of chemical(s) of concern or class(es) of chemicals of concern in nearly all products.

These initiatives inform governments and the public of the presence of chemical(s) of concern in most products. An example of this type of disclosure is the mercury product requirements enacted by eight states.

3. Disclosure of chemicals of concern in a category of products.

These initiatives inform governments and the public of the presence of chemicals of concern in specific product categories. Examples of this type of disclosure include the Oregon Toxic-Free Kids Act, the Washington State Children's Safe Products Act, and the Vermont Chemical Disclosure Program for Children's Products.

Because these different types of disclosure programs seek answers to different questions and provide different transparency lenses, they may not all be entirely comparable. They are all designed to help inform public policy regarding chemicals of concern in consumer products, consumer behavior, and the development and adoption of safer alternatives by manufacturers. Some of the transparency requirements are complemented by mandatory product labeling. It is critical to keep these differences in mind when evaluating the various approaches and describing the challenges and key issues facing these programs.

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DISCLOSURE OF ALL CHEMICAL INGREDIENTS IN A PRODUCT CATEGORY (WITH SOME POSSIBLE EXCEPTIONS FOR CBI)

NEW YORK STATE HOUSEHOLD CLEANSING PRODUCT INFORMATION DISCLOSURE PROGRAM²

In June 2018, the New York State Department of Environmental Conservation (NYSDEC) issued its final guidance for requirements that manufacturers of household cleansing products that are distributed, sold, or offered for sale in New York State must furnish to the Commissioner of the DEC "such information regarding such products as the Commissioner may require, in such form as may be prescribed by the Commissioner" (<https://www.dec.ny.gov/chemical/109021.html>). This authority derives from NY Environmental Conservation Law (ECL) Article 35 and NY Code of Rules and Regulations (NYCRR) Part 659. 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 (https://www.dec.ny.gov/docs/materials_minerals_pdf/cpidbmpps.pdf).

NYSDEC's guidance states that all the required information should be posted on the manufacturer's main website used to communicate with consumers, or on a separate website. This site should be no more than one "click" away from the home page of the

Information to be disclosed includes... 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.

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.

Under NYSDEC's guidance, manufacturers would have to submit a Household Cleansing Product Information Disclosure Certification Form to DEC. The certification must be signed by a senior management official certifying that the disclosed information is true, accurate, and complete to the best of their knowledge. The Certification Form includes the product name and product ID (Universal Product Code or UPC) for any products sold in the State, as well as the uniform resource locator (URL, i.e., web address) of the web page on which product information is disclosed. Working in partnership with the Interstate Chemicals Clearinghouse (IC2), DEC plans to create an online portal for the submission of forms in machine readable format and create and maintain a database of manufacturer URLs, with links to manufacturer websites. The database would be housed on the IC2's website, with a link to it from DEC's main website.

On August 27, 2019, the NY Supreme Court deemed the Program Policy null and void and remitted the matter back to DEC with the directive to implement the Household Cleansing Product Information Disclosure Program through a rulemaking compliant with the State Administrative Procedures Act. According to the NYSDEC website (as of February 12, 2020), "DEC is undertaking a rulemaking process to amend Part 659. Amendments will include specifying what information must be reported about covered products and their ingredients, how information should be shared with DEC for the public record, the type of studies that must be reported, and how confidential business information should be handled."

For more information, visit: <https://www.dec.ny.gov/chemical/109021.html>.

¹ Note: New York's Cleaning Product Disclosure Program may change from the description provided here during the DEC rulemaking process that started early in 2020.

CALIFORNIA CLEANING PRODUCT RIGHT TO KNOW ACT

The California Cleaning Products Right to Know Act applies to general cleaning products (e.g., soaps and detergents for fabric, dishes, counters, and appliances); polish or floor maintenance products; certain air care products (e.g., indoor air fresheners); and certain automotive products (e.g., cleaning, polishing, or waxing products for the exterior or interior of automobiles). The law does not apply to food, drugs, cosmetics (including personal care items, such as shampoo, hand soap, and toothpaste), or industrial products specifically manufactured for, and exclusively used in, certain industries. The law imposes separate disclosure requirements for product labels (effective January 1, 2021) and manufacturer websites (effective January 1, 2020).

The law provides certain disclosure protections for ingredients that appear on the Toxic Substances Control Act (TSCA) Confidential Inventory or for which the manufacturer or its supplier(s) claim protection under the Uniform Trade Secrets Act. CBI claims are not available for certain ingredients, including intentionally added ingredients that appear on a designated list.

The website disclosure requirements are broader than the product label requirements. There may be some ingredients that must be disclosed on a website but need not be disclosed on the product label. Generally, all intentionally added ingredients must be disclosed on the manufacturer's website (with certain exceptions, e.g., for CBI ingredients), as must any of 34 substances listed in the Law if they are present at or above 100 parts per million, whether intentionally added or not. Manufacturers' websites also must contain additional information, for example Chemical Abstracts Service (CAS) numbers, the purpose of certain ingredients (i.e., fragrance, color, etc.), certain regulatory information, and links to safety data sheets.

Unlike the New York State approach, California's law does not require manufacturers to submit a certification of compliance with the cleaning product labeling or website disclosure requirements. The law also does not identify an agency that is responsible for implementing or enforcing the requirements.

For more information, visit: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB258.

NEW YORK'S MENSTRUAL PRODUCTS LAW

The most recent state ingredient disclosure law was passed by New York State in 2019 and applies to menstrual products. The law defines menstrual products as products used for the purpose of catching menstruation and vaginal discharge, including but not limited to tampons, pads, and menstrual cups. The products may be either disposable or reusable. It mandates that packages or boxes containing the menstrual products sold in New York State contain a plain and conspicuous printed list of all intentionally added substances present in the menstrual product. The list must be in order of the predominance of the substances. This law does not include protections for CBI. The requirement goes into effect 18 months after the law was passed. The bill was signed into law in October 2019.

For more information, visit: <https://www.nysenate.gov/legislation/bills/2019/a164/amendment/b>.

HEALTH PRODUCT DECLARATION® (HPD) OPEN STANDARD VERSION 2.2³

The HPD currently applies to building products, although it could be applied to other product categories. "The Health Product Declaration (HPD) Open Standard provides a framework for product manufacturers and their ingredient suppliers to report and disclose information about product contents and associated health information. The HPD Open Standard is a consensus, stakeholder standard, governed by the HPD Collaborative, a not-for-profit member organization" (p.1).

"The Health Product Declaration (HPD) Open Standard specifies data and format requirements for reporting of product contents, associated health information, and other information" (p. 4), including the quantity and role or function of the contents in the product, hazard information using the GreenScreen® for Safer Chemicals template, and recycled content (p. 5). The HPD Open Standard provides options for reporting chemical ingredient information, including choices for: content inventory method (basic inventory or nest materials inventory), threshold disclosure (per material or per product), and threshold level (100 parts per million (ppm), 1,000 ppm, Globally Harmonized System of Classification and Labeling of Chemicals or GHS and Safety Data Sheets or SDS, or other).

For more information, visit: <https://www.hpd-collaborative.org/hpd-2-2-standard/>.

