

SURPLUS HOUSEHOLD CONSUMER PRODUCTS AND WASTES

REPORT TO THE LEGISLATURE

**As required by Senate Bill 423
(Bates, Chapter 771, Statutes of 2016)**

This report was prepared by the members of the Retail Waste Working Group. It includes contributions from all of the members of the group, but does not necessarily represent the views of any individual contributor. A complete list of members, excluding those who elected not to be identified, may be found in the acknowledgement section of this report.

Prepared by the Retail Waste Working Group

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³ CalRecycle representatives participated on behalf of their own department and did not represent the views of any other department. CalRecycle representatives neither promoted nor discouraged any change to legislation and participated in the process to ensure factual information was presented.

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⁵ DTSC facilitated the Retail Waste Working Group and provided regulatory background and input to the issues presented. However, DTSC's participation is not necessarily an endorsement of all the views presented in this final report. Areas where DTSC agrees or disagrees with the proposals are noted in the report. Further in issuing this report, DTSC does not present any legislative or regulatory recommendations.

⁶ All US EPA representatives maintained an observer role and did not contribute to the drafting of the report.

OVERVIEW

This report is prepared pursuant to Health and Safety Code section (HSC) 25218.14(c), which requires the Retail Waste Working Group (RWWG) to report to the Legislature its findings and recommendations relating to requirements for the management of surplus household consumer products. Pursuant to SB 423 (Bates, Chapter 771, Statutes of 2016), the RWWG is comprised of representatives of large retailers, small retailers, district attorneys, certified unified program agencies (CUPAs), non-governmental organizations (NGOs), local governments, other relevant state agencies as determined by DTSC, manufacturers, reverse distributors, and other stakeholders. DTSC facilitated and hosted the RWWG meetings and provided public access to information and meetings on their Web site.

The oversight and management of programs that regulate discarded surplus household consumer products is shared by multiple levels of government. In California, discarded surplus household consumer products, if a hazardous waste, are subject to the Hazardous Waste Control Law (HWCL), pursuant to the California Health and Safety Code (HSC) and Title 22 of the California Code of Regulations (CCR). These same hazardous waste regulatory requirements apply to anyone that generates hazardous waste in California.

In California, DTSC is authorized by the United States Environmental Protection Agency (US EPA) to implement the Resource Conservation and Recovery Act (RCRA), Subtitle C requirements and its associated regulations. In addition to implementing RCRA, California implements additional state law hazardous waste requirements that are more stringent than those established under RCRA.

The RWWG discussed numerous topics related to the management of surplus household consumer products. Over an eight-month period (October 2016 through May 2017), the RWWG identified seven topics in an effort to define the scope of problems faced by the retail industry in applying the hazardous waste management standards in California and to identify possible solutions. The primary topics discussed were:

- Salvage and donation of surplus products;
- Management of products that are recalled;
- Assignment of credit/financial reconciliation for surplus products by product manufacturers; and
- Appropriate requirements to regulate surplus pharmaceuticals and products with drug facts.

In addition, other issues, including recycling and issues relating to the determination of wastes as hazardous wastes (empty containers and the California Aquatic Toxicity Test) were identified; however the RWWG did not have an opportunity to discuss these items at length.

There was general agreement among the RWWG members that these issues pose

challenges to the retail industry, in some instances leading to unintended consequences. However, some stakeholders continued to hold that current statutes and guidance are adequate and appropriate to govern hazardous and medical wastes generated by the retail industry. Some members of the RWWG that represented government agencies, although offering information and their perspectives to the discussion, could not take a position on any particular means of reform, especially those requiring statutory change. Among those RWWG members who agreed that some action was warranted, there was a range of views as to the best approach to address the issues.

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ACRONYM LIST

CALRECYCLE	California Department of Resources Recycling and Recovery
CCR	California Code of Regulations
CDPH	California Department of Public Health
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CPSA	Consumer Product Safety Act
CPSC	Consumer Products Safety Commission
CUPA	Certified Unified Program Agencies
DOT	Department of Transportation
DSHEA	Dietary Supplement Health and Education Act of 1994
DTSC	Department of Toxic Substances Control
ECHA	European Chemicals Agency
ECVAM	European Center for the Scientific Validation of Alternative Methods to Animal Testing
ERM	Excludable Recyclable Material
FDA	Food and Drug Administration
FDCA	Food, Drug and Cosmetics Act
FET	Fish Embryo Acute Toxicity Test
HSC	Health and Safety Code
HWCL	Hazardous Waste Control Law
MWMA	Medical Waste Management Act
NGO	Non-Governmental Organizations
OECD	Organization for Economic Cooperation and Development
OTC	Over-the-Counter
PRSPA	Product Recall Safety and Protection Act
RCRA	Resource Conservation and Recovery Act
RLC	Reverse Logistics Center
RSU	Regulatory Structure Update
RWWG	Retail Waste Working Group
SDS	Safety Data Sheets

TSDf	Treatment Storage Disposal Facility
UPC	Universal Product Code
US EPA	United States Environmental Protection Agency
USC	United States Code

1. INTRODUCTION

There are over 400,000 retail locations⁷ in California and they handle a very large number of diverse consumer products, some of which are not sold to customers for a variety of reasons, such as lack of consumer demand, change of seasons, changes in packaging, availability of new products, customer/member returns, or recalls. Surplus products may be donated, liquidated through secondary markets, returned to the vendor, or discarded (through disposal or recycling). When discarded, those surplus products that exhibit hazardous waste characteristics or are identified as medical wastes are subject to regulations that govern how hazardous and medical wastes are generated, transported, treated, stored, and disposed.

A. The Challenge

Regulation of hazardous waste generated by the retail sector under California's HWCL and regulation of medical wastes under the state's Medical Waste Management Act (MWMA) present unique challenges to the retail sector, that may not be faced by other, more typical industrial generators. These challenges stem from the fact that the retail sector is unlike most other industries regulated by these statutes. For example:

- ❖ Number and Variety of Waste Streams. Some retailers report that they sell over 25 million to 55 million different products which, if not sold and become surplus, could be identified as hazardous or medical waste. By contrast, US EPA estimates that most large quantity industrial and commercial generators generate fewer than five hazardous waste types and only five percent of all large quantity generators generate 41 or more hazardous waste types⁸. As a result, retailers are required to make hazardous waste determinations for a much larger number and variety of wastes.
- ❖ Over 400,000 Locations. There are over 400,000 retail locations in California. Most retailers find it difficult to provide the staffing and training at this very large number of locations needed to identify the hazardous characteristics of tens of thousands, let alone millions of individual products.
- ❖ Changing Wastes. In the retail sector, the surplus household consumer products that may become wastes change all the time, as many products are "seasonal" and manufacturers continually introduce new products. By contrast, industrial

⁷ www.calretailers.com, last accessed on June 28, 2017.

⁸ "Management Standards for Hazardous Waste Pharmaceuticals," 80 Federal Register at 57,918, 57,944 (Sept. 25, 2015) (proposed rule).

waste types rarely change⁹. The constant change increases the challenges retailers face in making waste determination decisions.

- ❖ Limited Knowledge. While manufacturers commonly understand the chemical components of the products they make, retailers frequently do not have access to the product ingredient and process information they would need to allow them to determine whether a product is a hazardous waste when discarded. Unlike other regulated industrial operations, retailers purchase their products for sale from manufacturers and have limited knowledge of the product formulas or chemical make-up of the products. In addition, these product formulas are closely guarded proprietary secrets.
- ❖ Limited Workforce Expertise. Another distinguishing factor about the retail industry is that retail employees typically do not have the expertise to evaluate the chemical composition of thousands of different products that may become wastes¹⁰. Moreover, turnover among retail employees is high, increasing the challenges of training this type of workforce.

These challenges are increased in California, as opposed to other states, because California requirements are often more stringent than the federal RCRA requirements that are implemented in other states. In addition, most states do not regulate discarded pharmaceutical products unless they are also federal RCRA hazardous wastes. California, however, may require surplus retail products in packages with drug facts to be managed as medical wastes regardless of whether they are hazardous.

Many California retailers send surplus household consumer products to reverse logistics centers (RLCs) and rely upon arrangements with suppliers/vendors for the ultimate disposition of these goods. Some retailers use their own RLCs while other retailers use third party reverse logistics providers that either they or their suppliers select. Still others use a combination of these processes. Manufacturers also use RLCs to manage surplus household consumer products. Reverse logistics/reverse distribution is a common practice in the retail goods sector and facilitates the consolidation, aggregation, and segregation of surplus consumer products. RLCs also facilitate financial reconciliation between the retailer and the manufacturer for surplus products prior to arranging for product resale or donation, return to vendor (manufacturer), or disposal.

Of the products shipped to an RLC, some may be discarded; of those, some are regulated as hazardous or medical wastes under California law. Questions have been raised by some stakeholders as to the applicability of the HWCL and the MWMA to

⁹ 80 Federal Register at 57,943-44.

¹⁰ 79 Federal Register at 8,928.

RLCs that receive products from retailers that are hazardous or medical wastes when discarded. The issues are complicated for retail chains that operate store locations in different states where these states take differing positions on how federal and state waste regulations apply.

B. The Regulators

DTSC regulates the generation, management, and disposal of hazardous waste in the state of California, a responsibility it shares with the state's 81 CUPAs. US EPA also has worked extensively on these issues. In addition, CDPH administers the MWMA, which regulates the management, handling, and disposal of medical waste, including pharmaceutical waste, as defined in HSC sections 117600-118360. The California Attorney General and 59 district attorneys have authority to enforce the HWCL and the MWMA.

CalRecycle administers the Integrated Waste Management Act, including mandates on diversion of solid waste for local jurisdictions, state agencies, and businesses; solid waste facility permitting and approvals; and some aspects of household hazardous waste collection programs.

C. The Efforts to Meet the Challenge

Since 2007, state and local prosecutors and many large retailers have settled enforcement actions for alleged mismanagement of hazardous waste. Recognizing the complexity associated with retail hazardous waste issues, the uniqueness of the retail sector, and important opportunities to minimize waste generation in California, many of these settlements include provisions requiring retailers to work with US EPA, the United States Food and Drug Administration (FDA), and DTSC to promote regulatory reform. Pursuant to these settlements, retailers and other stakeholders have participated in US EPA data collection regarding retail hazardous waste practices, generator requirements, and proposed rulemaking activities related to pharmaceutical wastes, which are ongoing. In addition, beginning in 2013, DTSC began holding periodic meetings with interested stakeholders to examine retail waste issues in California.

In 2015, the California Retailers Association sponsored SB 423, seeking to exempt the shipment of surplus household consumer products to RLCs from regulation under the HWCL and MWMA, if certain conditions were met. SB 423 also would have allowed over-the-counter pharmaceuticals to be characterized and managed under solid and hazardous waste requirements (as applicable), rather than as a medical waste under the MWMA.

A number of important aspects of the bill could not be resolved and the bill was

amended to require DTSC to convene the RWWG to facilitate discussions with a variety of stakeholders regarding these issues and make findings and recommendations for statutory, regulatory, or interpretative clarifications regarding management of surplus household consumer products. The full text of SB 423 is attached as Appendix A; following are key excerpts:

- *Make findings and recommendations on regulatory and statutory requirements that may be considered confusing or may need clarification or specification when applied to the overall management by manufacturer, distributor, supplier, vendor, retail, and reverse logistics facilities of surplus household consumer products, including products that can be considered hazardous waste or pharmaceutical waste once a waste determination is made.*
- *Make findings and recommendations on statutory or regulatory recommendations to facilitate and increase the donation, liquidation, and sale of surplus household consumer products, and waste reduction opportunities for those products, and to clarify waste management requirements to encourage the management of surplus household consumer products by manufacturer, distributor, supplier, vendor, retail, and reverse logistics facilities in a manner that is protective of public health and the environment.*

This report is a summary of the various views and perspectives discussed by members of the RWWG and options presented for the topics discussed. The Stakeholder Meeting Process is described in Appendix B, a Glossary of Terms developed by RWWG members to facilitate the group's discussion is attached as Appendix C, and presentations made during the working group meetings are presented as Appendix D.

2. OVERVIEW OF RETAIL AND THE REVERSE RETAIL SUPPLY CHAIN

Consumer products typically are sent directly to a retailer (or via a distributor) at a number of different locations to offer for sale. A consumer usually has access to the product directly at a retail store as depicted below.



While manufacturers, distributors, and retailers make every effort to sell their products to consumers, a household consumer product may become unsellable or surplus through the forward supply chain for a variety of reasons, including because the product is seasonal or expired, because consumer demand has declined, or because the product's packaging is slightly worn. Products also may be unsellable when they are recalled because they are deemed unsafe, defective, mislabeled, or non-compliant.

Very often, due to economies of scale, the most economical method for managing these surplus products through the "reverse supply chain" is to consolidate them at an RLC. Some retailers use their own RLCs, while other retailers use third party reverse logistics providers that either they or their suppliers select. Still others use a combination of these processes.

RLCs have been operating throughout the United States for many decades and perform important business functions, including:

- Product consolidation for donation/liquidation and disposition;
- Product condition assessment (i.e., to determine if packaging needs to be changed to reduce future unsellables);
- Evaluation for manufacturer credit;
- Accounting (including tax); and
- Recall management.

In evaluating the management of surplus household consumer products, US EPA developed a conceptual flow diagram of both the forward and reverse retail supply chain, which is depicted in Figure 1. As shown in the diagram, surplus household consumer products may be returned to RLCs directly from retail stores, or from retail distribution centers, suppliers, or even directly from consumers.

Retail System Players and Relationships
Conceptual Framework for Flow of Retail Items (Consumer Goods) and Wastes
 August 23, 2016

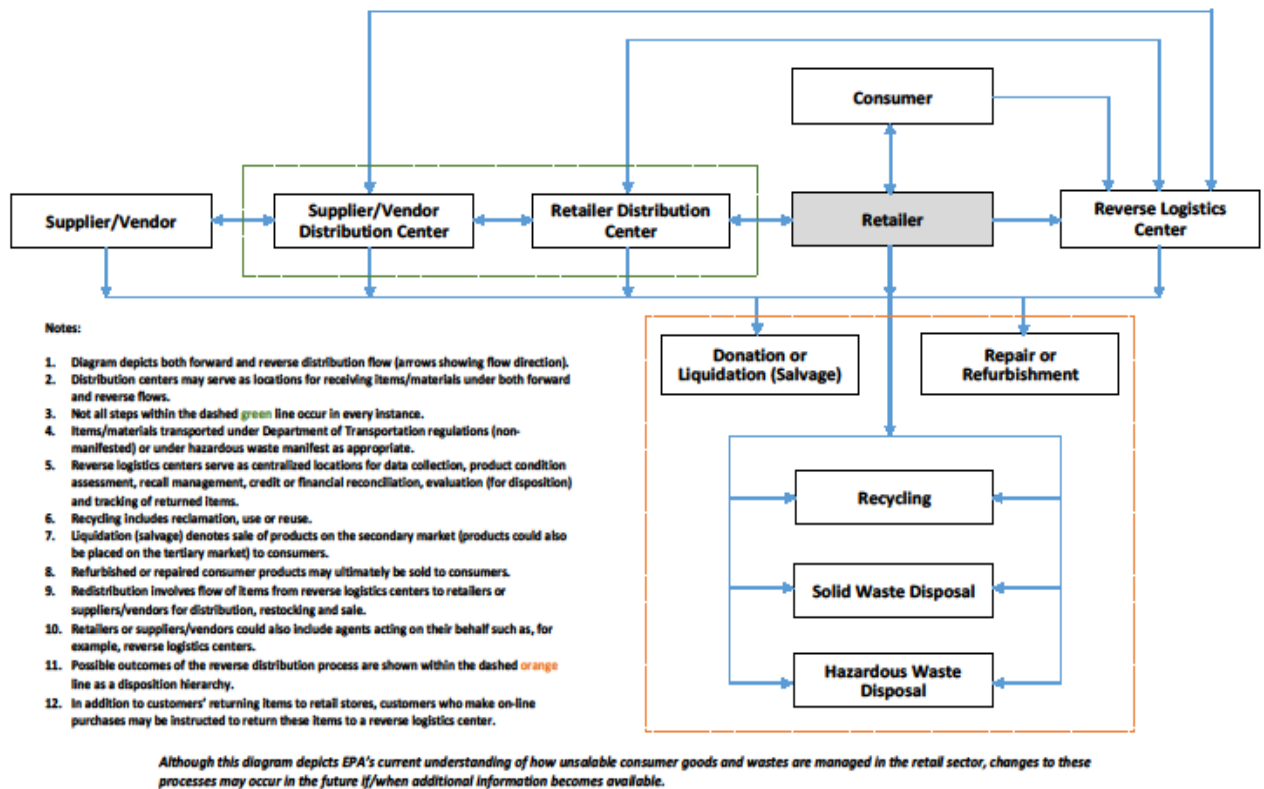


Figure 1: US EPA's Conceptual Understanding of Retail System Players and Relationships

Retailers, often in cooperation with manufacturers, evaluate options to decide how to handle surplus household consumer products. These options include returning the products to the manufacturer; sending the product to another retail location for sale in a different market; donating the product to non-profit organizations; repairing, refurbishing, or relabeling the product, often with the facilitation of an RLC; or discarding the product as a waste. Whether a given option is available for a particular product may be impacted by a number of different issues, such as the product's condition and value, its geographic location, the quantity available, market demands, transportation costs, and the preferences of the manufacturer and retailer.

