



EARTHJUSTICE

BOZEMAN, MONTANA DENVER, COLORADO HONOLULU, HAWAII
INTERNATIONAL JUNEAU, ALASKA NEW YORK, NEW YORK OAKLAND, CALIFORNIA
SEATTLE, WASHINGTON TALLAHASSEE, FLORIDA WASHINGTON, D.C.

September 24, 2008

By Certified Mail, Return Receipt Requested

Dr. Herbert Fisk Johnson, III
Chairman and CEO
S.C. Johnson & Son, Inc.
1525 Howe Street
Racine, Wisconsin 53403-5011

Dear Dr. Johnson:

On behalf of the undersigned organizations, we are writing to inform you of your company's obligation under New York State law to file semiannual reports with the New York State Department of Environmental Conservation ("DEC") that (1) identify the ingredients of any household or commercial cleaning product that your company offers for sale in New York State, and (2) describe any studies performed by or for your company with respect to the public health or environmental impacts of such products or ingredients. We understand that your company has never filed such reports, or, at a minimum, that your company has not filed such reports in recent years. We request that you come into compliance with New York law and file the required reports with the DEC by no later than 30 days following the date of this letter.

The reporting requirement at issue is published in chapter six, section 659.6 of the New York Code of Rules and Regulations (6 NYCRR § 659.6), a copy of which is attached to this letter. Specifically, this regulation requires manufacturers of household and commercial cleaning products that are "distributed, sold or offered for sale" in New York to "furnish to the commissioner for public record" on a semiannual basis the following information with respect to each such product:

- (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;

116 JOHN STREET, SUITE 3100 NEW YORK, NY 10038

T: 212.791.1881 E: eajusny@earthjustice.org W: www.earthjustice.org

- (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

6 NYCRR § 659.6.

This disclosure requirement applies to “household cleansing products,” which the regulation defines broadly as “any product, including but not limited to, soaps and detergents containing a surfactant as a wetting or dirt emulsifying agent and used primarily for domestic or commercial cleaning purposes, including but not limited to the cleansing of fabrics, dishes, food utensils and household and commercial premises.” 6 NYCRR § 659.1(a) (emphasis added).

Household cleaning products typically contain an array of chemicals that can be harmful to our health and to the environment. A growing body of evidence associates exposure to such chemicals with adverse health effects such as cancer, hormone disruption, and asthma. For example, studies show that alkylphenol ethoxylates (APEs) commonly found in detergents, disinfectants, stain removers, and floor cleaners can mimic the hormone estrogen and may increase the risk of breast cancer. Recent research also links pre-natal exposure to chemicals commonly found in cleaning products to birth defects and miscarriages. For example, studies indicate that an average woman’s exposure to dibutyl phthalates (DBP), a category of chemicals commonly used to extend the life of fragrances in cleaning products, may cause reproductive abnormalities in male children. Exposure to another category of chemicals commonly used in cleaning products, ethylene glycol ethers, is associated with neural tube defects, early embryonic death, delayed physical development, and cleft lip. Ethanolamines, chemicals used as surfactants in many cleaning products, have been shown to trigger asthma.

Because many cleaning chemicals survive the sewage system and are released into streams, there is growing concern that such chemicals pose a threat to fish and other aquatic wildlife. For example, APEs and their intermediate breakdown products are present in over half of the streams tested by the United States Geological Survey. These chemicals are acutely toxic to fish, invertebrates, and algae, and adversely affect fish reproduction by, among other things, causing the “feminization” of male fish. Likewise, DBP is highly toxic to aquatic life, including algae, crustaceans and fish, and bioaccumulates in the tissues of fish and shellfish. The European Union has classified DBP as a chemical that is “very toxic to aquatic organisms.”

Public disclosure of cleaning product ingredients will enable consumers to take steps to limit the use of potentially hazardous chemicals in their homes. Likewise, such disclosure will assist workers in guarding against unwanted chemical exposure in the workplace. Because developing fetuses are especially vulnerable to health complications due to exposure to toxic chemicals *in utero*, information about the potential health impacts of cleaning product ingredients is of particular importance to pregnant women.

New York’s cleaning product disclosure requirement has been in place since 1976. Whether or not you were aware of its existence before receiving this letter, you are aware of it

now. We believe that thirty days is a reasonable amount of time for your company to come into compliance. If you plan to comply but need additional time, please let us know immediately.