³ HPD Open Standard Version 2.2.

The Health Product Declaration (HPD) Open Standard provides a framework for product manufacturers and their ingredient suppliers to report and disclose information about product contents and associated health information.

DISCLOSURE OF CHEMICAL(S) OF CONCERN IN NEARLY ALL PRODUCTS

MERCURY-ADDED PRODUCT REPORTING

The 13 state members of the Interstate Mercury Education and Reduction Clearinghouse (IMERC) established a variety of requirements to reduce the potential for exposure to mercury from the use and disposal of products. Currently, eight of the member states require manufacturers of mercury-added products that are sold or distributed in these states to report on the products and their mercury content. This reporting requirement, called Product Notification, was first enacted in 2001 by New Hampshire and is now in effect in Connecticut, Louisiana, Maine, Massachusetts, New York, Rhode Island, and Vermont (North Carolina requires reporting on mercury use in automobiles only). IMERC is a program of NEWMOA.

The states' reporting requirements are intended to help them inform consumers, recyclers, policy makers, and others about:

- Products that contain intentionally added mercury
- The amount of mercury in a specific product
- The total amount of mercury, by product line, that was sold in the U.S. in a year

The eight IMERC-member states with the notification requirement formed a Notification Committee that is responsible for coordinating implementation of the states' notification process. This group created a coordinated reporting form, called the Mercury-added Product Notification Form, which satisfies all of their individual notification laws and regulations. The Form asks for the following information:

- Reporting company contact information
- Manufacturer contact information and NAICS code identifying the company's industry sector

- Name of mercury-added product and components contained within (if applicable)
- Mercury content located within one individual component – company may list content as a range by weight for fabricated products and by concentration for formulated products
- Purpose of the mercury in the product
- Total mercury in the product based on U.S. calendar-year sales, reported every three years beginning in 2001.

All data submitted directly to IMERC is available to the public. Since 2001, nearly 500 companies have submitted product notifications to the participating states through IMERC covering over 4,400 products (not including single products reported by multiple manufacturers). Currently, filers submit a Mercury-added Product Notification Form at least every three years. A senior official from the company signs the Form, certifying that the information on it is true, accurate, and complete to the best of their knowledge and belief.

The data on mercury use in products contained on these Forms is the only source of this information available in the United States. IMERC makes the reported information available online through the Mercury-added Products Database, which provides a list of mercury-added products that are currently in commerce.

IMERC has developed an **electronic filing system** (www.newmoa.org/prevention/mercury/imerc/efiling.cfm) for notification, which automatically fills the Database. When IMERC transitioned from paper to electronic filing, it created greater efficiencies for the companies and the participating state agencies

in their implementation of this requirement. Due to the differences in CBI policies of the states that require mercury-added product notification, mercury use data submitted through IMERC is not confidential. All CBI claims for a mercury-added product notification are submitted directly to state agencies, and they act on the requests based on the relevant state regulations. The IMERC-member states have received few CBI claims on the product notification. In part, this is due to the allowance of reporting mercury content of individual products in ranges, which makes it difficult or impossible to ascertain the exact amount of mercury in the product.

The states of Connecticut, Louisiana, Maine, Massachusetts, Minnesota, New York, Rhode Island, Vermont, and Washington (lamps only) prohibit the sale of mercury-added products unless they have a label indicating that the product contains mercury and infor-

mation concerning proper disposal. The label must meet certain specified standards (standard labeling) regarding wording, size, location, visibility, and durability, unless the states have approved an alternative labeling that allows the manufacturer to vary from one or more of the specified standards. The purpose of labeling mercury-added products is to:

- Inform consumers at the point of purchase that the product contains mercury and may require special handling at end of life.
- Identify the products at the point of disposal so that they can be kept out of the trash and recycled.

For more information, visit: www.newmoa.org/prevention/mercury/imerc.cfm.

DISCLOSURE OF CHEMICALS OF CONCERN IN A CATEGORY OF PRODUCTS

WASHINGTON CHILDREN'S PRODUCTS DISCLOSURE

Washington's Children's Safe Products Act (see RCW 70.240) requires manufacturers of children's products or trade organizations on behalf of its member manufacturers to notify the Department of Ecology (Ecology) when a chemical of high concern to children (CHCC) is present in their products or product components. Under the Washington Law, "manufacturer" means any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces a children's product or an importer or domestic distributor of a children's product. For the purposes of the Law, "importer" means the owner of the children's product. Ecology has identified 85 CHCCs in its regulations.

Washington's Children's Safe Products Act... requires manufacturers of children's products or trade organizations on behalf of its member manufacturers to notify... when a chemical of high concern to children... is present in their products or product components.

The Law defines "children's products" as:

- Toys (products designed or intended by the manufacturer to be used by a child at play)
- Children's cosmetics (cosmetics made for, marketed for use by, or marketed to children under the age of twelve)
- Children's jewelry (i.e., jewelry made for, marketed for use by, or marketed to children under the age of twelve)
- A product designed or intended by the manufacturer to help a child with sucking or teething, to facilitate sleep, relaxation, or the feeding of a child, or to be worn as clothing by children
- Child car seats

Ecology started to collect information in 2012. Annual reporting for products or product components containing CHCCs is required. The reporting requirements were phased in, with reporting first by larger manufacturers and manufacturers of product types that involve prolonged exposure to children.

For more information, visit: <https://ecology.wa.gov/Waste-Toxics/Reducing-toxic-chemicals/Childrens-Safe-Products-Act>.

OREGON CHILDREN'S PRODUCTS DISCLOSURE

The **Toxic-Free Kids Act** was passed during the 2015 legislative session. This Law requires manufacturers of children's products sold in Oregon to report products containing one or more high priority chemicals of concern for children's health if found at or above specific levels in those products. Ultimately, manufacturers are to remove these chemicals from certain products or seek a waiver. Products subject to reporting are those that are marketed to or intended for children. The goal is to reduce children's exposure to chemicals of concern and improve our understanding of how children are exposed to these chemicals.

Manufacturers must provide biennial notice to the Oregon Health Authority (OHA) of children's products sold in Oregon that are covered by the Act and contain **high priority chemicals of concern for children's health (HPCCCH)** in the final product that are intentionally added at or above practical quantification limits (PQLs). The PQLs for intentionally added HPCCCH vary. The de minimis concentration for all HPCCCH found as contaminants is 100 parts per million (ppm).

Any of the following products that are made for, marketed for use by, or marketed to children under 12 years of age are defined as children's products:

- A product designed or intended by the manufacturer to facilitate sucking, teething, sleeping, relaxing, feeding or drinking
- Children's clothing and footwear
- Car seats
- Children's cosmetics
- Children's jewelry
- Toys

The first biennial notice was due January 1, 2018.

For more information, visit: <https://www.oregon.gov/oha/ph/healthyenvironments/healthyneighborhoods/toxicsubstances/pages/toxic-free-kids.aspx>.