Data provided by retailers and RLCs show that a relatively small proportion of consumer products are discarded in the reverse logistics process. According to information Walmart provided to US EPA, of the surplus consumer products shipped to Walmart RLCs nationally in 2013 that would have been hazardous waste under federal law if disposed, 97.3% were ultimately returned to the supplier, donated, or liquidated

(resold). Less than 3% were actually discarded and managed as hazardous waste at the RLCs. Similarly, a survey of all of the items processed by an RLC in California over a three month period showed that 3.5% of the 1.58 million products processed by the facility during that time period were ultimately managed as hazardous waste. Of the total products handled, 0.26% was disposed of as hazardous waste because the vendor required destruction. The estimated weight of all of the products disposed of was approximately 17,000 pounds (See Appendix E).

Under the HWCL and the MWMA, the generator of a waste is responsible for determining how a waste is classified (i.e., as solid, hazardous, or medical waste) and managing it accordingly. These waste management responsibilities attach at the point the product becomes a waste and is considered to be generated – known as the “point of generation.” Identifying the “point of generation” for surplus household consumer products can be challenging because the ultimate disposition of a product may not be known or communicated until the product moves through the reverse supply chain, its value as a product is assessed, and disposition is determined.

Once a product is determined to be a waste and a hazardous waste, proper management requires the generator to manifest, transport (under United States Department of Transportation [DOT] regulations) by a certified hauler, and arrange for disposition at a permitted treatment, storage, and disposal facility (TSDF), or other authorized facility for proper management. The RWWG is not aware of any RLC that has obtained a TSDF or medical waste management permit in California.

Because some surplus household consumer products may be regulated as hazardous or medical waste, and there is uncertainty as to when they become subject to regulation, some retailers have decided to avoid the risk of an enforcement action by establishing conservative waste management policies – opting to manage surplus consumer products as hazardous waste regardless of whether they could be donated, salvaged or recycled. The result is that many products that could otherwise be donated or salvaged are not. This also impacts manufacturers’ and retailers’ efforts to conduct safety recalls for defective products, or to assign and receive financial credit for unsold products.

3. ISSUES

SB 423 directed the RWWG to make findings and recommendations on regulatory and statutory requirements. As noted above, the RWWG identified a number of issues for consideration. These issues can be grouped into three categories:

- 1) The point at which a product is deemed to be a waste and becomes subject to regulation as hazardous or medical waste (donations and salvage, recalls, manufacturer's credit, and recycling);
- 2) The scope and applicability of the MWMA to certain products; and
- 3) The determination of wastes as hazardous wastes (empty containers and the California Aquatic Toxicity Test).

For each issue addressed, the RWWG developed "problem statements" providing appropriate background, a description of the nature of the problem, and a discussion of its consequences. These more detailed problem statements are provided in Section 4 of this report. Where different stakeholders offered differing perspectives on the problem, the report attempts to include those perspectives and provide appropriate attribution.

The RWWG also attempted to offer recommendations for ways to best address the identified problems. In some cases, although the RWWG agreed that a problem existed, it could not reach a consensus on recommended solutions. Thus, the recommendations set forth in this report have not been endorsed by all representatives, and may include opposing views.

Other issues, including recycling and issues relating to the determination of wastes as hazardous wastes (empty containers and the California aquatic toxicity test), were identified by the RWWG as topics of interest. The RWWG did not have an opportunity to discuss these items at length. More detailed problem statements that were developed but not discussed are included in Section 5, and are not endorsed by DTSC. The RWWG suggests that those stakeholders who wish to discuss and pursue these issues further contact DTSC and any other interested stakeholders to identify ways to resolve their concerns.

4. PROBLEM STATEMENTS AND OPTIONS FOR RESOLUTION

For each issue addressed by the RWWG, this section sets forth “problem statements” providing appropriate background, a description of the nature of the problem, a discussion of its consequences, and options for resolving the problems. Where different stakeholders offered differing perspectives on the problem, these problem statements attempt to provide appropriate attribution.

4.1 DONATIONS AND SALVAGE

4.1.1. BACKGROUND

Surplus household consumer products are an important source of donations to charitable organizations in California. Unsold consumer products also may be “salvaged” or “liquidated” by being sold to discounters who also serve underprivileged communities. These products may not be able to be sold through the forward distribution chain for a number of reasons, such as because they are seasonal products or products that are no longer in fashion. Under the current system, many suppliers and retailers transport unsold consumer products to an RLC for consolidation, product condition analysis, and financial reconciliation prior to disposition. It is generally recognized that unsold consumer products that are broken or leaking, and therefore unfit for use for their original intended purpose, should be managed as waste at the store level and not transported to an RLC. In certain instances, however, the new federal Generator Rule allows federal Very Small Quantity Generators to consolidate generated hazardous wastes at return centers owned by the same business¹¹. Dispositions by the RLC may include not only donation, but also liquidation, recycling, and disposal.

4.1.2. PROBLEM

Of the products shipped to an RLC, a small portion are disposed of, and of those, a small percentage are hazardous or medical wastes under California law¹². Such products may be disposed of by the RLC for a variety of reasons, including product condition (while not broken or leaking, the product is too worn or damaged to donate or sell), lack of a market (even a donation market), or at the supplier’s direction. Some representatives of the regulatory agencies have taken the position that, at least in some cases, if a product is returned to, and disposed of by, the RLC, the product should have been considered a waste by the supplier or retail facility from which it was sent and

¹¹ 40 CFR 262.14 and 262.17

¹² In comments submitted to the US EPA, one national retailer reported that company-wide, only 2.8% of the products managed through reverse distribution were disposed of as hazardous waste. Similar information was presented to the RWWG on behalf of other national retailers.

should have not been shipped to the RLC. Instead they stated that such products should have been managed in accordance with hazardous and medical waste laws at the retail store (e.g., shipped under manifest to a permitted TSDF).. The RLC provides charities, with limited resources, a central location from which to secure donated products. Some retailers decide not to donate surplus products in California because they are uncertain about when a product becomes a waste. The uncertainty over the moment it becomes a waste – “point of generation” – creates conservative approaches in deciding to donate products.

In addition, some prosecutors have reported that donations transported to charities sometimes contain products that obviously cannot be reused, and that, in effect, charities are being used as a means of disposing of wastes (“sham donation”).

4.1.3. CONSEQUENCES

If unsold products cannot be consolidated at RLCs because the “point of generation” of such ultimately discarded products is designated to be the retail store, a large volume of products that would otherwise be donated or salvaged are likely to be disposed of. Moreover, suppliers and retailers may be less likely to incur the costs associated with transporting unsold products if they are not allowed to use RLCs for other purposes (to obtain credit or to arrange for the sale of the products on secondary markets). In addition, the industry believes that, to the extent sham donation is a problem, safeguards against “sham donation” are more likely to be effective when imposed at centralized RLCs than at thousands of retail facilities.

DTSC does not consider products that are being donated or salvaged (liquidated) as wastes, and are therefore outside of DTSC’s regulatory purview. There is no bar for retailers to use RLCs to consolidate products for donation or salvage. The determination of when a product becomes a waste, relies on a fact-based analysis.

4.1.4. OPTIONS FOR RESOLUTION

To address questions about the status of surplus products being sent to RLCs for donation or salvage, DTSC, in coordination with CDPH as needed, could issue guidance that explains the following points:

- The surplus household consumer product may be sent through the reverse supply chain to be evaluated for possible donation or salvage if it is “capable of being donated or salvaged.”
- A product is not “capable of being donated or salvaged” if:
 - it is expired such that donation or salvage is unlawful;

- it is adulterated¹³ such that donation or salvage is unlawful;
 - it is mislabeled or not adequately labeled such that donation or salvage is unlawful;
 - it is banned by law;
 - a decision has been made to discard it by the party in possession;
 - it is not contained in a sound or undamaged container such that donation or salvage is unlawful; or
 - it does not have a bona fide use or reuse by others in accordance with California law.
- A surplus household consumer product that is capable of being donated or salvaged (i.e., it is not disqualified by the criteria above) and is being sent through the reverse supply chain becomes a waste the moment the party possessing the product makes the decision to physically discard the product into the waste stream. For example, if, after receipt by an RLC, the supplier notifies the RLC that it wants the product disposed of, the product becomes a waste upon receipt of that notice. This scenario would not be intended to cover “destroy dispositions,” which are discussed in Section 4.3.2.
 - The party in the reverse supply chain that has possession of the product and makes the decision to discard is the generator of such waste. By way of example, under this approach, a manufacturer, distributor, or retailer that ships a surplus household consumer product that is “capable of being donated or salvaged” to an RLC is not a waste generator, even if the RLC, after its evaluation, ultimately decides to discard the product.

4.2 RECALLS

4.2.1 BACKGROUND

Every year, thousands of consumer products are “recalled” because someone determines that such products should not be sold in California. In some cases, a governmental agency, such as the FDA or the Consumer Product Safety Commission (CPSC), orders the recall. More commonly, private parties, such as manufacturers, distributors, or retailers, will initiate a “voluntary” recall. As used in this document, “recall” refers to both the recalls ordered by a government agency, as well as voluntary recalls initiated to recover unsafe, defective, mislabeled, or non-compliant products even though there is no government-ordered recall. The term “recall” as used in this document does not apply to returns undertaken solely for seasonal or aesthetic reasons

¹³ “Fails to meet the strength, purity or quality which it purports or is represented to possess.” Article 2 (commencing with Section 111250) of Chapter 6 of Part 5 of Division 104 of the HSC.

unrelated to any safety, defect, labeling, or compliance issues.

Recalled products are often discarded, but the point at which they become wastes is not always the same. In some cases, retailers do not know that a recalled product will be disposed of and in some cases they may know the disposal method. A key concern is a potential conflict between (1) consumer safety and consumer protection concerns, pursuant to which recalled products are aggregated, segregated, tracked, and evaluated prior to any disposal; and (2) hazardous and medical waste control laws, pursuant to which wastes must be sent under a manifest directly to a permitted TSD.

Under HSC section 25124, a product becomes a waste when it is discarded, burned, or incinerated; or when it is accumulated, stored, or treated, but not recycled, before or in lieu of, being disposed of, burned, or incinerated. Further, HSC section 25124 recognizes “waste” to also include any item that “[p]oses a threat to public health or the environment, and meets either or both of the following conditions:

- a) It is mislabeled or not adequately labeled...
- b) It is packaged in deteriorated or damaged containers ...”

The Product Recall Safety and Protection Act (HSC sections 108040 et. seq.) (PRSPA) is helpful in considering the issue of recalls of products that may become hazardous waste. Pursuant to PRSPA, manufacturers are required to provide and pay for the safe return of recalled products back to the manufacturer (HSC section 108046), and retailers must accept a return of a recalled product from customers “for the purpose of returning it to the manufacturer.”

Various federal laws, including the Food, Drug and Cosmetic Act (FDCA) and the Consumer Product Safety Act (CPSA), prohibit the sale of certain kinds of products (e.g., mislabeled drugs or imminently hazardous consumer products). State and local laws also may impose liability for the sale of unsafe or defective products or impose content or labeling requirements. These laws encourage, and in some cases may require, manufacturers to recall unsafe, defective, mislabeled, or non-compliant products, and a number of these laws specifically require that recalls be “effective”¹⁴.

Safe and effective recalls require the segregation, quarantining, tracking, securing, evaluation, and, in some cases, witnessed secure destruction, of recalled products¹⁵. In addition, parties such as retailers may receive credit for recalled items and need to

¹⁴ See 21 CFR Part 7 (FDA rules requiring effective recalls), 15 United States Code (USC) sections 2061, 2064, 2068 (CPSA provisions requiring effective corrective actions for substantial product hazards); CPSC Recall Handbook <https://www.cpsc.gov/s3fs-public/8002.pdf>

¹⁵ See, e.g., 21 CFR Part 7; <http://www.fda.gov/safety/recalls/industryguidance/ucm129259.htm>

provide evidence of the number of items actually recalled. For these reasons, parties undertaking recalls often rely on third parties to collect recalled products in centralized locations where they can be counted, tracked, and safely held until a determination has been made as to an appropriate and secure disposition.

4.2.2 PROBLEM

There is disagreement as to the “point of generation” for discarded recalled items that are hazardous or medical waste under California law. Some parties maintain that the “point of generation” is the retail store because in many cases (e.g., an adulterated medicine), the retailer knows (or should know) that recalled items will not be resold for their original intended purpose. Others argue that the “point of generation” is not the retail store because the retail store often does not know the ultimate disposition of the recalled items and the intent of the recalling party is to discard the items only after they are returned to a central location and accounted for. Still others argue that, in the context of the retail reverse supply chain, making the “point of generation” turn on amorphous concepts such as intent and knowledge requires a case-by-case analysis into the minds of an indeterminate group of people and thereby produces a regulatory framework that is too subjective and difficult to comply with and enforce.

The issue is complicated by the fact that, although recalls are typically limited to specific lots and/or products produced within specific dates (Lot W of Product X, produced from dates Y to Z), it is common for retailers to return a broader range of products (e.g., all lots within a given Universal Product Code (UPC) and rely on other parties to sort through the returned products and productively handle those that are not actually subject to the recall. Accordingly, even where a recall may result in the destruction of all properly recalled items, some percentage of the items initially identified by the retailer for recall may actually end up back on retail shelves.

4.2.3 CONSEQUENCES

Today, recalls of products that would be hazardous or medical waste when disposed of occur on a regular basis and are typically not managed at the retail location.

If the “point of generation” for recalled items is the retail store, then the items subject to recall must be accumulated, stored, and transported under manifest to permitted hazardous or medical waste TSDFs and cannot be shipped to the recalling party or its agent for aggregation, tracking, and secure destruction.

Managing recalls at retail stores, particularly small businesses, poses logistical and security problems for stores because of limited space in store backrooms to safely and securely store recalled products (especially in the case of legal holds), while ensuring

that the products are not comingled with saleable products.

Safe and effective recalls are an important public safety and consumer protection concern, and ineffective recalls potentially conflict with federal law (e.g., the FDCA). Stakeholders have expressed concern that managing recalls at thousands of individual retail stores would prevent consolidation of products for efficient accounting and shipping and impede verification of the recall by third parties, including government agencies.

4.2.4 OPTIONS FOR RESOLUTION

RWWG members identified the following options that could serve to resolve the concerns:

- California statutes could be amended to explicitly align the public safety requirements of the HWCL and MWMA with those of recall statutes, and explicitly provide that, for example, the “point of generation” for items shipped to an RLC for recall is the RLC.
- Because the products being recalled are often destined for disposal and could be hazardous or medical waste, RLCs desiring to serve as a consolidation location for recalls could seek and obtain permits to receive such wastes under either the MWMA, HWCL, or both. However, RLCs, whose primary business is the disposition of products, not disposal of wastes, have not applied for authorization to handle, treat, or store medical or hazardous waste, and doing so may prove difficult or prohibitive to RLCs. See further discussion of issues with this option in Section 4.5 below.