If you have not complied or notified us of your intent to comply within 30 days of the date of this letter, we plan to notify the press regarding your company's violation of this important requirement. In addition, Earthjustice may commence legal action against your company.

We suggest that you send the required reports to the DEC at the following address:

Part 659 Phosphorus Content Report
Bureau of Water Compliance
NYSDEC, Division of Water
625 Broadway
Albany, NY 12233-3506

In addition, we would greatly appreciate it if you would send copies of any reports that you file with the DEC to Keri Powell, Earthjustice, 116 John Street, Suite 3100, New York, NY 10038, or kpowell@earthjustice.org.

If you have questions about this request, please feel free to contact me at (212) 791-1881.

Sincerely,



Keri N. Powell
Staff Attorney
Earthjustice, Inc.
116 John Street, Suite 3100
New York, New York
Tel: (212) 791-1881
kpowell@earthjustice.org
www.earthjustice.org

FOR:

Stephen Boese
Executive Director
Learning Disabilities Association of New York State
1202 Troy-Schenectady Road
Latham, New York 12110
Tel: 518-608-8992
sboese@ldanys.org
www.ldanys.org

Kathleen M. Donahue
Vice President
New York State United Teachers
800 Troy-Schenectady Road
Latham, NY 12110-2455
Tel: (518) 213-6000
www.nysut.org

Kathleen A. Curtis
Policy Director
Clean New York, a Project of Women's Voices for the Earth
323 Bonnyview Lane
Schenectady, NY 12306
Tel: (518) 708-3922
clean.kathy@gmail.com
www.clean-ny.org

Michael Seilback
Vice President, Public Policy & Communications
American Lung Association of New York, Inc.
700 Veterans Memorial Highway
Hauppauge, New York 11788
Tel: (631) 265-3848 x16
mseilback@alany.org
www.alany.org

Laura Haight
Senior Environmental Associate
New York Public Interest Research Group, Inc. (NYPIRG)
107 Washington Avenue
Albany, NY 12210
Tel: (518) 436-0876, ext. 258
lhaight@nypirg.org
www.nypirg.org

Robert J. Moore
Executive Director
Environmental Advocates of New York
353 Hamilton St.
Albany, NY 12210
Tel: (518) 462-5526 ext. 228
rmoore@eany.org
www.eany.org

Robert J. Goldstein
General Counsel
Riverkeeper, Inc.
828 South Broadway
Tarrytown, NY 10591
Tel: 914-478-4501 (ext. 225)
rgoldstein@riverkeeper.org
www.riverkeeper.org

Norreida Reyes, Conservation Director
Joseph A. Gardella, Jr., Ph.D., Chair, Toxics Subcommittee
Sierra Club Atlantic Chapter
353 Hamilton Street
Albany, New York 12210
Tel: (518) 426-9144
Norreida.Reyes@SierraClub.org
www.sierraclub.org

Barbara Warren
Executive Director
Citizens' Environmental Coalition
33 Central Ave.
Albany, NY 12210
Tel: 518-462-5527
warrenba@msn.com
www.cectoxic.org

Jesse Goldman
Environmental and Housing Justice Organizer
Make the Road New York
301 Grove St.
Brooklyn, NY 11237
Tel: (718) 418-7690, ext. 215
Jesse.goldman@maketheroad.org
www.maketheroad.org

Marian Feinberg
Environmental Health Coordinator
For A Better Bronx
199 Lincoln Av Suite 214
Bronx, NY 10454
Tel: (718) 292-4344
marian.fabb@earthlink.net
www.forabetterbronx.org/fabb/

Virginia Ramsey
President
INFORM, Inc.
5 Hanover Square, 19th Floor
New York, NY 10004
Tel: (212) 361-2400
ramsey@informinc.org
www.informinc.org

Attachment

cc:

The Honorable David A. Paterson, Governor, State of New York
Judith Enck, Deputy Secretary for the Environment, Executive Chamber (via email)
The Honorable Pete Grannis, Commissioner, New York State Department of Environmental Conservation
The Honorable Andrew M. Cuomo, Attorney General, State of New York
Lisa Kwong, Office of the New York State Attorney General (via email)
Alison Crocker, Deputy Commissioner and General Counsel, New York State Department of Environmental Conservation
Kelly Semrau, Vice President, Global Public Affairs, S.C. Johnson & Son, Inc.
General Counsel, S.C. Johnson & Son, Inc.