VERMONT CHILDREN'S PRODUCTS DISCLOSURE

Act 188 creates a requirement that manufacturers that use chemicals designated by the State of Vermont as Chemicals of High Concern to Children must disclose information about these chemicals to the Vermont Health Department. "Chemical of High

Concern to Children" (CHCC) means a chemical listed under Act 188 or designated by the Health Department as a chemical of high concern by rule. Act 188 designated 66 CHCCs; Vermont's current CHCC list comprises 86 chemicals. Manufacturers are required to report to the State if an intentionally added CHCC is present in a product component at a concentration above the Practical Quantitation Limit (PQL), the lowest amount of a chemical that can be measured in a product with confidence. If a chemical is not intentionally added to a children's product, the manufacturer is required to report to the State when it is present at a concentration of 100 parts per million or greater.

"Children's product" means any consumer product, marketed for use by, marketed to, sold, offered for sale, or distributed to children in the State of Vermont, including:

- Toys
- Children's cosmetics
- Children's jewelry
- A product designed or intended by the manufacturer to help a child with sucking or teething, to facilitate sleep, relaxation, or the feeding of a child, or to be worn as clothing by children
- Child car seats

For the first reporting period, manufacturers were required to report products that were offered for sale and contain chemicals of high concern to children by January 1, 2017. The next set of reports was due by August 31, 2018, and biennially thereafter. Each report is based on a chemical; thus, a manufacturer can submit a maximum of 66 reports per reporting year.

For more information, visit: <https://www.healthvermont.gov/environment/children/chemicals-childrens-products>.

NEW YORK CHILDREN'S PRODUCTS DISCLOSURE

New York's legislature passed the **Toxic Chemicals in Children's Products Act** during the 2019 legislative session; Governor Cuomo signed it on February 7, 2020. This law is similar, in many respects, to the laws in Oregon, Vermont, and Washington. It requires NYS-DEC to promulgate a list of chemicals of concern and specifies criteria and a process to derive the list, including a list of 77 chemicals that NYSDEC must consider when forming its Chemicals of Concern

list. The law also lists 7 high-priority chemicals and establishes provisions for the periodic review of this list.

The law's definition of children's products comprises consumer products primarily intended for, made for, or marketed for use by children ("persons aged 12 and under"), including:

- Baby products
- Toys
- Car seats
- School supplies
- Personal care products
- Products designed or intended by the manufacturer to help a child with sucking or teething, to facilitate sleep, relaxation, or the feeding of a child
- Novelty products
- Jewelry
- Bedding, furniture, furnishings, and apparel

Manufacturers of new children's products sold in New York must report products containing one or more chemicals of concern or high-priority chemicals. The law sets no de minimis concentration but does authorize NYSDEC to do so for trace contaminants. With some exceptions, the law also (1) prohibits the distribution, sale, or offer for sale, after January 1, 2023, of children's products containing any of three specific high-priority chemicals, if intentionally added, and (2) authorizes NYSDEC to prohibit the distribution, sale, or offer for sale of children's products containing any chemicals on the high-priority chemicals list. Like Oregon and Vermont, the law authorizes NYSDEC to establish reporting fees to support administration and enforcement of the law. Manufacturers of children's products containing one or more high-priority chemicals must notify distributors and retailers of their products of the presence of the high-priority chemicals and provide "information regarding the toxicity of such chemical". In addition, NYSDEC must provide information to the public about children's products containing chemicals of concern or high priority chemicals on its website.

The law does not specify reporting periods like those in Oregon, Vermont, and Washington; it requires manufacturers to report to NYSDEC within one year of a chemical's appearance on the list

of chemicals of concern or high-priority chemicals. NYSDEC may direct submission of such reports to the IC2.

For more information, visit: <https://www.nysenate.gov/legislation/bills/2019/S7735>.

IC2'S HIGH PRIORITY CHEMICALS DATA SYSTEM (HPCDS)

Ecology, OHA, and the Vermont Health Department have joined together through the Interstate Chemicals Clearinghouse (IC2) to create the High Priority Chemicals Data System (HPCDS), which is a reporting portal and data source that, when complete, will satisfy all three states' requirements for reporting on priority chemicals in children's products. The HPCDS will benefit product manufacturers and distributors through "one-stop" reporting that satisfies multiple state requirements.

Starting in 2018, the IC2 began development of the HPCDS with the intent that it set the standard for reporting data on chemicals in children's products. Version 1.0 of the System was launched in

A shared system will also obviate the need for states that have already enacted reporting laws and states that enact such laws in the future to build and maintain largely redundant systems.

December 2019. This initial launch supports reporting to Oregon and Washington. Now that the HPCDS is live, Oregon and Washington have taken their independent reporting systems offline. At some point, the IC2 expects the HPCDS to comprise reporting for Vermont and New York, as well as Oregon and Washington.

Compared with independent systems in multiple states, a single system will result in fewer reporting errors and inconsistencies and thus a higher-quality data set. A shared system will also obviate the need for states that have already enacted reporting laws and states that enact such laws in the future to build and maintain largely redundant systems.

The HPCDS features a flexible, web-based search interface and provides "one-stop" public access to data. This will help provide perspective on the presence of chemicals of concern in children's products nationally. This data set will help reveal insights regarding the movement of chemicals through manufacturing supply chains.

For more information, visit: <https://www.theic2.org/hpcds>.

MAINE CHILDREN'S PRODUCTS DISCLOSURE

Maine's Toxic Chemicals in Children's Products Law requires manufacturers or distributors of a children's product for sale that contains a priority chemical to disclose certain information to the Department of Environmental Protection (DEP). As of 2019, ME DEP had designated eight chemicals as priority chemicals:

- Bisphenol A
- Nonylphenol and Nonylphenol Ethoxylates
- Cadmium
- Formaldehyde
- Mercury
- Arsenic
- Phthalates
- Decabromodiphenyl ether (decaBDE) and/or hexabromocyclododecane (HBCD) (flame retardants)

The law defines "children's product" as a consumer product intended for use by children, such as baby products, toys, car seats, personal care products and clothing, and any consumer product containing a chemical of high concern that, when used or disposed of, will likely result in a child or a fetus being exposed to that chemical. Maine DEP rules define a child as a person younger than 18 years old.

Manufacturers selling certain categories of children's products in Maine containing any of Maine's priority chemicals, in an amount greater than de minimis, and that have not already reported to the Department, must do so within 30 days of the product's availability in Maine. ME DEP started to collect information in 2012. The Department has adopted rules for each priority chemical that must be reported when intentionally added to certain children's products, which are sold in the State. **Reporting forms** for the specified chemicals must be submitted to Maine DEP. Maine DEP is not participating in the HPCDS.

For more information, visit: <https://www.maine.gov/dep/safechem/>.

WASHINGTON STATE POLLUTION PREVENTION FOR OUR FUTURE ACT

Enacted in 2019, Chapter 70.365 RCW is being implemented under the "Safer Products for Washington" program. The comprehensive new law builds on the Children's Safe Products Act, authorizing the State Department of Ecology (Ecology) to regulate harmful chemicals in consumer products. It includes new authority to require manufac-

turers to report priority chemicals in consumer products and allows the agency to obtain more immediate disclosure of ingredients when it is determining priority consumer products.