4.3 MANUFACTURER CREDIT/FINANCIAL RECONCILIATION

4.3.1 BACKGROUND

Unsellable Consumer Products. Although retailers make every effort to match their product inventories with consumer demand, industry representatives report that it is not possible to do so with exact precision. Products may become unsellable due to a variety of factors, such as being seasonal, out of fashion, or expired. To reduce the financial risk of unsellable products to retailers while meeting customer expectations regarding product availability, manufacturers/suppliers frequently provide retailers with credit or some other form of financial reconciliation for products that cannot be sold. Credits can be substantial and are very important to retail economics generally and the profitability of California retail stores in particular, which impacts jobs and wages. Walmart alone has reported that Walmart Return Centers nationally process in excess of \$1 billion in credit each year. Similarly, in its proposed rule for Management

Standards for Hazardous Waste Pharmaceuticals, US EPA reported that a national pharmacy retail chain “informed US EPA that the value of the credit they receive from manufacturers for returned pharmaceuticals is approximately \$1 billion a year”¹⁶.

Use of Reverse Distributors to Facilitate Credit. To facilitate credit, manufacturers and retailers often agree that unsold products subject to credit agreements will be returned to the vendor or accounted for (i.e., individually counted and tracked) by independent third parties (generally reverse distributors). Industry stakeholders point out that these arrangements serve a number of important business purposes. First, given the large amount of money at stake, they provide both manufacturers and retailers with assurance that they are being treated fairly and provides for more consistent management of the wastes. Because products are often tracked on an item-by-item basis, the reverse logistic process provides an audit trail to support any credit decisions. Second, in some cases, the use of reverse distributors to perform this counting and tracking function significantly reduces the risk of inappropriate “diversion” because the returned products are in the hands of a trusted third party as opposed to being managed from the back of a store where they could potentially be taken or sold by stores or their employees. Third, the use of a centralized credit system is much more efficient than alternatives. While theoretically manufacturers could inspect products on a store-by-store basis to determine their credit status, given the hundreds of thousands of retail locations in California, return of these products to a centralized location for counting and tracking is the only practical and economically feasible alternative.

Collateral Benefits of the Existing Credit System. Stakeholders reported to the RWWG that the use of an RLC for credit/financial reconciliation has important collateral benefits. The same trucks that carry products for credit evaluation to reverse distributors are also used to send products to reverse distributors for evaluation for possible donation or liquidation. One reverse distributor reported in its response to US EPA’s Notice of Data Availability that it donated 4.6 million pounds of consumer products in 2013. It is unlikely that this volume of products would be donated if not for the centralized collection of these products by reverse distributors, and it is unlikely that retailers and manufacturers would bear the cost of that system if it were not for the fact that they were already using the same system to make credit determinations.

The use of reverse distributors also has a positive impact on carbon footprint. The same trucks that deliver products to stores may also pick up unsellable products and return them through the reverse supply chain and thereby reduce truck traffic and environmental impacts that would necessarily result from a decentralized and

¹⁶ 80 Fed. Reg. 58014, 58060 (Sept. 25, 2015) (proposed rule).

multifaceted store-based distribution system.

Another collateral benefit of the reverse distribution system relates to the regulatory expertise of those making hazardous waste determinations. Whereas retailers face high employee turnover, reverse distributors bring in scientific and regulatory experts to make complex hazardous waste determinations. Reverse distributors also offer product condition analysis, which provides manufacturers with detailed information they can use to improve packaging and minimize future unsellable products, as well as secure destruction services, which provide manufacturers with complete assurance that their products were legally disposed of – something that is difficult to do when disposed of at over 400,000 retail locations.

Regulatory Endorsement of Reverse Distribution. The use of reverse distribution to evaluate surplus household consumer products for credit is a well-established process that has been in place for more than 30 years and is used in all 50 states and the District of Columbia. DOT¹⁷, the FDA¹⁸, the Drug Enforcement Agency¹⁹, and the CPSA²⁰ all recognize reverse distribution in their regulations, guidance, and/or operating statutes. Moreover, US EPA has recognized the value of reverse distribution in numerous guidance documents that go back to the beginning of federal hazardous waste law. (Industry stakeholders prepared a document, dated April 23, 2017, summarizing US EPA guidance establishing that products returned to reverse distributors for credit are not wastes under federal law [See Appendix E]). Finally, California itself has recognized the value of reverse distribution in AB 1442 (Wieckowski, Chapter 689, Statutes of 2012), which exempted prescription drugs from the MWMA when sent to reverse distributors licensed by the California Board of Pharmacy.

4.3.2 PROBLEM

In recent years, issues have been raised as to whether the use of reverse distribution conflicts with state and federal hazardous waste laws when:

- A product returned to reverse distributors ends up being disposed of by the reverse distributor instead of being liquidated or donated for use for its original intended purpose; or
- It is “known” or could have been/should have been “known” that the product returned for a credit evaluation will be disposed of by the reverse distributor,

¹⁷ See, e.g., 49 CFR section 173.157 (reverse logistics rule),

¹⁸ See, e.g., Drug Supply Chain Security Act, 21 USC sections 360eee to e-3).

¹⁹ See, e.g., 21 CFR section 1317.15).

²⁰ See, e.g., Guidelines for Retailers and Reverse Logistics Providers, <https://www.cpse.gov/Business-Manufacturing/Recall-Guidance/Guidelines-for-Retailers-and-Reverse-Logistics-Providers/>

either because the product has expired and cannot lawfully be sold or because it is subject to a “destroy disposition” pursuant to which its manufacturer has required that the product be disposed of and not resold.

Limited Retailer Knowledge. As to the first category, some California regulators have taken the position that a retailer must determine whether such unsold products will be liquidated, donated, or otherwise used for their intended purposes before shipping them to reverse distributors, and that it does not matter whether or not the products have potential credit value. Under this view, if the retailer does not know that the products will be sold for their original intended purpose, it risks violating hazardous and medical waste laws on the grounds that items that are discarded by the reverse distributor actually became wastes at the store and should have been managed as such, rather than sent to a reverse distributor. Those adhering to this view worry that retailers who ship products to reverse distributors are attempting to shirk their duties as hazardous waste generators by shifting their waste management responsibilities to reverse distributors.

On the other hand, industry representatives argue that there are legitimate business reasons for using reverse distributors to make credit determinations and that it is impractical for manufacturers and retailers to make them at the store level for all the reasons discussed above – numerous stores, numerous and changing products, numerous manufacturers, changing credit policies, limited space, risk of diversion, and the need for independent corroboration. Moreover, regardless of what the business rules between a manufacturer and retailer may provide, the employees at retail stores generally do not know whether such unsold products will be liquidated, donated, returned to the vendor, or disposed of. They also do not know the specific credit arrangements that each vendor has with the retail company. Finally, from an environmental perspective, the issue of whether a retailer is attempting to “shirk” its duties seems meaningless since the same hazardous waste laws apply to the RLC. In fact, the RLC is often a Large Quantity Generator and is subject to stricter management requirements than a retail store.

Expired Products and Destroy Dispositions. The second category focuses on the subset of unsellable products which some would argue retailers could have/should have known would be disposed of – typically because products have expired (i.e., a true expiration date has passed such that the product cannot be legally sold for its original intended purpose) or are subject to a “destroy disposition” (i.e., the manufacturer has established business rules requiring that the product must be disposed of and not donated or sold in a secondary market).

In considering this subset of unsellable products, industry representatives note that

manufacturers and retailers are incentivized to minimize the volume of products that expire at the store or that are subject to a “destroy disposition.” Manufacturers and retailers prefer to sell products, rather than allow them to expire unsold on their shelves, and the longer they offer them for sale, the better chance there is that they will be sold prior to expiration and put to good use. Similarly, manufacturers do not adopt “destroy dispositions” lightly because use of this designation means that the manufacturer foregoes income (from a potential sale) and incurs additional costs (for disposal, as disposal costs are typically passed back to manufacturers). Nevertheless, manufacturers adopt “destroy dispositions” for important reasons, such as health and safety and related liability concerns and brand protection issues. For example, over-the-counter drug manufacturers often have arrangements with primary retailers that ensure that their products are removed from shelves before they expire. Limiting sales to primary retailers also ensures that products can be readily retrieved in case of recalls. These same limitations – which serve important public policy goals – may not exist when products are sold outside the original manufacturer’s control in liquidation transactions (e.g., to discounters). In addition, manufacturers are rightfully concerned about their ability to recoup their investment if their products can be sold at a heavy markdown by discount stores.

Even if it could be argued that retailers and their store employees know or could be deemed to know that the ultimate disposition of a product is disposal in the case of expired products and destroy dispositions, there is a policy question as to what the regulatory consequences of that knowledge should be. Industry representatives argue that these items still have value as products until they are evaluated for credit, and that they cannot be considered discarded until a credit evaluation has been completed. They further maintain that to the extent the intent and decisions of either the retailer or manufacturer (as opposed to the knowledge of the retail store) are relevant, the intent and decision of both parties is that the product NOT be discarded prior to a credit determination. Those who adhere to this view also argue that the same value that makes these items “products,” as opposed to wastes, also incentivizes those handling them to do so carefully as products until the credit evaluation is completed, and that, in any event, DOT transportation rules and restrictions on the transportation of broken and leaking products are adequate to ensure that the shipment of unsellable products to reverse distributors does not pose any environmental hazards. Opponents of this view argue that it amounts to shifting the “point of generation” and that there is no reason to treat the retail industry differently than any other industry.

4.3.3 CONSEQUENCES

Interpreting hazardous and medical waste laws as requiring management of unsold consumer products as wastes at the store level (if those products would ultimately be

discarded by reverse distributors) eliminates the ability to send unsold products to independent third parties for credit accounting. Without these credits, it is doubtful that retailers would incur the significant costs associated with transporting unsold products to RLCs for donation. Without the centralized collection offered by reverse distributors, products that would have otherwise been donated would likely be thrown away by stores. Without the credit system, many more unsellable products would be disposed of at the store level, resulting in significant unnecessary waste. This would require retailers to set up much larger areas at their locations to manage the waste, taking up storage space typically used to manage product inventory. Many smaller retail operations lack sufficient space to manage large quantities of unsold products as hazardous or medical wastes. Moreover, smaller retailers in particular are not well equipped to make complicated hazardous waste determinations regarding thousands of ever-changing products. California retailers also would suffer a significant financial impact from the loss of credit, which they would pass on to California consumers in the form of higher prices.

Finally, there is a concern that this interpretation of California law would impose these costs without any material benefit to the environment. Existing laws already require that shipments to reverse distributors are done in a safe manner, and reverse distributors are subject to California's stringent hazardous and medical waste generator requirements, which ensure that large quantity generators are subject to notification, recordkeeping, reporting, contingency plan, and training requirements, as well as annual inspections.

4.3.4 OPTIONS FOR RESOLUTION

RWWG members identified the following options that could serve to resolve the concerns:

- Because some products being returned for credit may be destined for disposal and could be hazardous or medical waste, RLCs desiring to serve as a consolidation location for assigning manufacturers' credit could seek and obtain permits to receive such wastes under either MWMA, HWCL, or both. RLCs have not applied for authorization to handle, treat, or store medical or hazardous waste, and doing so may prove difficult or prohibitive to RLCs, who are primarily in the business of managing the dispositions of products and not in the business of disposing of wastes.
- In the interest of encouraging economic transactions that could increase the amount of surplus products donated or salvaged, rather than disposed, California statutes could be amended to explicitly state that RLCs may receive surplus products for purposes of assigning manufacturer credit, and become the point of

generation for any medical waste or hazardous waste that are disposed by the RLCs.

4.4 MEDICAL WASTE MANAGEMENT ACT

4.4.1 BACKGROUND

Under HSC section 117747, the MWMA defines “pharmaceutical” to mean a prescription or OTC human or veterinary drug, including, but not limited to, a drug defined in the FDCA. Section 321(g)(1) of the FDCA defines “drug” as (A) articles recognized in the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (B) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; (C) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (D) articles intended for use as a component of any article specified in clause (A), (B), or (C). The MWMA specifically excludes wastes that are hazardous under RCRA, but does not expressly exclude wastes that are hazardous only under the HWCL.

4.4.2 PROBLEM

Applicability of the MWMA. Although representatives from CDPH indicated during RWWG meetings that they do not interpret the MWMA as applying to retail locations, some regulators and prosecutors have interpreted the MWMA to be applicable to retailers managing pharmaceuticals sold at retail locations. However, the definition of “medical waste generator” in Section 117705 of the MWMA only includes those persons who are providers of health care defined in Section 56.05 of the Civil Code, which in turn refers to persons licensed or certified pursuant to Division 2 of the California Business and Professions Code and Division 2 and 2.5 of the HSC. The pharmacists and pharmacies are included in these requirements, but not the retail sale of nonprescription drugs.

Under the FDCA, as amended by the Dietary Supplement Health and Education Act of 1994 (DSHEA), dietary supplements are defined as food and not drugs²¹. Nevertheless, because dietary supplements are labeled with “Supplement Facts,” which can be confused with “Drug Facts,” there has been some confusion and concern within the regulated community that some dietary supplements could be considered “pharmaceuticals,” and therefore, medical waste regulated under the MWMA. As a result, some retailers are managing dietary supplements as pharmaceutical waste that must be incinerated under the MWMA out of an abundance of caution. For clarification,

²¹ 21 USC section 321(g)(1).

during RWWG meetings, CDPH representatives confirmed that dietary supplements are not covered by the definition of “drugs” that would be subject to the MWMA.

Another issue is that some consumer products are labeled with “Drug Facts” even if they may not be considered a “drug” under the FDCA, creating regulatory uncertainty as to whether they are regulated under the MWMA when discarded. In addition, certain consumer products (e.g., saline and various cosmetics and personal care products) may technically meet the definition of a “drug” under the FDCA, but may not warrant automatic incineration under the MWMA upon discard and could be more appropriately discarded as solid or hazardous waste based on whether they actually exhibit a hazardous characteristic.

Burden of Dual Systems. Retail stakeholders have reported that managing (and regulating) certain non-prescription consumer products under a system separate from the HWCL can be burdensome and confusing. For example, distinguishing Ducray shampoo from Prell shampoo requires a level of knowledge that is simply not present at the retail level. (Ducray is a medicated shampoo that arguably must be managed as a “medical waste” when discarded, while Prell is not medicated and therefore must be managed as hazardous waste upon discard if it exhibits aquatic toxicity or is otherwise hazardous. Even where such distinctions are more readily made, the burden of maintaining two separate programs is significant and increases the potential for error. From the retailers’ perspective, maintaining two separate waste management programs is overly complex, creating additional unnecessary regulatory burden, including additional registration, signage, and separate inspections, without an attendant environmental benefit. As a result, retailers previously have proposed to clarify that pharmaceutical waste may be “self-declared” to be subject to RCRA, an approach which is consistent with US EPA policy²², or considered “mixed waste,” either of which would require disposal in a Subtitle C (or Class I) landfill. However, these approaches would unduly affect retailers’ hazardous waste generator status by requiring the management of non-hazardous waste as hazardous. In addition, some stakeholders have expressed concern with the disposal of pharmaceutical waste in Subtitle C/Class I landfills, noting the potential for collected leachate to be discharged to publicly-owned treatment works that were not designed to address complex chemicals. However, since the MWMA includes a household waste exception, it is California consumers, not retailers, that send the vast amount of medical waste to solid waste landfills.

Another impact of this dual system is on solid waste facilities, both publicly- and private-owned or operated. Household waste is excluded from management under the MWMA.

²² See Generator Improvements Rule, 80 Federal Register 57,918, 57,945 (Sept. 25, 2015) (proposed rule) (generators may manage non-hazardous solid waste as hazardous waste).

The same products, when disposed of by retailers, are regulated as medical wastes. Personnel monitoring incoming solid wastes that discover a non-prescription consumer product cannot readily identify if that product is exempt due to the household origin or a retailer-regulated medical waste.

Reverse Distribution of Pharmaceuticals. Under the MWMA, prescription pharmaceuticals sent to a reverse distributor that is licensed as a wholesaler of dangerous drugs by the California Board of Pharmacy are excluded from the definition of “pharmaceutical waste.” This language was added by AB 1442 and was intended to allow prescription pharmaceuticals to be sent back to licensed reverse distributors, even if expired or otherwise unsellable.