More specifically, RCW 70.365.040 gives Ecology the authority to "require a manufacturer to provide notice of the use of a priority chemical or class of priority chemicals." When this authority is invoked, manufacturers of a children's product or a consumer product containing a priority chemical shall file an annual notice with the Department that must include the following information:

- "(1) The name of the chemical used or produced and its chemical abstracts service registry number;
- (2) A brief description of the product or product component containing the substance;
- (3) A description of the function of the chemical in the product;
- (4) The amount of the chemical used in each unit of the product or product component. The amount may be reported in ranges, rather than the exact amount;
- (5) The name and address of the manufacturer and the name, address, and phone number of a contact person for the manufacturer; and
- (6) Any other information the manufacturer deems relevant to the appropriate use of the product."

Additionally, when Ecology is in the process of identifying priority consumer products, under RCW 70.365.030 it has the authority to demand that the manufacturer provide the following information:

- "(i) A list of products containing priority chemicals;
- (ii) Product ingredients;
- (iii) Information regarding exposure and chemical hazard; and
- (iv) A description of the amount and the function of the high priority chemical in the product."

The manufacturer has six months to provide the information to Ecology.

Passed in 2019, the Department is just beginning to implement the law and has started to require disclosure of chemical ingredients from certain manufacturers to determine priority products.

For more information, visit:

<https://ecology.wa.gov/ToxicsInProducts>.

KEY QUESTIONS & ISSUES REGARDING EXISTING MANDATORY DISCLOSURE PROGRAMS

Challenges and areas of contention among business, NGO, and government stakeholders in developing and implementing the chemical ingredient disclosure initiatives described above include:

- The criteria for the type(s) of chemical ingredients to be disclosed
- If using lists of chemicals of concern, which lists to use
- Threshold levels for reporting chemicals
- Disclosure of the hazards associated with chemical ingredients
- Disclosure of nonfunctional ingredients, including both byproducts and contaminants (along with intentionally added ingredients)
- The level of disclosure achieved for a product
- The scope of products covered
- Confidential business information (CBI)
- The form of disclosure and making the disclosed information accessible and useful to data users and the public
- Compliance assistance to the reporters and stakeholders
- Enforcement of the requirements
- What actions to take based on what the disclosures reveal

These challenges are briefly described below.

CRITERIA FOR SPECIFYING CHEMICALS FOR DISCLOSURE

As shown in the Appendix, ingredient disclosure programs differ in which chemical ingredients they cover. The New York State and California cleaning product ingredient disclosure initiatives, the New York State menstrual product labeling program, and the HPD Open Standard require the disclosure of all intentionally added chemical ingredients. Some of these programs also require disclosure of some nonfunctional ingredients. The children's product ingredient disclosure programs in Washington, Oregon, and Vermont require the disclosure of designated chemicals of concern. To identify their chemicals of concern, these states consulted

government lists of chemicals with a variety of health endpoints of concern. They continue to review their lists and make additions and changes. The mercury disclosure applies to all forms of mercury and was motivated by a desire by states to eliminate or reduce all uses of mercury, where feasible.

The choice of what chemical ingredients to cover for disclosure depends on a number of factors, including:

- The nature of the product—formulated or article
- The users or consumers of the product, including sensitive populations, such as children or workers
- The goals of the program, such as (1) reducing or eliminating the use of a high-priority toxic chemical, like mercury, or a targeted class of chemicals or (2) understanding all the ingredients in products to inform future actions
- What is already known about the use or presence of chemicals in the targeted products and where information is missing, such as fragrances in cleaning products

These factors often inform discussions and disagreements that arise during the development and promotion of laws, policies, and voluntary initiatives intended to promote transparency.

Ingredient disclosure programs differ in which chemical ingredients they cover. ... states consulted government lists of chemicals with a variety of health endpoints of concern. They continue to review their lists and make additions and changes.

DISCLOSURE OF CHEMICAL HAZARDS

California's and New York's cleaning product disclosure programs require an ingredient's presence on a list or lists of chemicals of concern to be disclosed (for both functional and nonfunctional ingredients). New York's requirement includes provision of the name of the list on which a specific chemical appears. The HPD Open Standard requires, for each intentionally added substance and residual/impurity above the reporting threshold, the disclosure of the substance's GreenScreen score and the hazards associated with each substance.

THRESHOLDS FOR INTENTIONALLY ADDED INGREDIENTS

The Appendix includes the reporting thresholds for intentionally added ingredients in cleaning products and children's products. Both California's and New York's cleaning product programs have no threshold for the disclosure of intentionally added ingredients—they must be disclosed if they are present in the product, without regard to threshold. The children's product requirements set the limits for intentionally added ingredient as the practical quantification limit (PQL). There are no reporting thresholds for mercury disclosure or the required ingredient disclosure for menstrual products.

The HPD Open Standard allows companies to report to different threshold levels, including 100 ppm and 1,000 ppm.

NONFUNCTIONAL INGREDIENTS, INCLUDING BYPRODUCTS & CONTAMINANTS

Whether disclosure requirements should include nonfunctional chemical ingredients, including byproducts and contaminants (also referred to as incidental ingredients, residuals, or impurities) is often a focus of considerable debate during the development of programs and legislation.

Whether disclosure requirements should include nonfunctional chemical ingredients, including byproducts and contaminants... is often a focus of considerable debate during the development of programs and legislation.

There are various perspectives on the reporting of nonfunctional ingredients. On one side is the concern that a toxic chemical may be present as an unknown byproduct or contaminant in significant amounts and therefore is a source of potential hazard or exposure. The presence of these byproducts or contaminants could be because they are:

- Process chemicals, or chemicals used in manufacturing processes that are transferred into the final product (even though they do not contribute to the final product's function or purpose).
- Incompletely reacted chemical mixtures
- Degradation products
- Present in the raw materials used to make the product

Those who advocate for disclosure to include byproducts and contaminants of concern point to the extremely low health and environmental standards being set for emerging contaminants, such as the common byproduct and carcinogen 1,4 dioxane and PFAS chemicals (in parts per trillion (ppt) or billion (ppb)). They also argue that transparency is necessary in order to create incentives for manufacturers to improve their own manufacturing processes or take actions within their supply chains to reduce contamination or the use of processes that result in hazardous chemicals (such as ethoxylation, which produces 1,4 dioxane).

Those who argue against including byproducts and contaminants in ingredient disclosure focus on the low level of such ingredients in the products, which they contend present a low risk of possible exposure and are therefore of less concern than the intentionally added ingredients. They also argue that the levels of byproducts and contaminants can vary from one production batch to another, which makes it difficult to accurately report on their presence. In addition, they are concerned about the cost of conducting testing that may be the only way to assess the presence of such incidental ingredients.

A compromise for a number of programs (as shown in the Appendix), such as the CA Cleaning Product Right to Know Act, NY's cleaning product ingredient disclosure program, and the OR, WA, and VT children's products laws, is mandating reporting on non-functional ingredients that are chemicals of concern at levels above specified thresholds. The thresholds for disclosure of contaminants of concern in children's products in Oregon, Washington, and

Vermont are 100 parts per million (ppm). California has a list of contaminants that must be disclosed. If the chemical is not on their list, they do not have to be disclosed. Similarly, the thresholds for nonfunctional ingredients of concern in cleaning products in CA are 10 ppm for 1,4-dioxane and 100 ppm for all others. Notably, New York's recommended thresholds for the disclosure of non-functional ingredients are much lower: the practical quantification limit (PQL) for byproducts, and existing health and safety standards, such as maximum contaminant levels for drinking water or the trigger thresholds for reporting under CA Proposition 65, for contaminants. New York's Household Cleansing Product Information Disclosure Program is the only one that distinguishes between byproducts and contaminants in order to establish thresholds.

There is no mandate to report on mercury contaminants in products or to report contaminants of concern in menstrual products. In the HPD Open Standard, companies must report impurities/residuals present above the company's self-determined reporting threshold, which varies from 100 to 1,000 ppm.

SCOPE OF PRODUCTS

Each of the laws described above and summarized in the Appendix defines the scope of the products that are covered. Most of the laws target a broad category of products, such as cleaning, children's, or personal care (including menstrual) products. With the exception of the California Cleaning Product Right to Know Act, state agencies, in turn, are responsible for specifying the scope of products covered by the disclosure requirements. The mercury disclosure requirements, in contrast, do not target specific products. Rather they focus on requiring the disclosure of intentionally added mercury in nearly all products that are sold. Proponents of disclosure must choose which approach makes sense based on their goals.

CONFIDENTIAL BUSINESS INFORMATION

Most of the state laws allow for some confidential business information (CBI) claims (see the Appendix). Examples of CBI include:

- Specific chemical identities
- Market share data, such as the number of products sold in the U.S. in a year
- Supply-chain relationships

Companies are concerned about keeping their product recipes confidential, particularly the exact amounts of ingredients in their products. Several state requirements allow reporting of ingredient concentrations or amounts (by weight) in ranges or the listing of ingredients in descending order of predominance by weight. Examples include the mercury product requirements, and the OR, WA, and VT children's products laws. By facilitating reporting in ranges, these state programs have avoided many CBI claims by manufacturers, and their interest in understanding the general amounts of chemicals of concern in products is satisfied.

What qualifies as CBI is a source of significant debate and varies from state to state, depending on how state laws address CBI claims.

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FORM OF THE DISCLOSURE & MAKING THE DISCLOSED INFORMATION ACCESSIBLE & USEFUL

Almost all the state disclosure requirements focus on some method of informing the public about the ingredients in the products, most often through online access. This can take two basic forms:

- A centralized, searchable online database that provides access to all the non-confidential business information (such as the IMERC reporting system and HPCDS).
- Posting ingredient information on the brand owner's or manufacturer's website (such as for New York and California cleaning product disclosure).

In the case of NY's menstrual products law and mercury-added products, disclosure also involves information on the product and packaging label.

These methods of disclosure are evolving, and, over the next few years, those who advocate for disclosure will learn much more about the advantages and disadvantages of these forms of providing access to information.

Almost all the state disclosure requirements focus on some method of informing the public about the ingredients in the products, most often through online access.

COMPLIANCE & ENFORCEMENT

Due to differences in implementation schedules and the products and chemicals covered by the different disclosure initiatives, individual state agencies have taken the lead on the initial compliance outreach to manufacturers. However, this is an area where coordination through groups like IMERC and the IC2 can ultimately be beneficial. The Clearinghouses provide support with maintaining lists of possible reporters and disseminating information to them to assist with compliance. The Clearinghouses can also post information to help companies comply with multi-state requirements and provide central points of contact for questions by phone, email, or online.

If state agencies want to confirm the claims by manufacturers on the use of chemicals in products, they may need to conduct laboratory testing. The Washington State Department of Ecology has undertaken such testing. Minnesota has also conducted some product testing. Other state agencies have yet to undertake this kind of verification.

If more states become involved in conducting laboratory testing of products, a number of key questions would arise. Will state agencies dictate lab protocols for measuring chemical content within products to verify manufacturer claims? Are there accepted analytical methods, or will the state agencies develop such methods? And, if so, will they collaborate on this method development? Can companies choose their own method of analysis? Would the state agencies then require documentation of the analysis? For example, the Washington State Children's Safe Products Act does not require product testing, but its Department

of Ecology is testing products and making public both the results and the methods used to test for compliance.

State agencies also have a variety of enforcement authorities under the state laws. The spectrum is from almost no authority, such as with the California Cleaning Product Right to Know Act, to enforcement authority clearly specified in law. State agencies have limited enforcement resources and often use enforcement to pursue non-compliance. In the case of many of the ingredient disclosure initiatives, the states focused first on providing extensive compliance assistance before considering enforcement.

USING THE INFORMATION & DECIDING WHAT ACTIONS TO TAKE

In the public policy context, stakeholders use chemical ingredient disclosure information to:

- Analyze chemical use trends for targeted products.
- Support public education campaigns on the use of chemicals of concern.
- Facilitate informed state and consumer purchasing decisions.
- Support alternatives assessments.
- Identify products for green chemistry research and development.
- Develop future chemical use compliance and enforcement efforts.
- Develop occupational health and safety measures.
- Inform product labeling.
- Initiate research on exposures to and substitutes for products and chemicals of concern.
- Develop improved and safer product use, pollution prevention initiatives, and end-of-life management strategies, including reuse, recycling, and treatment.
- Support further policy development and additional legislative action.

For example, the IMERC-member states use the information they collect to:

- Identify trends in mercury use by product category.
- Identify companies that are required to collect and recycle mercury-added products at their end-of-life.
- Identify companies whose products are subject to sales restrictions and product labeling requirements.
- Set priorities for mercury product collection and recycling initiatives.
- Educate policy makers and the public on mercury use in products.

In voluntary standards stakeholders use the data to identify products with chemicals of concern, engage and communicate with the value chain, and select products that avoid chemicals of concern and use inherently safer chemicals.



APPENDIX: COMPARISON OF STATE TRANSPARENCY PROGRAM REQUIREMENTS

For a complete spreadsheet comparing all of the current state disclosure programs, visit:

http://theic2.org/article/download-excel/file_name/CPA-IC2_Transparency_Background_Report_APPENDIX_v01.xlsx.