For example, comments contained in the AB 1442 Assembly Floor Analysis indicated that “Under existing law, pharmaceutical drugs can be sent to health care facilities through standard common carriers, or standard shipping means. Unused drugs can sometimes be returned to the manufacturer for credit, via a common carrier. Expired and non-dispensable drugs must be shipped as ‘Medical Waste,’ requiring expensive hazardous waste shipping, instead of common carrier. This is unnecessarily expensive for pharmacies, hospitals, and other health care facilities, who are simply returning the exact same drug that was shipped to them by common carrier.”

In its current form, questions have been raised as to whether this language excludes such pharmaceuticals from the MWMA *entirely*, and thus subjects them to the HWCL (if hazardous), which currently does not contain similar language.

Finally, after discussion, it was determined that the MWMA does not currently regulate discarded dietary supplements, so no modification or amendment of the MWMA is needed to address dietary supplements.

4.4.3 CONSEQUENCES

Uncertainty with respect to how the MWMA applies to certain products and its relationship to the HWCL is causing significant disruption to retail operations and the lack of clarity is causing different interpretations of the current law to be put forth by various stakeholders. In addition, some consumer products, such as saline solution and many cosmetics and personal care products, are being disposed of by incineration even though they could be more appropriately managed, as solid or hazardous waste, based upon whether they actually exhibit a hazardous characteristic (which many do not). These disposal actions consume limited state resources and impose additional costs

and burdens on retailers. Moreover, they result in needless incineration, which stakeholders from the environmental NGOs oppose.

4.4.4 OPTIONS FOR RESOLUTION

RWWG members identified the following options that could serve to resolve the concerns:

- California statutes could be amended to revise the MWMA to exclude cosmetics and other personal care products like shampoos, sunscreens, toothpaste, lip balm, antiperspirants, and saline solution as well as homeopathic remedies from the MWMA. The amended statute could require that these products be managed under the HWCL upon discard if they are identified as hazardous waste (either as RCRA or California-hazardous), and under California's solid waste management requirements if they are non-hazardous waste.
- California statutes could be amended to explicitly allow one to choose to manage medical waste in accordance with HWCL, rather than the MWMA so as to allow management of certain medical and hazardous waste under one waste management program.
- California statutes also could be amended to revise the MWMA to affect the intent of previously enacted legislation (AB 1442) by specifically exempting prescription pharmaceuticals returned to reverse distributors licensed by the Board of Pharmacy from the definition of waste under Section 25124 of the HSC.

4.5 ALTERNATIVE APPROACHES

The retail industry, manufacturers, and RLCs want to find opportunities to allow continued utilization of reverse distribution/reverse logistics as their preferred management system in California, as it is operated in other states. Because of the scope and applicability of California law under MWMA and HWCL, the retail industry, manufacturers, and RLCs face challenges and uncertainties operating in California that are not the same as in other states.

As discussed above in Sections 4.1, 4.2, and 4.3, issues relating to the point at which a surplus product is deemed to be a waste and become subject to regulation as hazardous or medical waste (donations and salvage, recalls, and manufacturer's credit) could all be addressed through amending California statutes to explicitly shift the "point of generation" for surplus household consumer products to support the existing reverse distribution/reverse logistics systems.

Another pathway discussed above would be for the retail industry, manufacturers, and

RLCs to obtain hazardous waste facility permits. To do so, however, could result in consequences that bear mentioning:

- Disruptions in Operations – The process for RLCs to seek and obtain a necessary hazardous waste facility permit would take time; preparation and review of the application through issuance would take no less than 18 months, and likely much longer.
- Land Use – Sites where hazardous waste facilities are located must be zoned or otherwise designated as able to be used for that purpose and be allowed by the lease, if applicable. It is uncertain whether any of the current locations of RLCs would have the required zoning or designation; any rezoning would need to go through a California Environmental Quality Act (CEQA) analysis.
- Operating Costs – Because California’s hazardous waste facility requirements apply to hazardous waste management facilities, they impose a number of stringent requirements, such as facility design standards, closure plans, and financial assurance obligations with which it would be costly for RLCs to comply.
Out of State Operations – The most likely consequence of regulating RLCs as hazardous waste facilities is that RLCs would move their operations to neighboring states, where surplus products are not regulated in the same way. Although retailers in California would still need to manage their hazardous waste and medical wastes in accordance with California law while in California, once the shipment crosses the California border they would be subject to whatever hazardous or medical waste regulations other states impose, rather than California law.
- Designation as Waste – If all items shipped through reverse distribution/reverse logistics are managed as waste in the first instance, there is no statutory mechanism for re-classifying items as products once they have been designated as waste, which will eliminate the opportunities for donation and salvage. Moreover, even if there was a mechanism to legally “re-designate” those items that are eligible for donation and salvage as “products,” industry stakeholders cautioned that the stigma associated with a waste designation would substantially impair their ability to donate or salvage “re-designated” products. Finally, this approach appears to allow the exception to drive the rule as many more products are donated and liquidated by RLCs than disposed of.

5. ADDITIONAL ISSUES

As discussed above, other issues, including recycling and issues relating to the determination of wastes as hazardous wastes (empty containers and the California aquatic toxicity test), were identified by the RWWG as topics of interest. The RWWG did not have an opportunity to discuss these items at length and the following problem statements are not endorsed by DTSC. The RWWG suggests that those stakeholders who wish to discuss and pursue these issues further contact DTSC and any other interested stakeholder to identify ways to resolve their concerns.

5.1 AQUATIC TOXICITY TESTING

5.1.1 BACKGROUND

DTSC regulations require the use of a unique Aquatic Toxicity Test to determine whether a waste is hazardous. The test essentially requires that product to be put into a fish tank and if the number of fish surviving after four days is less than 50%, the waste is considered hazardous. This special California test results in a distinct category of hazardous waste—called “California-only” hazardous waste. Examples of products that generally fail the test include shampoos, conditioners, and soaps, to name a few.

5.1.2 PROBLEM

Industry stakeholders have raised questions about the accuracy and reliability of the Aquatic Toxicity Test and note that regulating additional products as hazardous waste under the test reduces opportunities for recycling, adds costs and regulatory burdens for regulatory agencies as well as retailers, and exacerbates waste management capacity issues within California's overly subscribed hazardous waste management system.

Aquatic toxicity testing conducted for California prosecutors on a large number of consumer products has shown that the results from two different government-selected labs are often inconsistent, raising questions about the reliability and repeatability of the method. In some cases, the test appears to cause the fish to suffocate, rather than perish due to any toxicity in the product. Common products such as body lotions, shampoos, or Vaseline may kill the fish physically, but not due to toxicity.

About 30% of the total hazardous waste generated in California is “California-only” hazardous waste that could fail the Aquatic Toxicity Test. The percentages for retailer waste can be much higher, with some retailers managing up to 67% of their hazardous waste as “California-only” hazardous waste. Managing these products as hazardous waste reduces opportunities for recycling them, making it essential that a toxicity test only covers products that actually threaten the environment.

Conducting aquatic toxicity testing is costly and time-consuming for retailers. Retailers are not equipped to conduct the test on the millions of products they carry, and most manufacturers refuse to use the test because it violates their pledge not to conduct animal testing. Instead, many retailers rely primarily on data contained in the Safety Data Sheets (SDSs) supplied with some products, which rarely contain sufficient information for compliance with the Aquatic Toxicity Test.

The California Aquatic Toxicity Test was developed for waste water quality testing 40 years ago and has not been refined since. Other, more robust and refined acute fish test procedures have since been approved by US EPA, Organization for Economic Cooperation and Development (OECD), and ECHA, the European Chemicals Agency. The Fish Embryo Acute Toxicity Test (FET) is a much newer test that uses fish embryos, rather than live fish, which are not considered protected by regulatory bodies, is scientifically more robust, and has been formally validated and accepted by OECD and ECVAM (European Center for the Scientific Validation of Alternative Methods to Animal Testing)²³. The manufacturers have suggested this test could be considered as a replacement for current aquatic toxicity testing required in CCR, Title 22, Section 66260.10; however no comparative studies have been conducted to determine if these test are more or less stringent and protective.

Manufacturers prefer the FET over standard acute fish toxicity tests because of its scientific technical strength, enhanced sensitivity for detecting appropriate hazards, and validation and acceptance by influential regulatory bodies. They consider FET to be a significant refinement in the use of animals over acute studies given its use of non-feeding embryos. The test also addresses limitations of testing poorly soluble or solid products that are not easily put into solution. Other than the FET test, many other aquatic toxicity tests exist that are widely accepted under a number of global regulatory schemes and some industry manufacturers believe these should be considered as alternatives. Furthermore, very few manufacturers perform acute fish toxicity tests on their products because of their corporate commitments to prohibit any form of “animal testing” on their consumer products.

In 1998, DTSC considered reviewing California's regulatory framework for hazardous waste, the Regulatory Structure Update (RSU). The intent of this effort was to streamline and reduce its regulatory program for “California-only” hazardous waste. A major component of that effort was to change the current hazardous waste classification system, which would have evaluated the scientific testing methodologies for hazardous waste. It is unknown why this review, nor any other substantive review of California's

²³ http://www.oecd-ilibrary.org/environment/test-no-236-fish-embryo-acute-toxicity-fet-test_9789264203709-en

regulatory framework and modern toxicity testing methodologies and standards, has not been considered by the State of California or completed in the last 20 years.

5.1.3 CONSEQUENCES

The Aquatic Toxicity Test, unique to California, presents several concerns to the regulated community:

- A. A separate test for toxicity that applies only in California creates inefficiencies and confusion.
- B. The test requires the killing of animals and many companies will not perform such tests.
- C. The test is time-consuming and costly to perform, especially given the number of products that would need to be tested.
- D. Some stakeholders question the repeatability of the test, in part, due to the scarcity of guidance on how various products should be tested. (See Appendix F, which provides the results of state-sponsored use of the test on approximately 400 products.)
- E. As a practical matter, the test is seldom used and instead the regulated community takes an extremely conservative view of how products might fare under the test. This leads to over-classification of wastes as hazardous, resulting in increased costs and unnecessary landfilling and incineration.
- F. More recent toxicity tests that do not involve killing animals have been developed in the European Union and are being used by many manufacturers in the U.S.

5.1.4 OPTIONS FOR RESOLUTION

Interested stakeholders could engage DTSC in further discussion of these issues.

5.2 EMPTY CONTAINERS

5.2.1 BACKGROUND

Retailers are faced with managing millions of empty or partially empty containers that enter their waste streams. Many of these containers previously contained California-regulated materials. Rather than recycling the containers, many retailers are conservatively managing them as hazardous waste, thus adding to the generation of hazardous waste. If these containers are emptied in accordance with state requirements, they are exempt from hazardous waste laws and regulations and can be disposed of or, preferably, recycled as feedstock for other products.

5.2.2 PROBLEM

Under current regulations, retailers find it difficult to apply the empty container regulatory requirements. CCR, Title 22, Section 66261.7 indicates that a container “. . . is empty as defined in subsection (b) or (d) of this section [and] shall be exempt from regulation” as a hazardous material or waste. As stated in subsection (b), “A container, or an inner liner removed from a container, which previously held a hazardous material, including hazardous waste, is empty if the container or the inner liner removed from a container has been emptied so that:

- (1) If the hazardous material which the container or inner liner held is pourable, no hazardous material can be poured or drained from the container or inner liner when the container or inner liner is held in any orientation (e.g., tilted, inverted, etc.); and
- (2) If the hazardous material which the container or inner liner held is not pourable, no hazardous material remains in or on the container or inner liner that can feasibly be removed by physical methods (excluding rinsing) which comply with applicable air pollution control laws and which are commonly employed to remove materials from that container or inner liner. Following material removal, the top, bottom and sidewalls of such a container shall not contain remaining adhered or crusted material resulting from buildup of successive layers of material or a mass of solidified material. A thin uniform layer or dried material or powder is considered acceptable.”

This regulation does not specify how long the container must be held in any orientation to drain its contents before the container can be considered empty. In an attempt to provide additional guidance, DTSC developed scenarios to address the uncertainty of the time element.

Under CFR, Title 40, Section 261.7(b), non-pourable wastes are defined as empty with more specific criteria including:

- (ii) No more than 2.5 centimeters (one inch) of residue remain on the bottom of the container or inner liner, or
- (iii) (A) No more than 3% by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 119 gallons in size; or
- (B) No more than 0.3% by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 119 gallons in size.

These criteria are more measurable and provide certainty to the determination of whether a container is empty.

DTSC guidance provides that:

. . . all material must be removed by any practicable means (including draining, pouring, pumping, or aspirating) before the container can be considered empty. In regards to draining, a container is empty when there is no longer a continuous stream of material coming from the opening when the container is held in any orientation,” (*Managing Empty Containers*, DTSC Fact Sheet, February, 2009).

However, this guidance and related laws and regulations do not specify at what point in time a container is considered empty after a continuous stream ceases to flow and dripping begins. Thicker, more viscous, materials often cease to flow from a container in a continuous stream, even while material still adheres to the surfaces of the inside of the inverted container. If this container is set upright and put aside, liquid may collect and pour in a continuous stream from the inverted container at a future point in time.

CCR, Title 22, Section 66261.7(k) regulations also exempt:

Emptied household hazardous material and pesticide container, or inner liners removed from containers, or five gallon or less in capacity . . . from regulation . . . if the container or inner liner is emptied by removing all of the contents that can be removed using practices commonly employed to remove material from that type of container.

While the vast majority of household consumer products are sold in containers of five gallons or less, the regulations do not comprehensively specify what falls into the category of household hazardous materials.

5.2.1 CONSEQUENCES

The lack of guidance or regulations on the status of a container that was emptied to the point of only drips coming from the container, but then having a continuous stream flow from it, again, at some later time, or how much remaining material is considered empty, creates uncertainty for retailers on when containers can be properly be recycled or handled as non-hazardous waste. In addition, the lack of specificity on what constitutes household hazardous material creates uncertainty for retailers on what containers can be properly handled as non-hazardous waste. Both regulators and the regulated community have had to rely on their own interpretations. Some interpretations have resulted in the conclusion that these containers are apparently never empty. This conclusion undermines the purpose of the guidance and could lead to absurdities such as having to continuously check for liquid pooling in the container even after it was discarded, to avoid the risk of potential enforcement. In short, a container that is “empty” today may not be “empty” tomorrow. This “not empty tomorrow” standard is the

current basis for enforcement actions against retailers.

5.2.3 OPTIONS FOR RESOLUTION

Interested stakeholders could engage DTSC in further discussion of these issues.

5.3 RECYCLING

5.3.1 BACKGROUND

Under California's Integrated Waste Management Act (AB 939, Sher, Chapter 1095, Statutes of 1989), there is a state-wide recycling goal that 75% of solid waste generated be diverted from landfills in the following order of priority: (1) source reduction, (2) recycling and composting, and (3) environmentally safe transformation and land disposal. In addition, commercial establishments, generating more than four cubic yards of solid waste, are required to arrange for recycling services.

Individual retail locations manage and sell over 100,000 types of consumer products at any one time. The full range of UPC numbers is in the hundreds of millions. Some of these products are not sold to customers or are returned due to a variety of factors, for example because they have slight packaging imperfections, are close to their sell-by or expiration date, are returned by customers, or expired.

Certain that these unsold and returned products can no longer be used for their intended purpose, but may still have significant value if reformulated, recycled, or reclaimed. For example, products contained in aerosol cans that have been dented (or have broken actuator nozzles that cannot be repaired) could be recovered for use as fuel or repurposed for other uses (one such use that has been identified is the use of aerosol string toy products to manufacture parking lot wheel stops). Other products that could be recycled include hand sanitizers, surfactants, nicotine replacement products, aerosol cans, and other cleansers (including toothpaste).

Surplus household consumer products at a retail location, including those listed above, fall into one of several categories depending on their eventual disposition (use, reuse, processing to recover usable materials, reclamation, burning for energy recovery, or destruction) and, if they are wastes, upon their characteristics (RCRA-hazardous, non-RCRA hazardous, or not hazardous). The eventual disposition for such products frequently changes, depending on liquidation, donation, and recycling markets and other factors.