REQUIREMENTS	CALIFORNIA CLEANING PRODUCT RIGHT TO KNOW ACT	NEW YORK HOUSEHOLD CLEANSING PRODUCT INFORMATION DISCLOSURE*	WASHINGTON STATE CHILDREN'S SAFE PRODUCTS ACT (CSPA)
Products covered? Definition	"Designated product" means a finished product that is an air care product, automotive product, general cleaning product, or a polish or floor maintenance product used primarily for janitorial, domestic, or institutional cleaning purposes. "Designated product" shall not mean any of the following: (1) Foods, drugs, and cosmetics, including personal care items such as toothpaste, shampoo, and hand soap; (2) Industrial products specifically manufactured for, and exclusively used in the following: (A) Oil and gas production. (B) Steel production. (C) Heavy industry manufacturing. (D) Industrial water treatment. (E) Industrial textile maintenance and processing other than industrial laundering. (F) Food and beverage processing and packaging. (G) Other industrial manufacturing processes. (3) A trial sample of a designated product that is not packaged for individual sale, resale, or retail and includes a statement indicating that the product is not for sale or resale.	"Household cleansing product" means 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. Household cleansing product shall not mean 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.	Definition includes: toys; children's clothing and footwear; children's cosmetics; children's jewelry; products designed or intended to facilitate sucking, teething, sleep, relaxation, feeding, or drinking; and child car seats. Definition excludes packaging, food, consumer electronics, sports equipment, etc.
Products covered? Report product category, model name, +/- or brand name?	Indirectly (on-label disclosure) and website disclosure	Product category (GS1 brick) and UPC code, model, and brand	Product category (GS1 brick)
Product market data required? e.g., # of product units sold or distributed	No	No	No
CBI exemptions?	Yes, authorizes manufacturers to protect certain chemicals from disclosure by use of generic names. No CBI allowed for fragrance or other intentionally-added ingredients that appear on any of the 23 designated hazard lists referenced in the law. CBI claims allowed for non-toxic fragrance or other intentionally-added ingredients only if the manufacturer complies - and keeps on file for audit by the AG - documentation required by the Uniform Trade Secret Protection Act.	Yes	Chemical identity: yes Supply-chain relationships: yes for legacy reports; no for reports submitted through the HPCDS
Function of chemical in product?	Yes	Yes	Yes
Amount of chemical in product?	Relative, not absolute Intentionally-added ingredients listed must be listed in descending order of predominance by weight in the product, except that ingredients present at a weight below one percent may be listed following the other ingredients without respect to the order of predominance by weight.	Relative, not absolute. 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 need not be disclosed.	Yes; may be reported as range.

APPENDIX: COMPARISON OF STATE TRANSPARENCY PROGRAM REQUIREMENTS

For a complete spreadsheet comparing all of the current state disclosure programs, visit:

http://theic2.org/article/download-excel/file_name/CPA-IC2_Transparency_Background_Report_APPENDIX_v01.xlsx.

OREGON TOXIC-FREE KIDS ACT (TFKA)	VERMONT CHEMICAL DISCLOSURE PROGRAM FOR CHILDREN'S PRODUCTS	INTERSTATE MERCURY EDUCATION & REDUCTION CLEARINGHOUSE (IMERC)	NEW YORK MENSTRUAL PRODUCT LABELING
Definition includes: toys; children's clothing and footwear; children's cosmetics; children's jewelry; products designed or intended to facilitate sucking, teething, sleep, relaxation, feeding, or drinking; and child car seats. Definition excludes food, consumer electronics, sports equipment, etc.	Definition includes: toys; children's clothing and footwear; children's cosmetics; children's jewelry; products designed or intended to facilitate sucking, teething, sleep, relaxation, feeding, or drinking; and child car seats. Definition excludes packaging, food, consumer electronics, snow sports equipment, etc.	Mercury-added products are products, commodities, chemicals, or components of a product that contain mercury or a mercury compound that is intentionally- added for any reason. Mercury-added products include both fabricated mercury-added products and formulated mercury-added products. For example, see Connecticut's definitions at https://www.ct.gov/deep/cwp/view.asp?a=2708&q=324002&deepNav_GID=1638 .	"Menstrual Product" shall mean products used for the purpose of catching menstruation and vaginal discharge, including but not limited to tampons, pads, and menstrual cups. These products may be either disposable or reusable.
Product category (GS1 brick)	Product category (GS1 brick), brand name, product model, UPC code	Product or category of products that the reporter manufactures, distributes, or imports	Indirectly (on-label disclosure)
Yes	No	No - reports on the range of mercury in all of the product/product category sold in the U.S. in a year	No
There are no specific CBI provisions in the TFKA.	Yes, for chemical identity	Yes. Have not had a CBI request in many years. Almost all denied by the states. No CBI for reports submitted through the IMERC e-filing system.	No
Yes	Yes	Yes	No
Yes; reported as range	Yes; reported as range	Yes; reported in ranges. Fabricated products ranges reported by weight in grams, formulated products ranges reported by concentration in parts per million (ppm). Also, requires reporters to estimate the total amount of mercury sold in the U.S. in a calendar year in the product. This enables the IMERC states to estimate total mercury use for that product and to track trends over time.	No

REQUIREMENTS	CALIFORNIA CLEANING PRODUCT RIGHT TO KNOW ACT	NEW YORK HOUSEHOLD CLEANSING PRODUCT INFORMATION DISCLOSURE*	WASHINGTON STATE CHILDREN'S SAFE PRODUCTS ACT (CSPA)
Manufacturer information?	"A manufacturer of a designated product sold in the state shall disclose the manufacturer's toll-free telephone number and Internet Web site address on the designated product label."	Yes (e.g., "The complete name of the manufacturer of the final product and the final domestic distributor of the product (if they are different)...")	"Yes (e.g., company name and contact information for a company representative) "Manufacturer" does not necessarily mean the company that actually made the product.
Frequency of Reporting/ Timeframe	<p>Ongoing</p> <p>(e) A manufacturer that is required to make a revision to information disclosed online pursuant to Section 108954.5 due to a change in a designated trait list or in Annex III of the EU Cosmetics Regulation No. 1223/2009 as required to be labeled by the EU Detergents Regulation No. 648/2004 shall make the revision no later than six months after the adoption of the revised list by its authoritative body, unless a later effective date for changes is imposed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20) or Annex III of the EU Cosmetics Regulation No. 1223/2009 as required to be labeled by the EU Detergents Regulation No. 648/2004.</p> <p>(f) A manufacturer that is required to make a revision to information disclosed on a product label pursuant to Section 108954 due to a change in a designated trait list or in Annex III of the EU Cosmetics Regulation No. 1223/2009 as required to be labeled by the EU Detergents Regulation No. 648/2004 shall make the revision no later than 18 months after the adoption of the revised list by its authoritative body, unless a later effective date for changes is imposed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20) or Annex III of the EU Cosmetics Regulation No. 1223/2009 as required to be labeled by the EU Detergents Regulation No. 648/2004.</p>	<p>Ongoing</p> <p>A Disclosure Certification Form must be submitted to DEC on-line, in machine-readable format, upon the effective dates of the Policy and every two years thereafter. The Form submitted every two years must include a complete list of the all the manufacturers' current (and applicable discontinued) products covered by the disclosure. 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 these instances, the Form may be an update and only needs to include information on the new product or revised URL.</p>	Annual
Priority chemicals? Y/N	Yes	Yes	Yes

OREGON TOXIC-FREE KIDS ACT (TFKA)	VERMONT CHEMICAL DISCLOSURE PROGRAM FOR CHILDREN'S PRODUCTS	INTERSTATE MERCURY EDUCATION & REDUCTION CLEARINGHOUSE (IMERC)	NEW YORK MENSTRUAL PRODUCT LABELING
<p>Yes (e.g., company name and contact information for a company representative)</p> <p>"Manufacturer" does not necessarily mean the company that actually made the product.</p>	<p>Yes (e.g., company name and contact information for a company representative)</p> <p>"Manufacturer" does not necessarily mean the company that actually made the product.</p>	<p>Yes (e.g., company name, address, phone, URL, and contact information for a company representative). Reporter can be the manufacturer, the distributor, the importer, or a trade association. A manufacturer is any producer of a mercury-added product produced inside the United States or any importer or domestic distributor of a mercury-added product produced outside the United States.</p> <p>When a multi-component product is offered for sale or distributed for promotional purposes, the manufacturer is considered to be the last manufacturer to produce or assemble the product in the United States or the importer or domestic distributor if the product was produced outside the United States.</p>	<p>No</p>
<p>Biannual</p>	<p>Biannual</p>	<p>Whenever the amount of mercury in a product changes; automobile manufacturers generally report every year because of the frequent changes to their models; other reporters notify every three years. Period of reporting is one year. Notifications are due April of the year following the reporting year.</p>	<p>Not applicable</p>
<p>Yes</p>	<p>Yes</p>	<p>Yes: mercury and mercury compounds</p>	<p>All ingredients</p>

REQUIREMENTS	CALIFORNIA CLEANING PRODUCT RIGHT TO KNOW ACT	NEW YORK HOUSEHOLD CLEANSING PRODUCT INFORMATION DISCLOSURE*	WASHINGTON STATE CHILDREN'S SAFE PRODUCTS ACT (CSPA)
Priority chemicals? Definition	Manufacturers must disclose "each intentionally added ingredient contained in the product that is included on a designated list." As of March 2020 (statute version 10/15/17 - Chaptered), "designated list" means any of 22 authoritative lists (including subsequent revisions when adopted by the authoritative body that maintains each list). The 22 authoritative lists can be found in the text of the statute: https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=3.&chapter=13 .	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 must be disclosed, whether or not the specific name or other information about the ingredient is being withheld as CBI." NY's lists of chemicals of concern include all the lists used by CA with the addition of 6 more lists. 2 are NY lists and 2 are EPA lists (TSCA and ozone). The other two lists are the AOEC Asthmagen list and the Great Lakes Water Quality Act Chemicals of Concern.	"High priority chemical" means a chemical identified by a state agency, federal agency, or accredited research university, or other scientific evidence deemed authoritative by the department on the basis of credible scientific evidence as known to do one or more of the following: (a) Harm the normal development of a fetus or child or cause other developmental toxicity; (b) Cause cancer, genetic damage, or reproductive harm; (c) Disrupt the endocrine system; (d) Damage the nervous system, immune system, or organs or cause other systemic toxicity; (e) Be persistent, bioaccumulative, and toxic; or (f) Be very persistent and very bioaccumulative.
Priority chemicals? Threshold	No threshold for intentionally-added chemicals of concern. 10 ppm for 1,4-dioxane and 100 ppm for all other nonfunctional constituents of concern	No threshold for intentionally added chemicals of concern; Practical Quantitation Limit (PQL) for byproducts; and existing health and safety standards for contaminants	PQL for intentionally-added chemicals 100 ppm for contaminants
Intentionally-added? Y/N	Yes	Yes	Yes
Intentionally-added? Definition	"Intentionally-added ingredient" means a chemical that a manufacturer has intentionally added to a designated product and that has a functional or technical effect in the designated product, including, but not limited to, the components of intentionally-added fragrance ingredients and colorants and intentional breakdown products of an added chemical that also have a functional or technical effect in the designated product.	"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.	"Intentionally-added chemical" means a chemical in a product that serves an intended function in the product component.
Intentionally-added? Threshold	No threshold	No threshold: all intentionally-added ingredients in a covered product must be disclosed, including those present in trace quantities, although their Chemical Abstracts Service Registry number (CASRN) and specific chemical name may be withheld as CBI.	PQL
Nonfunctional Ingredients (By-products and Contaminants)? Y/N	Yes	Yes	Yes

* Note: The information in the above column derives from NYSDEC's guidance, which has been declared null by the NY Supreme Court. NYSDEC will begin a new rulemaking process in the near future.

OREGON TOXIC-FREE KIDS ACT (TFKA)	VERMONT CHEMICAL DISCLOSURE PROGRAM FOR CHILDREN'S PRODUCTS	INTERSTATE MERCURY EDUCATION & REDUCTION CLEARINGHOUSE (IMERC)	NEW YORK MENSTRUAL PRODUCT LABELING
No explicit definition; the TFKA references the Washington Department of Ecology's "Reporting List of Chemicals of High Concern to Children or a list maintained by another state agency, another state or a federal agency that the authority has identified by rule as a list intended to identify high priority chemicals."	No explicit definition; "Chemical of high concern to children means a chemical listed under section 1773 or designated by the Department as a chemical of high concern by rule under section 1776 of this title."	Elemental mercury and mercury compounds	No
PQL for intentionally-added chemicals 100 ppm for contaminants	PQL for intentionally-added chemicals 100 ppm for contaminants	No threshold for intentionally-added mercury or mercury compounds	No
Yes	Yes	Yes	Yes
"Intentionally-added chemical" means a chemical in a product that serves an intended function in the product component.	"Intentionally-added" means the addition of a chemical in a product that serves an intended function in the product component.	"Intentionally-added" means a product, commodity, chemical or component of a product that contains mercury or a mercury compound that is intentionally added for any reason. Mercury-added products include both fabricated mercury-added products and formulated mercury-added products.	"Ingredient" shall mean an intentionally-added substance present in the menstrual product.
PQL	PQL	No threshold.	No threshold.
Yes	Yes	No	No

REQUIREMENTS	CALIFORNIA CLEANING PRODUCT RIGHT TO KNOW ACT	NEW YORK HOUSEHOLD CLEANSING PRODUCT INFORMATION DISCLOSURE*	WASHINGTON STATE CHILDREN'S SAFE PRODUCTS ACT (CSPA)
Nonfunctional Ingredients (Byproducts and Contaminants)? Definition	"Nonfunctional constituent" means one of 34 specified substances, when present as an incidental component of an intentionally added ingredient, a breakdown product of an intentionally added ingredient, or a byproduct of the manufacturing process that has no functional or technical effect on the designated product.	"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.	"Contaminant" means trace amounts of chemicals that are incidental to manufacturing. They serve no intended function in the product component. They can include, but are not limited to, unintended by-products of chemical reactions during the manufacture of the product component, trace impurities in feed-stock, incompletely reacted chemical mixtures, and degradation products.
Nonfunctional Ingredients (Byproducts and Contaminants)? Thresholds	No threshold for any nonfunctional constituent that is known to the State of California to cause cancer or reproductive toxicity pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20) and triggers a product warning pursuant to that act 0.001 percent (10 ppm) for 1,4-dioxane 0.01 percent (100 ppm) for all other nonfunctional constituents	Same as CA until 2023, then all nonfunctional ingredients present on a list of chemicals of concern (Appendix B list of lists); if byproduct: Practical Quantitation Limit (PQL); if contaminant, a hierarchy of: - NY MCLs for drinking water - CA Prop 65 trigger level - 50 ppb Special exceptions: - 1,4 dioxane: 350 ppt - PFOA and PFOS combined: 70 ppt	If the CHCC is present as a contaminant, you must report any amount above 100 parts per million (ppm), unless the manufacturer has a manufacturing control program in place and exercises due diligence to minimize the level of the contaminant.
Disclosure of Chemical Hazards	An ingredient's presence on a list or lists of chemicals of concern must be disclosed (for both functional and nonfunctional ingredients).	Same as CA but also includes disclosure of the name of the list(s) on which a specific chemical appears	Implied because only hazardous chemicals are disclosed
Disclosure to government? Y/N	No separate reporting/disclosure mechanism	Certification of compliance/disclosure	Yes
Disclosure to government - public access to data?	Not applicable	Not applicable	Yes
Disclosure on package or product? Y/N	Yes	No	No
Disclosure on website? Y/N	Yes	Yes	Not manufacturers' websites; online on HPCDS