Under California's solid waste management laws and regulations, commercial facilities are required to implement programs to divert solid waste from land disposal. This

mandate is difficult enough with traditional recyclables. The thousands of types of retail products make recycling these products more difficult without a system for channeling these products to alternatives to landfilling. Landfilling these products will also impact local government's efforts to meet state mandates on diversion. Even if deemed solid waste, some retail wastes are still not eligible for landfilling due to the prohibition on bulk liquids and other restrictions. There needs to be a means for retailers to divert these materials from landfilling.

Under California's hazardous waste management laws governing recycling (including HSC section 25143.2), management standards for recyclable materials depend on the eventual disposition and the characteristics of a given item.

- For example, if a product will be reused and is RCRA-hazardous, it can be managed as excludable recyclable materials (ERM), but if it will be reclaimed (processed), then it must be managed as a hazardous waste. ERMs must be segregated and labeled as "Excludable Recyclable Material."
- As another example, for products that will be reclaimed (other than filtering, sorting, sieving, grinding, screening, physical separation, pH adjustment, or viscosity adjustment) and are non-RCRA hazardous, the ERM standards only apply if there are no other constituents present than those for which the product will be recycled and the product will be used "in a manner for which the product is commonly used."

When unsold or returned products are consolidated at a central location, including at reverse distribution facilities, there are increased opportunities to use, reuse, or recycle these products in order to divert them from disposal in landfills or incineration (in the case of OTC products subject to the MWMA).

5.3.2 PROBLEM

Some agencies and prosecutors have taken the position that under current law retailers must determine whether unsold or returned products will be liquidated, donated, or otherwise used for their intended purposes or are recyclable before returning the products to the supplier or shipping them to reverse distributors. However, the employees at retail stores generally do not know whether such products will be resold, donated, or disposed of, or whether they could be reformulated, recycled, or reclaimed.

Even if retail employees could make a determination of whether a product can be reformulated, recycled, or reclaimed, management of those products as ERMs or another classification at the store level would create an additional stream of products (in addition to hazardous, non-hazardous, and perhaps medical and universal wastes) that

must be segregated and labeled as “Excluded Recyclable Materials,” and therefore add an additional level of complexity to an already complicated management system and require more space in retail backrooms that are already space-limited.

5.3.3 CONSEQUENCES

Because retail store employees do not know whether unsold or returned products can or will be used, reused, recycled, reformulated, or reclaimed, to ensure compliance with the interpretation of California’s hazardous and medical waste management laws by some agencies and prosecutors, retailers may manage all such products as waste, rather than seeking ERM designation, resulting in significant unnecessary waste and lost opportunities to recycle these products.

Most retailers do not have adequate backroom space to manage multiple waste streams, which limits the benefits of this program for the retail sector.

Changing liquidation, reuse, and recycling markets over time may mean that the same product would be considered an ERM one month and hazardous waste the next, which could lead retailers to over-manage products as waste to avoid frequent changes in the store-level management guidance and therefore further prevent achieving recycling/sustainability goals.

Management of products as waste at the store level reduces or eliminates the recycling opportunities that are provided by consolidating unsold or returned products at reverse distributors. The absence of such economies of scale further limits waste minimization opportunities, may unnecessarily increase incineration emissions, and may unnecessarily increase waste management and disposal costs for generators without an environmental benefit.

5.3.4 OPTIONS FOR RESOLUTION

Interested stakeholders could engage DTSC in further discussion of these issues.

APPENDIX A

APPENDIX A

Senate Bill No. 423

CHAPTER 771

An act to add Section 25218.14 to the Health and Safety Code, relating to hazardous waste [Approved by Governor September 28, 2016. Filed with Secretary of State September 28, 2016.]

legislative counsel's digest

SB 423, Bates. Surplus household consumer product waste: management. Existing law requires the Department of Resources Recycling and Recovery, in consultation with the Department of Toxic Substances Control, to develop and implement a public information program to provide uniform and consistent information on the proper disposal of hazardous substances found in and around homes. Existing law provides for regulation of the disposition of hazardous waste by the Department of Toxic Substances Control.

This bill would require the Department of Toxic Substances Control to convene a Retail Waste Working Group, as prescribed, to consider and make findings and recommendations relating to requirements for the management of surplus household consumer products, waste reduction opportunities for those products, and waste management requirements, as specified. The bill would require the working group to report these findings and recommendations to the Legislature by June 1, 2017.

The people of the State of California do enact as follows:

SECTION 1. Section 25218.14 is added to the Health and Safety Code, to read:

25218.14. (a) The department shall convene a Retail Waste Working Group comprised of representatives of large retailers, small retailers, district attorneys, certified unified program agencies, nongovernment organizations, local governments, other relevant state agencies as determined by the department, manufacturers, reverse distributors, and other stakeholders to consider and make findings and recommendations on the following:

(1) Regulatory and statutory requirements that may be considered confusing or may need clarification or specification when applied to the overall management by manufacturer, distributor, supplier, vendor, retail, and reverse logistics facilities of surplus household consumer products, including products that can be considered hazardous waste or pharmaceutical waste once a waste determination is made.

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(2) Statutory or regulatory recommendations to facilitate and increase the donation, liquidation, and sale of surplus household consumer products, and waste reduction opportunities for those products, and to clarify waste management requirements to encourage the management of surplus household consumer products by manufacturer, distributor, supplier, vendor, retail, and reverse logistics facilities in a manner that is protective of public health and the environment.

(b) For purposes of this section, "surplus household consumer product" means a household consumer product that cannot or will not be sold to a consumer through that product's primary market.

(c) By June 1, 2017, the Retail Waste Working Group shall report the findings and recommendations made pursuant to subdivision (a) to the Legislature.

APPENDIX B

APPENDIX B

STAKEHOLDER MEETING PROCESS

SB 423 mandated the RWWG be comprised of representatives of large retailers, small retailers, district attorneys, the Attorney General, certified unified program agencies, non-government organizations, local governments, other relevant state agencies as determined by DTSC (such as the California Department of Public Health, and the California Department of Resources Recycling and Recovery), manufacturers, reverse distributors, and other interested stakeholders. The group is similar to a stakeholder working group that DTSC convened in 2013 prior to the introduction of SB 423, which formed in response to a need to facilitate the sharing of information and to open lines of communication between DTSC and other regulatory agencies and the retail industry.

DTSC, state and local agencies and retail stakeholders formed the RWWG and met from October 2016 through May 2017. The RWWG's meeting schedule is set forth in Appendix B. A Steering Committee was initially formed early in the process to act as a representative body for what was anticipated to be a much larger group that would focus on identifying and deliberating on key issues. The Steering Committee met bi-monthly while the RWWG met monthly. By early March, the two groups evolved such that they consisted of essentially the same members and the two groups therefore merged.

Initial discussions centered on terms and definitions, which varied among different entities. Generating a Glossary of Terms helped to facilitate discussions by having a common set of terms and definitions. The Glossary is attached as Appendix C to the report. Key presentations made throughout the project in facilitating focused discussions and developing a strategy for tackling complex issues. The presentation materials are attached in Appendix D, and include topics related to the process of reverse logistics, legal terms and definitions, and the perspective of a non-profit donation-clearing house that connects retailers with non-profits and their clients.

The RWWG initially formed subcommittees that centered on key topic areas by developing problem statements. Members presenting the problem statements at the RWWG meetings received feedback for refining the issues. As provided in more detail in Appendix XX, these key topic areas are:

- Donations and Salvage
- Recalls
- Manufacturer's Credit
- The Scope of the Medical Waste Management Act
- Empty Containers
- Aquatic Toxicity
- Recycling

Retail Waste Working Group and Retail Waste Working Group Steering Committee Meetings

October 6, 2016 – Kick Off - Sacramento
November 4, 2016 – Steering Committee
November 4, 2016 – RWWG - Sacramento
November 17, 2016 – Steering Committee
December 8, 2016 – Steering Committee
January 6, 2017 – Steering Committee
January 6, 2017 – RWWG - Sacramento
January 20, 2017 – Steering Committee
February 3, 2017 – Steering Committee
February 3, 2017 – RWWG - Sacramento
February 24, 2017 – Steering Committee
March 3, 2017 – Steering Committee
March 3, 2017 – RWWG - Sacramento

For efficiency, the meetings combined at this point.

March 17, 2017 – RWWG - Sacramento
April 3, 2017 – RWWG - Sacramento
April 13, 2017 – RWWG - Sacramento
April 28, 2017 – RWWG - Sacramento
May 11, 2017 – RWWG - Sacramento
May 25, 2017 – RWWG - Sacramento

APPENDIX C

APPENDIX C

RETAIL WASTE WORKING GROUP

GLOSSARY OF TERMS

The glossary of key terms associated with retail waste and reverse distribution activities reflect common phrases and business terms in guiding the activities of the working group. Please note that individual companies often use the same term to refer to different items and processes. These definitions are not meant to be legally binding.

Best if Used by Date – A recommendation to the consumer to use the product by a certain date for best flavor or quality. There is no legal prohibition against selling a product beyond its Best if Used by Date, which is different than expiration date (see discussion of “expiration dates” and “retrograde”).

Business Rules – The rules governing the disposition of surplus household consumer products agreed to by a manufacturer and retailer and/or, in some cases, a reverse distributor. Business rules vary by Universal Product Code (*UPC*) and change periodically. Business rules are often provided to *reverse distributors* that implement the business rules by scanning UPC codes at their reverse logistics centers and arranging for the agreed upon disposition (see discussion on “reverse distribution”).

Container Residues – Material remaining in a container that has held hazardous material.

Destroy Disposition – A business rule that requires a surplus consumer product to be *disposed of*, typically after the product is evaluated for manufacturer credit or other financial reconciliation (see discussion on “dispose”).

Distribution Center or DC – A warehouse facility operated by a retailer to which consumer products are delivered for sorting and delivery to retail sales locations and can include the locations for forward or reverse distribution. In some cases, surplus household consumer products are returned from retail locations to distribution centers for consolidation and future disposition (see discussion on reverse distribution).

Disposition – the way in which an unsold product is managed, such as donated, salvaged, returned to vendor, recycled or disposed of

Donation – Gifting of surplus household consumer products to a charitable organization that can use or otherwise obtain value from the donated products.

Expiration Date (Foods) – A date provided by the manufacturer indicating that the labeling information is accurate as of that date and the time limit to purchase or use the product at its best quality. With the exception of infant formula, the laws that the Food and Drug Administration (FDA) administers do not preclude the sale of food that is past the expiration date indicated on the label. FDA does not require food firms to place "expired by", "use by" or "best before" dates on food products. FDA provides guidance on “dating” on its website¹

Expiration Date (Drugs) – FDA requires that all prescription drugs, and most over-the-counter drugs, bear an expiration date after which the product cannot be sold with its existing label. California law prohibits the sale of expired drugs.

“Kill Code” – A term coined by California prosecutors to refer to “destroy dispositions.” It is not a term typically used by the retail industry.

Liquidation – See “Salvage” below.

Manufacturer – The entity that actually manufactured a product or caused the product to be manufactured. Some product manufacturers may contract with other companies for the actual assembly or production of their products and also serve to function as a supplier or vendor of the product.

Recall – An agency-driven, manufacturer-driven, retailer-driven or supplier-driven removal of a product from sale initiated to recover unsafe, defective, mislabeled, or non-compliant products. Note that some retailers use the term “recall” loosely to refer to any product returned through the reverse supply chain; however, the term “recall” as used in this document does not apply to returns undertaken solely for seasonal or aesthetic reasons unrelated to any safety, defect, labeling or compliance issues.

Retailer – An entity that sells consumer products directly to consumers, including brick and mortar stores or on-line.

Repair and Refurbishment – Applies to retail items that are still intended to remain products for consumer use by being offered for sale by the original store or placed on the secondary market (liquidation/salvage) with repair involving items that are not functional but could be made functional and refurbishment involving items that, while functional, could be made to function better (or at least be made more marketable). Repair and refurbishment are typically undertaken by third-party contractors with

¹<http://www.fda.gov/AboutFDA/Transparency/Basics/ucm210073.htm>;
https://www.fsis.usda.gov/wps/wcm/connect/19013cb7-8a4d-474c-8bd7-bda76b9defb3/Food_Product_Dating.pdf?MOD=AJPERES

expertise in addressing these types of products and may not be considered waste if there is not intent to dispose.

Return to Vendor (RTV) or Return to Manufacturer (RTM) – Products are returned to the supplier, vendor or manufacturer for disposition.

Returns – Consumers return merchandise or products for a number of reasons and bring them back in a variety of conditions ranging from unopened and in new condition to opened, used or broken or missing parts.

Reverse Distribution – (also referred to as reverse logistics²) is a process by which surplus household consumer products are processed for purposes of:

(A) evaluating manufacturer's, vendor's or supplier's credit or other financial reconciliation; (B) liquidation; (C) donation; (D) transfer to a manufacturer, distributor, vendor or supplier or their respective agent(s); (E) completing recalls as required by law or by manufacturers, distributors, suppliers, vendors, or retailers, including safety recalls for secure destruction; or (F) disposal after completion of any of the foregoing activities (A) through (E).

Salvage – Sale of surplus household consumer products to others for subsequent resale to consumers in a *secondary market*; also referred to as *liquidation*.

Secondary Market – Retailers other than primary retailers (e.g., discount stores).

Stock Keeping Unit or SKU– Used by some companies in place of or in tandem with UPCs. Always unique within a manufacturer/supplier. One SKU may have multiple UPCs assigned to it, but one UPC will only have one corresponding SKU.

Supplier³ – the entity with a direct relationship with the retailer for sale of a consumer product; which may include an importer, broker or distributor, or product manufacturer or vendor (see discussion on vendor).

Surplus Household Consumer Product – A product that is not sold by the retailer who carried it in inventory or that never makes it from a vendor warehouse to a primary retailer. For various reasons, these products are not offered for sale to consumers. For example, a product may become surplus in the primary retail market because the label or packaging is defaced or damaged, the product does not have consumer appeal, the product has been superseded by a newer version or has been withdrawn from the

² Some stakeholders maintain that the term reverse logistics differs from reverse distribution in that it is limited to non-pharmaceuticals but others use the terms interchangeably, which is the approach adopted by this report.

³ The retail sector uses the term vendor to represent the supplier

market, demand for the product is seasonal, the product is expired or the product has been recalled.

Universal Product Code (UPC)/Barcode – A scannable barcode that is printed on a product or its packaging. The barcode includes the manufacturer identification number and a 5 digit numeric code that identifies the product. Reverse distributors often scan UPCs to determine the business rules applicable to a surplus consumer product.

Vendor – a term used by the retail sector to refer to as *supplier*.

APPENDIX D



RETAIL WASTE WORKING GROUP MEETING

Hazardous Waste Management Program
California Department of Toxic Substances Control

November 4, 2016

November 4, 2016



Agenda

- Overview of SB 423
- Working Group Composition
- Key Discussion Items
- Process and Timeline
- Sharing Information
- Meeting Schedule / Next steps



Overview of SB 423

(Bates, Chapter 771, Statutes of 2016)
Section 25218.14, Health and Safety Code

- Approved on September 28, 2016
- DTSC to convene a Retail Waste Working Group to consider and make findings and recommendations for:
 - management of surplus household consumer products,
 - waste reduction opportunities and
 - waste management requirements
- Report findings/recommendations by June 1, 2017



WORKING GROUP COMPOSITION

- Retailers
- District attorneys
- Certified unified program agencies (CUPA)
- Nongovernment agencies
- Other state agencies
 - CalRecycle
 - CDPH





PROPOSED STEERING COMMITTEE

- Ca Retailer Association
- CVS, Walmart and Ralphs
- Consumer Specialty Products Assoc.
- Personal Care Products Council
- Consumer Health Products Association
- Inmar
- DTSC, CalRecycle, Dept. Public Health
- EPA
- Attorney General, District Attorneys
- Legislative Staff
- CUPAs
- Non Governmental Organizations



KEY DISCUSSION TOPICS

- *Point of Generation*
 - *When is it waste?*
 - *Should it be waste?*
- *Role of Reverse Distribution*
- *Management of Over the Counter*
 - *Medical waste*
 - *Non-hazardous waste*



CONTINUED KEY DISCUSSION TOPICS

- *Hazardous Waste Determination*
 - *Data vs knowledge*
 - *Availability of data*
 - *Aquatic toxicity test*
- *Quantities*
 - *Total unsold products*
 - *How much is medical or hazardous waste?*
- *Disposal requirements*



PROCESS AND TIMELINE



Sharing Information

Meetings and notes

DTSC website

Mail as e-list

Outreach materials

Retail@dtsc.ca.gov



Meeting Schedule and Next Steps

November 4, 2016



Contact Information

Neena Sahasarabudhe

retail@dtsc.ca.gov

(916) 324-8660

Overview of Retail Waste Steering Group Meetings

Three meetings:

November
17

December
8

January 6



List of Categories of Issues

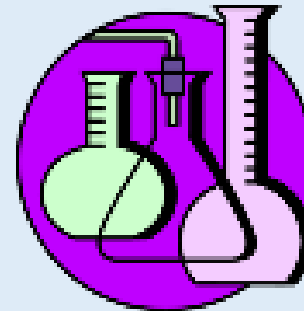
Point of generation

Types, volumes,
classification of waste

Reverse distribution

Hazardous waste
Testing

Over the counter
products



Reason Products Are Not Sold



Discussion on Recalls

Official product recalls for safety reasons at government request

Supplier made changes to product box

Manufactures recall which can be voluntary effort

Distribution recall

Factors causing retailers to discard unsold products rather than attempt to send them to another person or location.

1. Point of Generation



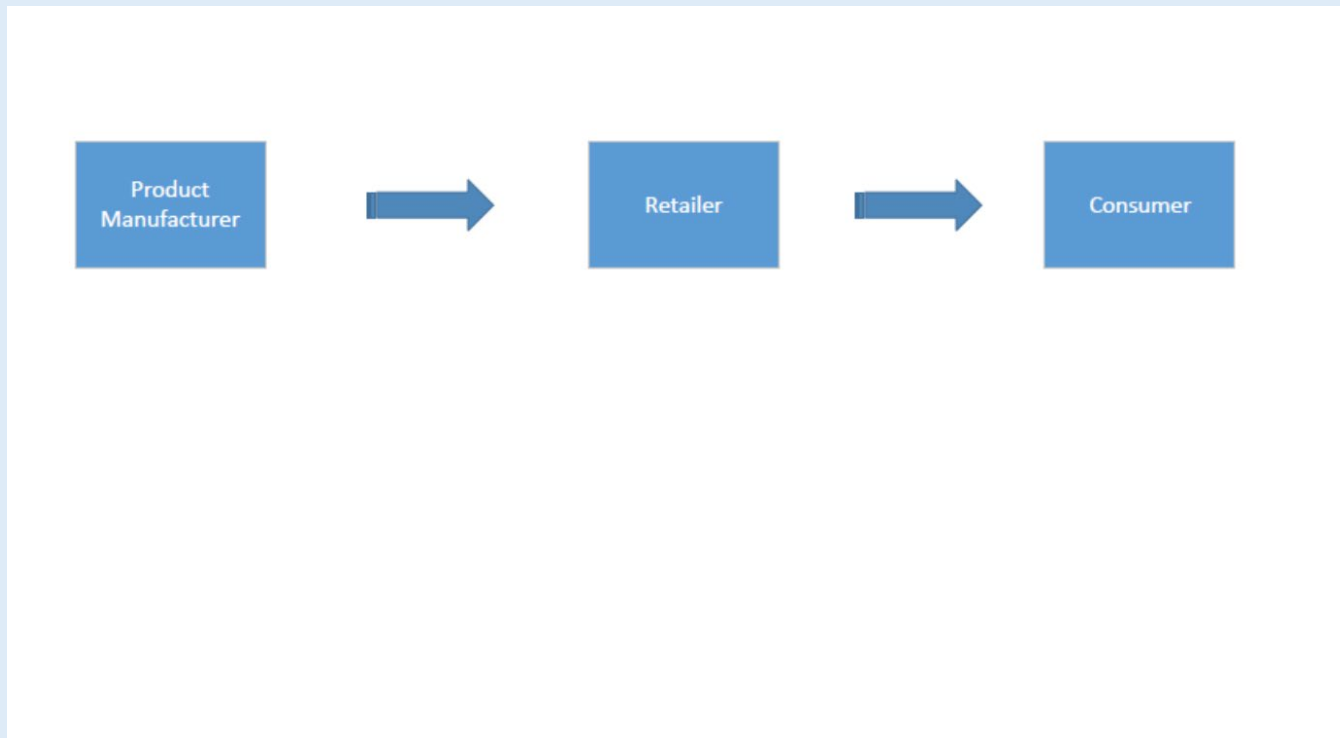
2. Ability to Donate



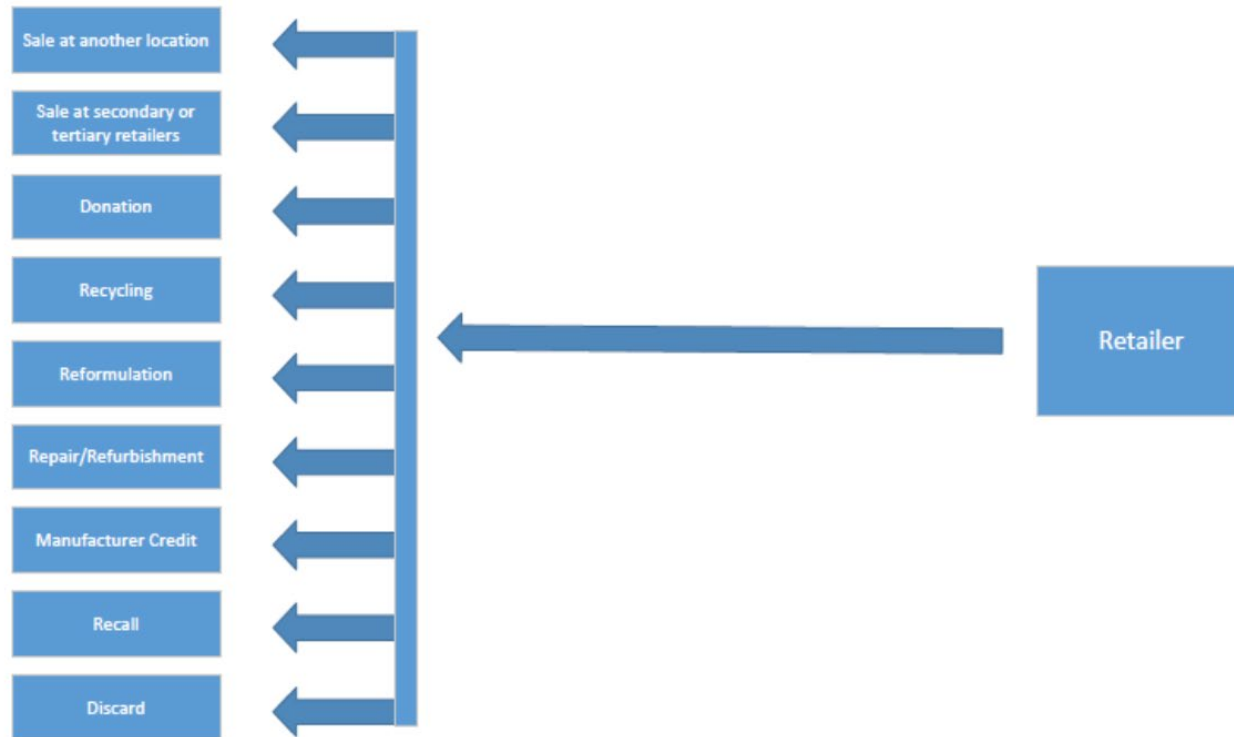
3. Waste Determination



Basic Flow of Retail Products (Sales)



Basic Flow of Unsold Retail Products



Disposition of the surplus consumer products

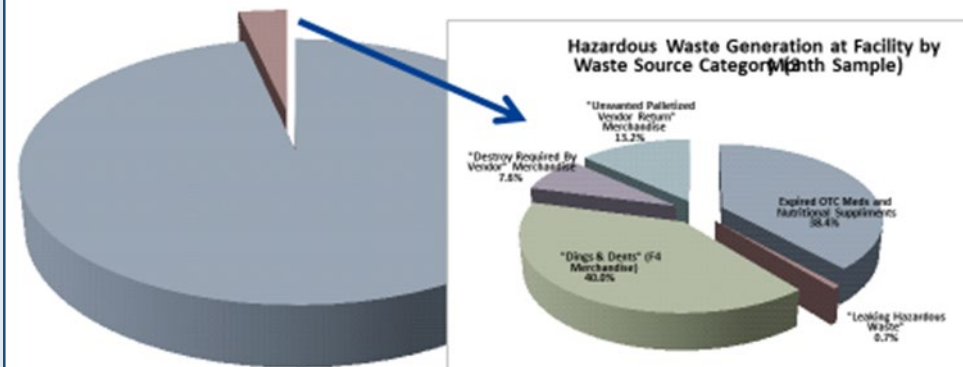


How much?

Analysis of Waste Stream from a Reverse Distribution Facility in California for First Quarter in 2014

One Example of One Facility

Breakout of the 3.5%



Problem Statements

Point of Generation

Ability to Donate

Hazardous Waste Determination

- Drug facts and supplements
- Aquatic toxicity – methodology, expense, stringent
- Presumption of hazardous
- Training and expertise at retailers

Management Standards

Reverse Distribution Model

These wastes must then be classified and identified as medical waste and/or hazardous waste if they are identified as pharmaceuticals or exhibit a hazardous waste characteristic.

Refinement of Topic Areas

1. Product recall
2. Donation
3. Recycling
4. Manufacturing Credit
5. Partial or Partially Empty Containers
6. Hazardous Waste Determination
7. Testing - Aquatic Testing
8. Dietary Supplements/ Drug Facts



Retail Waste Working Group

HWCL Foundational Issues & Terms and Definitions

Presented by Jay Cross, Office of Legal Affairs
Department of Toxic Substances Control
February 3, 2017

California's HWCL: Statutes and Regulations



- Health and Safety Code, Division 20, Chapter 6.5 Hazardous Waste Control Law § 25100 et seq
- California Code of Regulations (CCR), Title 22, Division 4.5, Environmental Health Standards for the Management of Hazardous Waste.

(Chapter 10, Article 2, Definitions § 662601.10)



Foundational Issue:

Is the material (i.e., non-salable retail item) a “waste” under the HWCL?

Foundational Issue:

“**Waste**” (i.e., an item that has been “**discarded**”) is defined in Health and Safety Code section 25124 and in California Code of Regulations (“CCR”), section 66261.2.



Foundational Issue:

Under the HWCL, the term “discard” (or “waste”) includes much more than “disposal.”

Foundational Issue:

Under HSC § 25124, a regulated “waste” (if “hazardous”) can include items that are:

recycled (e.g., “used,” “reused,” or “reclaimed”) either on site or offsite, except as provided under HSC § 25143.2.



Health & Safety Code, § 25124(b)(2)

Foundational Issue:

Under HSC § 25124, a regulated “**waste**” (if “hazardous”) can include items that are:

they are “recycled” (e.g., “used,” “reused,” or “reclaimed”) either on site or offsite, except as provided under HSC § 25143.2.

(Health & Saf. Code, § 25124(b)(2).)

stored, accumulated or treated **BEFORE**

Foundational Issue:

Under HSC § 25124, a regulated “waste” (if “hazardous”) can include items that are:

stored, accumulated or treated **BEFORE**, or in lieu of, being **disposed of**.

(Health & Saf. Code, § 25124(b)(1)(C).)

Foundational Issue:

Under CCR, tit. 2, section 66261.2, a regulated “waste” (if “hazardous”) can include items that are:

Reclaimed, except as provided under HSC § 25143.2, subdivisions (b) and (d).

(CCR, tit. 22, § 66261.2(d)(3).)

Foundational Issue:

Under CCR, tit. 2, section 66261.2, a regulated “**waste**” (if “hazardous”) can include items that are:

stored, accumulated, or treated **BEFORE** they are reclaimed, except as provided under HSC § 25143.2, subdivisions (b) and (d).

(CCR, tit. 22, § 66261.2(d)(3).)

Foundational Issue:

Under CCR, tit. 2, section 66261.2, a regulated “**waste**” (if “hazardous”) can include items that are:

stored, accumulated, or treated **BEFORE** they are recycled by being used in a manner that constitutes disposal.

(CCR, tit. 22, § 66261.2(d)(2).)

Foundational Issue:

Under CCR, tit. 2, section 66261.2, a regulated “**waste**” (if “hazardous”) can include items that are:

accumulated speculatively.

(CCR, tit. 22, § 66261.2(d)(4).)

Foundational Issue:

Under CCR, tit. 2, section 66261.2, a regulated “**waste**” (if “hazardous”) can include items that are:

- accumulated speculatively.

(CCR, tit. 22, § 66261.2(d)(4).)

Foundational Issue:

Is the **waste** “hazardous”
under the HWCL?

Foundational Issue:

Under the HWCL, a generator is required to characterize a non-excluded **waste** for its hazardous potential.

(CCR, tit. 22, § § 66262.11 & 66260.200(c).)

Foundational Issue:

Is the non-excluded **waste** “listed” as hazardous?

(CCR, tit. 22, § 66262.11(b).)

Foundational Issue:

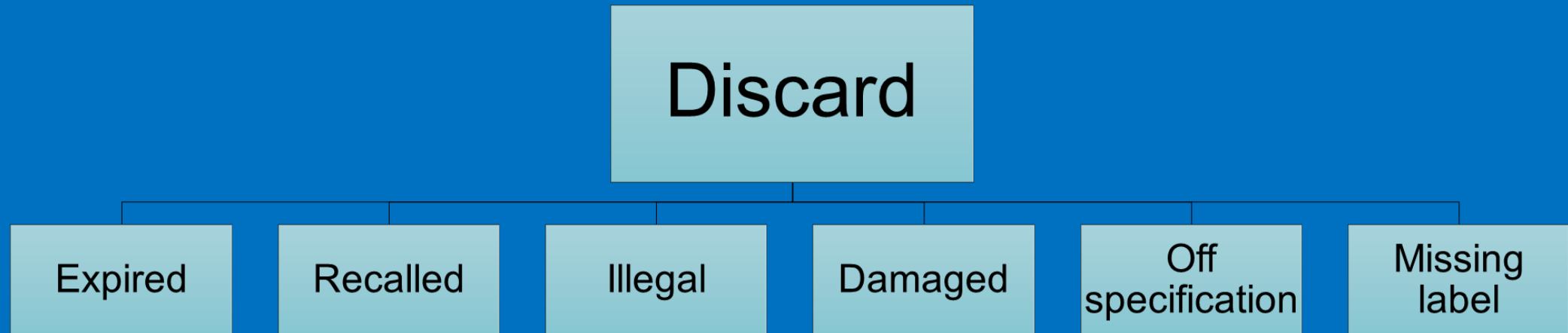
Does the non-excluded waste meet one or more hazardous characteristics?

Is it toxic, reactive, ignitable, and/or corrosive?



(CCR, tit. 22, § § 66262.11(b), 66261.3, 66261.20-66261.24.)

Discussion:



Discussion:

Disposition of a “product”

- Sale to Consumer
- Sale to another retailer
- Donation
- Accumulation, storage and transportation of the “product” for disposal
- (either recycling, reclamation, incineration, landfill)



Discussion:

Scenario 1

- Product Sale from Retailer 1 to Retailer 2
 - ❖ sale of product (Flammable Paint)
- Retailer 2
 - ❖ retailer 2 sells to consumer
 - ❖ retailer 2 discards
- Who is the generator?



Discussion:

- Scenario 2
- Retailer 1 donates to a charitable organization
- Charitable organization
 - ❖ sells to consumer
 - ❖ gives it away
 - ❖ discards
- Who is the generator?



Discussion:

If it was a waste prior to sale or donation, then the generator would be
Retailer 1.

Discussion:

When the retailer sends it to the reverse distributor is it a waste?