* Note: The information in the above column derives from NYSDEC's guidance, which has been declared null by the NY Supreme Court. NYSDEC will begin a new rulemaking process in the near future.

OREGON TOXIC-FREE KIDS ACT (TFKA)	VERMONT CHEMICAL DISCLOSURE PROGRAM FOR CHILDREN'S PRODUCTS	INTERSTATE MERCURY EDUCATION & REDUCTION CLEARINGHOUSE (IMERC)	NEW YORK MENSTRUAL PRODUCT LABELING
<p>"Contaminant" means trace amounts of chemicals that are incidental to manufacturing and that serve no intended function in the product component, including but not limited to:</p> <p>(a) Unintended by-products of chemical reactions during the manufacture of the product component;</p> <p>(b) Trace impurities in feed-stock;</p> <p>(c) Incompletely reacted chemical mixtures; and</p> <p>(d) Degradation products.</p>	<p>"Contaminant" means a trace amount of a chemical or chemicals that is incidental to manufacturing and serves no intended function in the children's product or component of the children's product, including an unintended by-product of chemical reactions during the manufacture of the children's product, a trace impurity in feed-stock, an incompletely reacted chemical mixture, and a degradation product.</p>	No	No
100 ppm	100 ppm	No	No
Implied because only hazardous chemicals are disclosed	Implied because only hazardous chemicals are disclosed	Implied because only mercury and mercury compounds are disclosed	No
Yes	Yes	Yes	No
Yes	Yes	Yes	Not applicable
No	No	Yes. Product and labeling requirements: http://www.newmoa.org/prevention/mercury/imerc/labelinginfo.cfm . Note: more states require product labeling than notification, including MD, MN, and WA.	Yes. "Each package or box containing menstrual products sold in this State shall contain a plain and conspicuous printed list of all ingredients which shall be listed in order of predominance. Such list shall either be printed on the package or affixed thereto."
Not manufacturers' websites; on HPCDS	Not manufacturers' websites; on State's website	Not manufacturers' websites; on IMERC's online database	No

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Chemical naming criteria? e.g., CASRN, INCI, etc.	Yes	Yes	Chemical names and CASRNs are specified in law and regulation
Legal implications for failure to disclose? e.g., fines	Yes "A designated product shall not be sold in the state unless the designated product and the manufacturer of the designated product comply with this chapter."	Yes Cleaning products may not be sold in unless they comply. Enforcement and fines associated with ECL Article 35 apply. The certification form also states that, "knowingly false statements and intentional omissions are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law." The certification form states, "knowingly false statements and intentional omissions are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law."	Yes: fines "A manufacturer of products in violation of this chapter is subject to a civil penalty not to exceed five thousand dollars for each violation in the case of a first offense. Manufacturers who are repeat violators are subject to a civil penalty not to exceed ten thousand dollars for each repeat offense."
Additional considerations	None	NYSDEC's program guidance was NYSDEC will begin a new rulemaking process in the near future.	None
Reference(s) (URL)	https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=3.&chapter=13	https://www.nysenate.gov/legislation/laws/ENV/A35	https://ecology.wa.gov/Waste-Toxics/Reducing-toxic-chemicals/Childrens-Safe-Products-Act https://app.leg.wa.gov/RCW/default.aspx?cite=70.240

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OREGON TOXIC-FREE KIDS ACT (TFKA)	VERMONT CHEMICAL DISCLOSURE PROGRAM FOR CHILDREN'S PRODUCTS	INTERSTATE MERCURY EDUCATION & REDUCTION CLEARINGHOUSE (IMERC)	NEW YORK MENSTRUAL PRODUCT LABELING
Chemical names and CASRNs are specified in law and regulation	Chemical names and CASRNs are specified in law and regulation	No	No
Yes: fines	<p>Yes: fines</p> <p>"A violation of this chapter shall be considered a violation of the Consumer Protection Act in 9 V.S.A. chapter 63."</p> <p>9 V.S.A. § 2470d. Penalty; remedies</p> <p>"(a) A seller or lessor who willfully and knowingly violates any provision of this subchapter shall be imprisoned not more than one year or fined not more than \$1,000.00, or both."</p> <p>The Attorney General's office, not the Health Department, is responsible for enforcement.</p>	<p>Yes, enforcement varies from state to state. For example: "The manufacturer, or its designated Industrial Trade Group, must file a manufacturer's notification before offering any mercury-added product for sale or distribution for promotional purposes in Connecticut."</p> <p>https://www.ct.gov/deep/cwp/view.asp?a=2708&q=324034&deepNav_GID=1638</p>	<p>Whenever a violation of this section has occurred, a civil penalty of one percent of the manufacturer's total annual in-state sales not to exceed one thousand dollars per package or box shall be imposed on the manufacturer.</p>
TFKA Phase 3: ORS 431A.260 requires that non-exempt manufacturers either remove the chemicals on the list from specific product categories or apply to OHA for a waiver by their third report (first deadline possible is January 1, 2022). Phase 3 rulemaking is not yet complete, as of March 3, 2020.	<p>The Commissioner of the Department of Health, after consultation with the Chemicals of High Concern to Children Working Group, may adopt a rule to regulate the sale or distribution of a children's product containing a chemical of high concern to children.</p>	<p>IMERC supports a multi-state clearinghouse that has developed and maintains an online reporting system for accepting the disclosure information on behalf of the eight states that require notification.</p>	<p>Law passed in 2019; not yet in effect</p>
<p>https://www.oregon.gov/oha/ph/HealthyEnvironments/HealthyNeighborhoods/Toxic-Substances/Pages/Toxic-Free-Kids.aspx</p> <p>https://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/HEALTHYNEIGHBORHOODS/TOXICSUBSTANCES/Pages/Toxic-Free-Rules.aspx (See OAR 333-016-2000 through 333-016-2090.)</p>	<p>https://www.healthvermont.gov/environment/children/chemical-disclosure-program-childrens-products-manufacturers</p> <p>https://legislature.vermont.gov/statutes/chapter/18/038A</p>	<p>http://www.newmoa.org/prevention/mercury/imerc/notificationinfo.cfm</p>	<p>https://www.nysenate.gov/legislation/laws/GBS/399-AAAA</p>