If the item is sent to be accumulated prior to disposal, then it is a waste when it was at the retailer.

If the item is sent to be accumulated for recycling, it is also a waste when it was a retailer.

Discussion:

Recall

- Is the manufacturer that issues a recall the generator?
- Is the retailer that identifies the product and sets it aside the generator?
- The retailer must manage it as hazardous waste (if it is hazardous).

Discussion:

Return to Manufacturer

- Is there discard?
- Is it a buy back?
- Retrograde material are a subset of recyclable material and are waste.

HWCL Terms and Definitions

“Generator” or “Producer” (CCR, tit. 22, § 66260.10)

...whose act or process produces hazardous waste identified or listed in chapter 11 of CCR or whose act first causes a hazardous waste to become subject to regulation.



“Waste” (HSC § 25124)

- ..means any discarded material...that is not excluded by this chapter or by regulations adopted pursuant to this chapter.
- (b) a discarded material is any material that is any of the following:
 - (1) Relinquished by being any of the following:
 - (A) Disposed of.
 - (B) Burned or incinerated.
 - (C) Accumulated, stored, or treated, but not recycled, before, or in lieu of, being relinquished by being disposed of, burned, or incinerated.

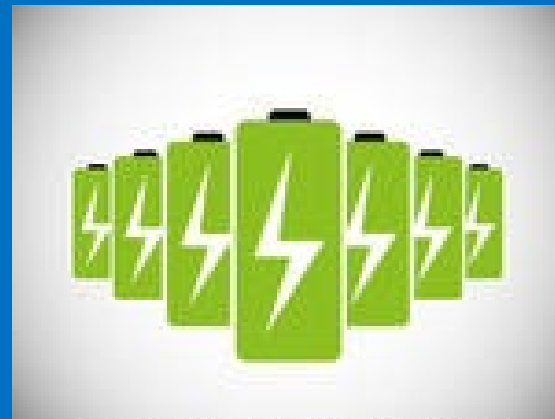
“Waste” *Continued*



- (2) Recycled, or accumulated, stored, or treated before recycling, except as provided in Section 25143.2.
- (3) Poses a threat to public health or the environment:
 - (A) mislabeled or not adequately labeled,
 - (B) packaged in deteriorated or damaged containers, unless the material is contained in sound or undamaged containers within 96 hours after the containers are discovered to be deteriorated or damaged.
- (4) Considered inherently waste-like, as specified in regulations adopted by the department.

“Reclaimed” (CCR, tit. 22, § 66260.10)

...means that a material is processed to recover a usable product, or that it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents.



“Recyclable Material”

(HSC § 25120.5 & CCR, tit. 22, § 66260.10)

Means hazardous waste that is capable of being recycled, including, but not limited to, any of the following:



“Recyclable Material”

(HSC § 25120.5 & CCR, tit. 22, § 66260.10)

(a) A residue.

(b) A spent material...spent stripping or plating solution or etchant.

(c) A material that is contaminated to such an extent that it can no longer be used for the purpose for which it was originally purchased or manufactured.

(d) A byproduct listed in the regulations adopted by the department as “hazardous waste from specific sources” or “hazardous waste from nonspecific sources. ”

“Recyclable Material” *Continued*

(e) retrograde material that has not been used, distributed, or reclaimed through treatment by the original manufacturer or owner by the later of the following dates:

- (1) 1 year after the date when the material became a retrograde material.
- (2) If the material has been returned to the original manufacturer, 1 year after the material is returned to the original manufacturer.



“Recycled Material”

(HSC § 25121 & CCR, tit. 22, § 66260.10)

(a) “Recycled material” means a recyclable material which has been used or reused, or reclaimed.

(b) “Recycled material” does not include an intermediate manufacturing process stream.



“Recycling” (HSC § 25121.1)

(a) using, reusing, or reclaiming a recyclable material.

(b) for purposes of the fees, taxes, and charges imposed pursuant to Article 7, “recycling” means the collecting, transporting, storing, transferring, handling, segregating, processing, using or reusing, or reclaiming of recyclable material to produce recycled material.



“Used or Reused” (CCR, tit. 22, § 66260.10)

Material is either:

(a) employed as an ingredient, including use as an intermediate, in an industrial process to make a product,
or

(b) employed in a particular function or application as an effective substitute for a commercial product.



RCRA vs Non-RCRA Hazardous Waste (HSC § 25117.9)

- RCRA hazardous waste” identified as a hazardous waste in Part 261 (commencing with Section 261.1) of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.
- “Non-RCRA hazardous waste” hazardous waste regulated in the state, other than RCRA hazardous waste, as defined in HSC § 25120.2.



“Retrograde Material” (HSC § 25121.5 & CCR, tit. 22, § 66260.10)

...hazardous material which is not to be used, sold, or distributed for use in an originally intended or prescribed manner or for an originally intended or prescribed purpose for the following criteria:

- (1) undergone chemical, biochemical, physical changes due to the passage of time or the environmental conditions under which it was stored.
- (2) has exceeded a specified or recommended shelf life.
- (3) is banned by law, regulation, ordinance, or decree.
- (4) cannot be used for reasons of economics, health or safety, or environmental hazard.

**RECALL
ALERT**

Retrograde Material Does not Include:

(b) material designated in regulations adopted by the department as included in a category which the department shall title “Discarded commercial chemical products, off-specification species, container residues, and spill residues thereof,” if either of the following conditions is met:

(1) used in a manner constituting disposal and the material is not normally used in a manner constituting disposal.



“Surplus Material” (CCR, tit. 22, § 66260.10)

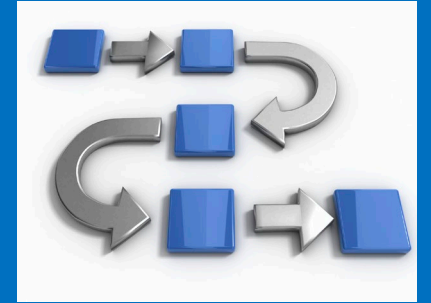


...unused raw material or commercial product from a person who intended to use/sell it, but no longer needs it, and transfers ownership to another person for use in a manner which the material or product is commonly used. Surplus material is excess material.

Surplus material is neither of the following:

- (a) a retrograde material;
- (b) a recyclable material.

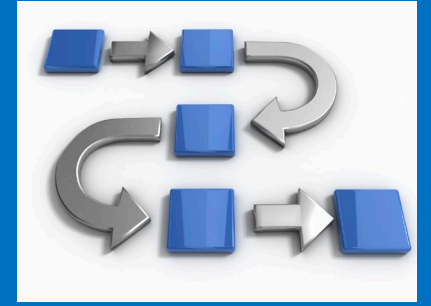
“End-User” (CCR, tit. 22, § 66260.10)



(a) a person who receives a hazardous waste from an unaffiliated third party and who intends to, or does, use or reuse that waste as:

- (1) an ingredient in an industrial process to make a product; or
- (2) a substitute for a raw material in a process that uses raw materials as principal feedstocks; or
- (3) a substitute for a commercial product in a particular function or application.

“End-User” (CCR, tit. 22, § 66260.10)



“End-user” does not include:

- (1) a person who receives a RCRA hazardous waste;
- (2) a person who receives a hazardous waste from an unaffiliated third party and who intends to, or does, process that waste to recover usable products or regenerate that waste;
- (3) a person managing a material that is not a waste pursuant to Health and Safety Code section 25143.2.

Unsold Consumer Products Problem Definitions

Consumer products may remain unsold, or retailers may choose to not continue to offer them for sale at their location, for a variety of reasons.

Unsold consumer products may continue to be useable for their intended purpose even after retailers have removed them from their shelves.

Factors causing retailers to discard unsold products rather than attempt to send them to another person or location.

1. Point of Generation



2. Ability to Donate



3. Waste Determination



These wastes must then be classified and identified as medical waste and/or hazardous waste if they are identified as pharmaceuticals or exhibit a hazardous waste characteristic.

1. Point of Generation

If an unsold product is sent to another person or location to be used as intended, but later is discarded by anyone that receives them, they would be considered medical waste or hazardous waste, and the original retailer that sent them the point where they are considered generated, or “point of generation,” would have been the generator, and would have had to handle them according to one of the two sets of regulatory requirements.

1. Point of Generation Continued

- There is uncertainty about how subsequent recipients of these unsold consumer products might manage the products.
- The liability that may result from the unsold products' later management decisions is causing retailers to be conservative and make the decision to discard and classify still useable unsold products as medical waste or hazardous waste, rather than send them elsewhere for sale or for donation as a useable product.

2. Ability to Donate

More unsold products could be donated and used as intended, but the limited amount of any particular type of unsold product from single retail locations limits retailers' ability to find persons that are will to accept donations. The lack of donation options is causing retailers to decide to discard and classify still useable products as medical waste or hazardous waste.

3. Waste Determination

Difficulties and challenges of hazardous waste determinations also result in retailers “overclassifying” and assuming nonhazardous consumer products are hazardous and sending nonhazardous waste for hazardous waste disposal:

3. Waste Determination Continued

- There is some question about whether Over-the-Counter (OTC) medications meet the federal definition of “pharmaceutical.” To avoid liability for mismanaging or illegally disposing of OTCs, retailers are classifying and managing them under the requirements of the Medical Waste Management Act.
- California’s required aquatic toxicity testing methodology is outdated and does not accurately estimate a waste’s true hazards, especially unsold consumer products that are contained and stored in smaller, individual containers.

3. Waste Determination Continued

- California's required aquatic toxicity test is expensive and impractical to perform to classify the number of unsold products being managed by retailers. Because the results of the aquatic toxicity test cannot be anticipated or estimated, performing the test is the only way to determine the result. Unsold products are often presumed hazardous rather than incurring the costs of testing.
- California's aquatic toxicity criterion is an order of magnitude more protective than aquatic toxicity standards used in other regulatory programs globally.

3. Waste Determination Continued

- California's hazardous waste criteria are unnecessarily stringent. Many more wastes are classified as hazardous waste in California than in any other state due to the more stringent criteria.
- Retail store personnel do not possess the expertise or training needed to make hazardous waste determinations. In the absence of expertise or knowledge, unsold products are often presumed hazardous.

4. Management Standards

- Designation (and regulation) of unsold consumer products as medical waste or hazardous waste significantly increases costs to retailers.
- Designation (and regulation) of unsold consumer products as medical waste or hazardous waste requires retailers to set up areas at their locations to manage the waste, taking up storage space typically used to manage product inventory. Many smaller retail operations lack sufficient space to manage unsold products as medical or hazardous wastes.

4. Management Standards Continued

- Incineration of waste over-the-counter medications is unnecessary and overly protective for the hazards or safety concerns they pose.
- Disposal of nonhazardous over-the-counter medications as municipal solid waste safe may pose risks or hazards in landfills.
- Disposal of nonhazardous over-the-counter medications into sewers may pose risks or hazards to publicly owned treatment works or water systems (including groundwater).

5. Reverse Distribution

Retailers implementing a reverse distribution model or participating in a third party reverse distribution model could address some of the above issues/challenges. Under existing California law, a reverse distributor would need to be a licensed medical waste management facility if it receives, stores, or handles medical wastes, or an authorized hazardous waste management facility if it receives, stores, or handles hazardous wastes sent to it from retail locations.

5. Reverse Distribution Continued

- No California reverse distributor currently possesses a medical waste license or authorization as a hazardous waste management facility.
- The outcome of decisions about the disposition of unsold products that are still useable often cannot be known until unsold products are received by the reverse distributor, quantities known, and recipients arranged (either for sale or donation) – some unsold products managed in this system still end up as wastes.

5. Reverse Distribution Continued

- Reverse distributors also receive unsold products that are intended to be discarded (e.g., recalled products, products that manufacturers have directed be destroyed, as well as damaged, broken or leaky products that cannot be sold), all of which are wastes and subject to regulation. Retailers' use of reverse distribution avoids waste management standards required of all other generators of waste and could lead to mismanagement or illegal disposal.

5. Reverse Distribution Continued

- Reverse distributors may operate in other states, where California's waste identification and management standards would not apply. Retailers could choose to send unsold retail products to reverse distributors that operate in other states solely to avoid California's more stringent waste management regulatory standards.

5. Reverse Distribution Continued

- Information is managed, and decision-making performed, at reverse distributors through the use of computer software and scanning of Universal Product Code barcodes or Quick Response (QR) Codes on product packaging. Because unsold useable products are virtually indistinguishable from unsold products that are discarded and destined for disposal, the processing and decisions made through reverse distribution are:
 - Difficult/impossible for local or state government agency inspectors to review or verify.
 - Easily falsified, which could result in dumping of “wastes” to unsuspecting charitable organizations.
 - Potentially contradictory to a retailer’s or manufacturer’s intentions, resulting in waste being distributed and sold as product.

Analysis of Waste Stream from a Reverse Distribution Facility in California for First Quarter in 2014

One example of one facility

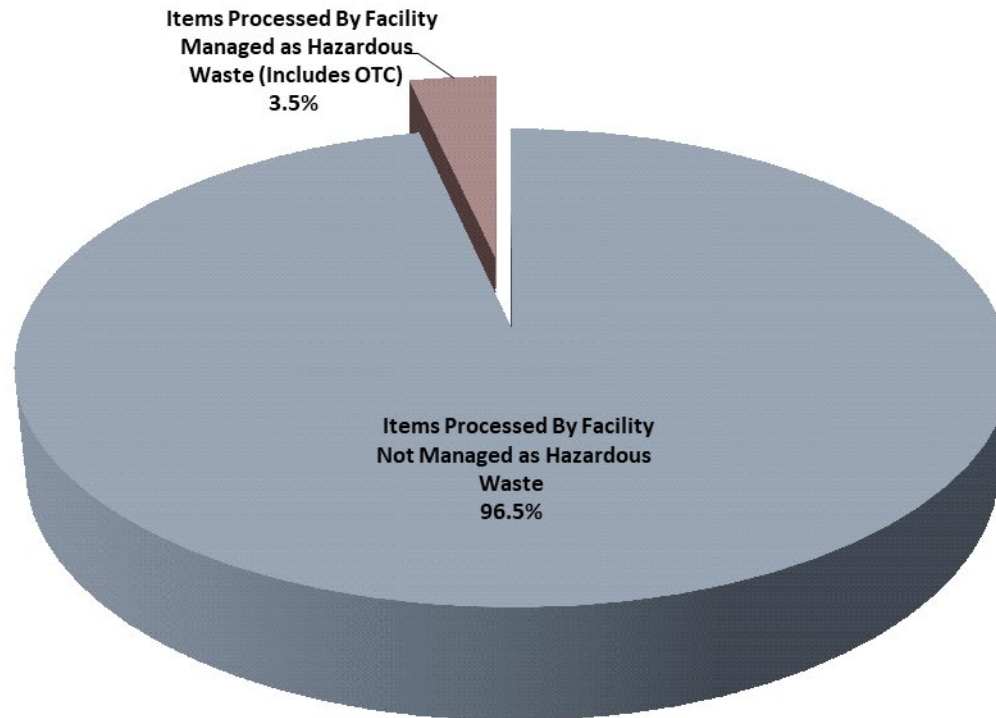
Basics

- Facility served only retailers (not manufacturers or others)
- 1,580,000* items processed during the Q1 2014
- 55,000 items were managed as hazardous waste (17,000 pounds)
- Thus, of the total number of items processed, 3.5% were managed as hazardous waste
- Some of this waste was generated at the reverse logistics center, e.g., products that became unsellable while awaiting a determination of potential use
- Some of this waste was not actually hazardous, but was managed as such out of an abundance of caution;
- Note that facility was already under investigation by District Attorneys, so was taking a very conservative approach to management of waste
 - For example, supplements were handled as medical waste, which is not actually required by law

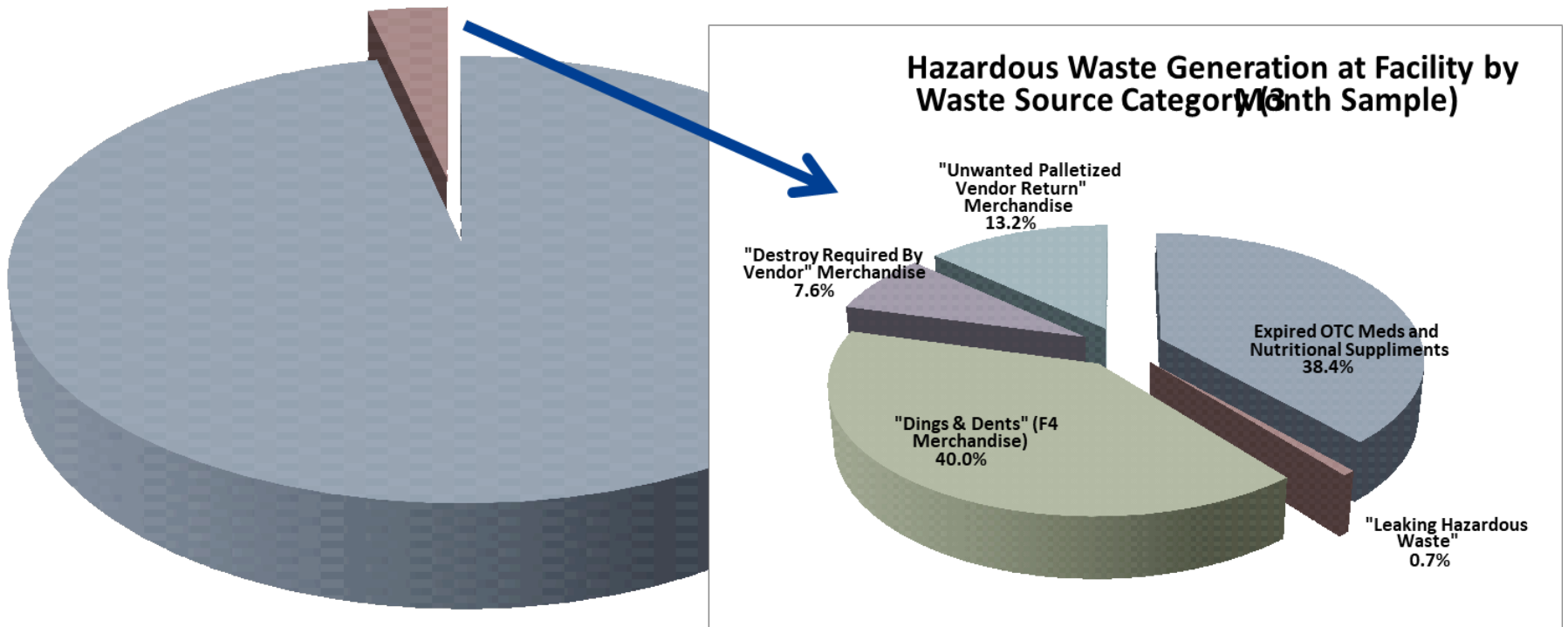
* Figures are rounded

Hazardous Waste Analysis

Quantity of Items Processed by Facility Managed as Hazardous Waste as a Percentage of Total Items Processed (3 - Mo. Sample)

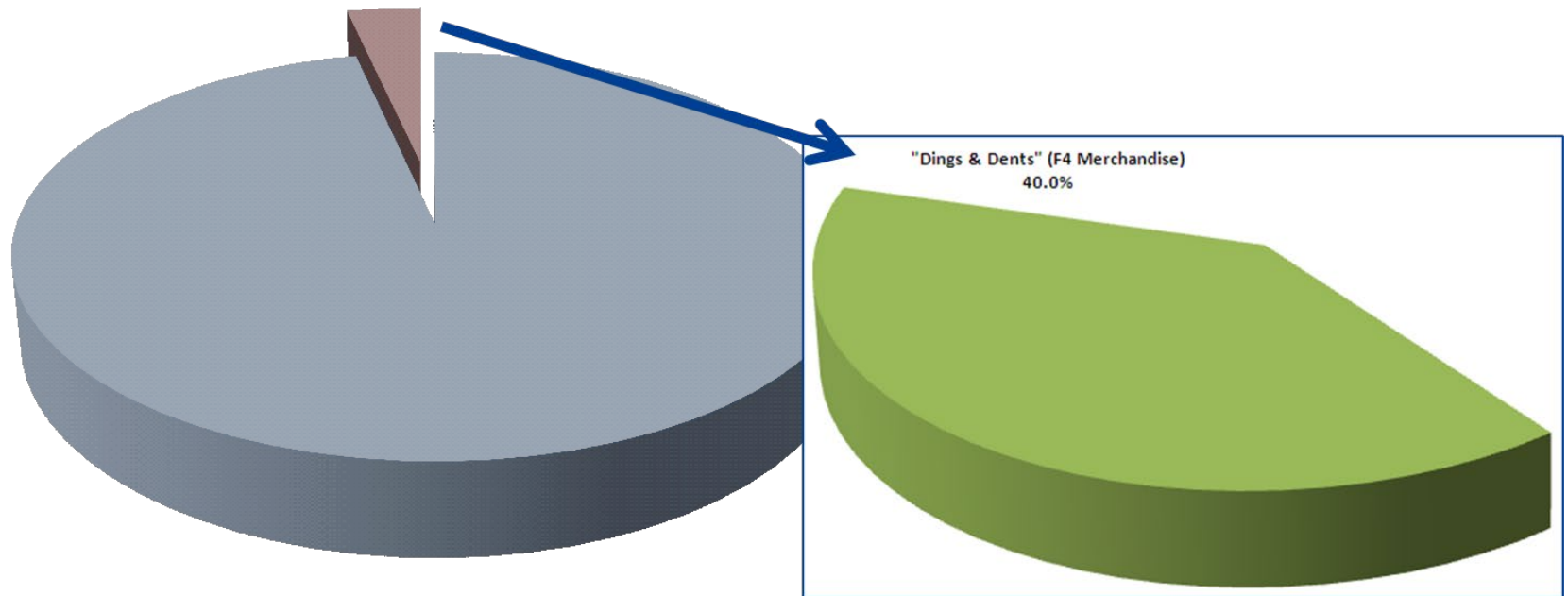


Breakout of the 3.5%



Description of Subcategories

3.5% of all products processed ends up as hazardous waste, of which 40% is waste due to dings and dents; this is 1.4% of the total volume of products handled

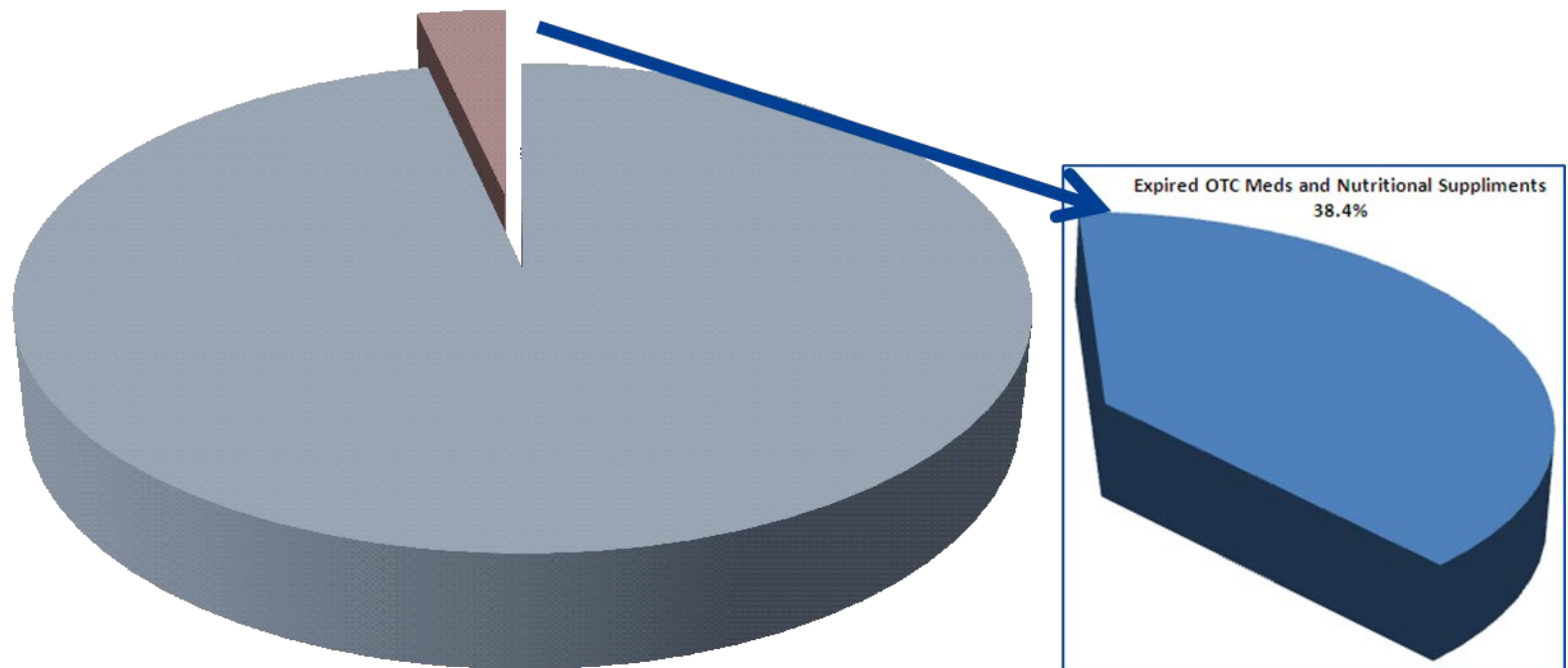


Dings and Dents



Expired/Expiring OTCs

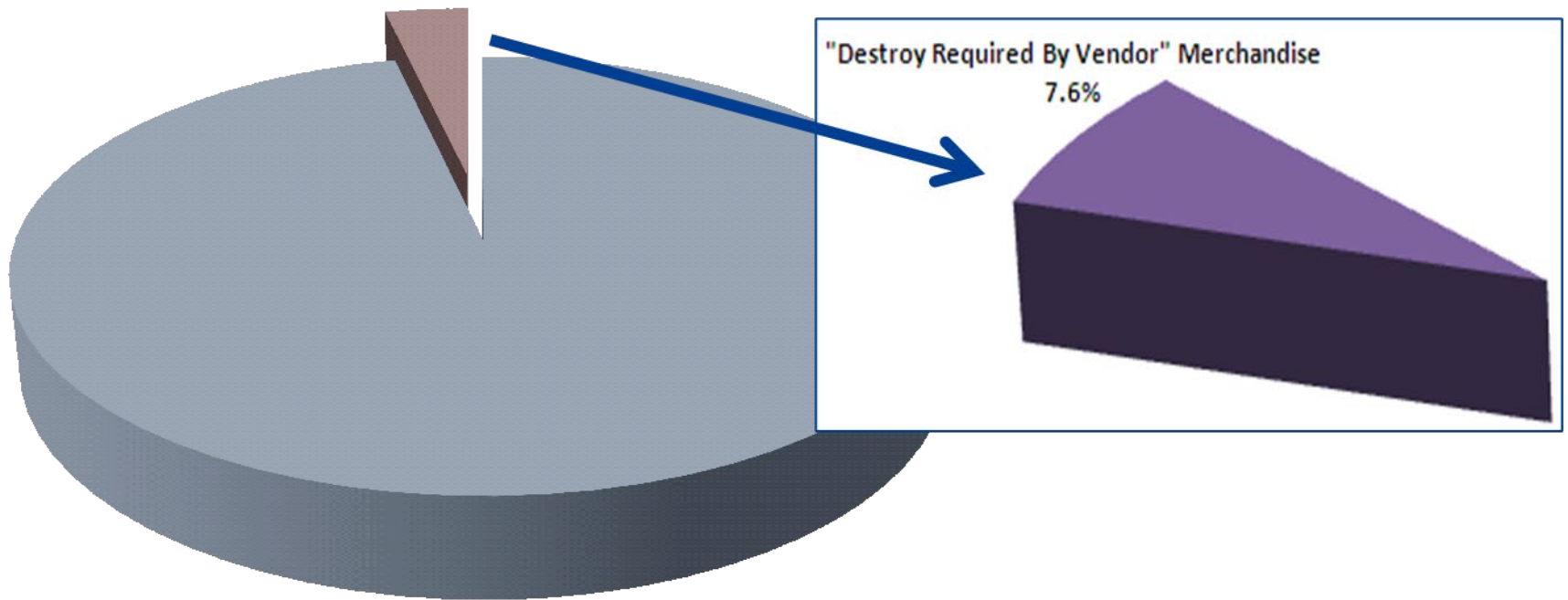
3.5% of all products processed ends up as hazardous waste; of which 38.4% is waste due to expiration; this is 1.3% of the total volume of products handled



Expiring or expired over-the-counter (OTC) medications and nutritional supplements are verified for credit prior to disposal as medical waste. Note that the management of supplements as medical waste was done due to uncertainties about the DA's position, and is no longer deemed necessary.

Destroy Disposition

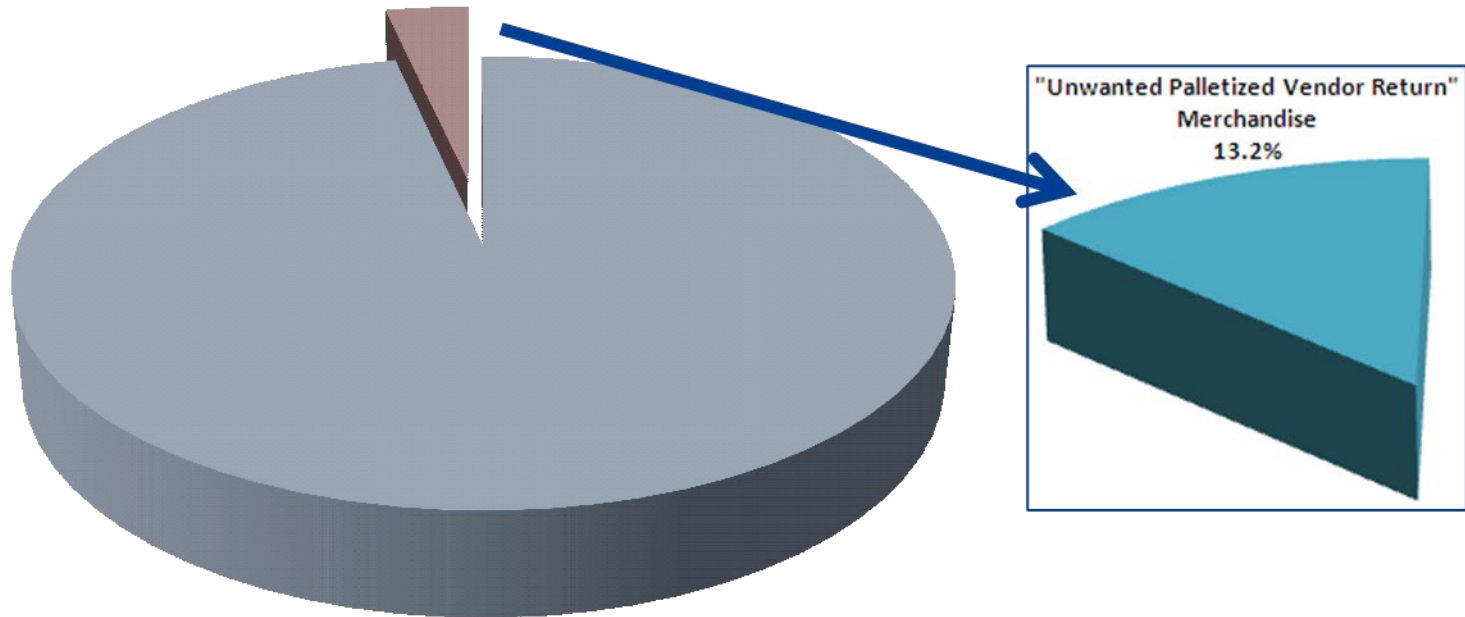
3.5% of all products processed ends up as hazardous waste; of which 7.6% is waste due to vendor agreements; this is 0.26% of the total volume of products handled



These items are shipped to Facility for third-party verification of product quantities before the issuance of vendor credit.

Vendor Returns

3.5% of all products processed ends up as hazardous waste; of which 13.2% is waste due to vendor returns; this is 0.46% of the total volume of products handled



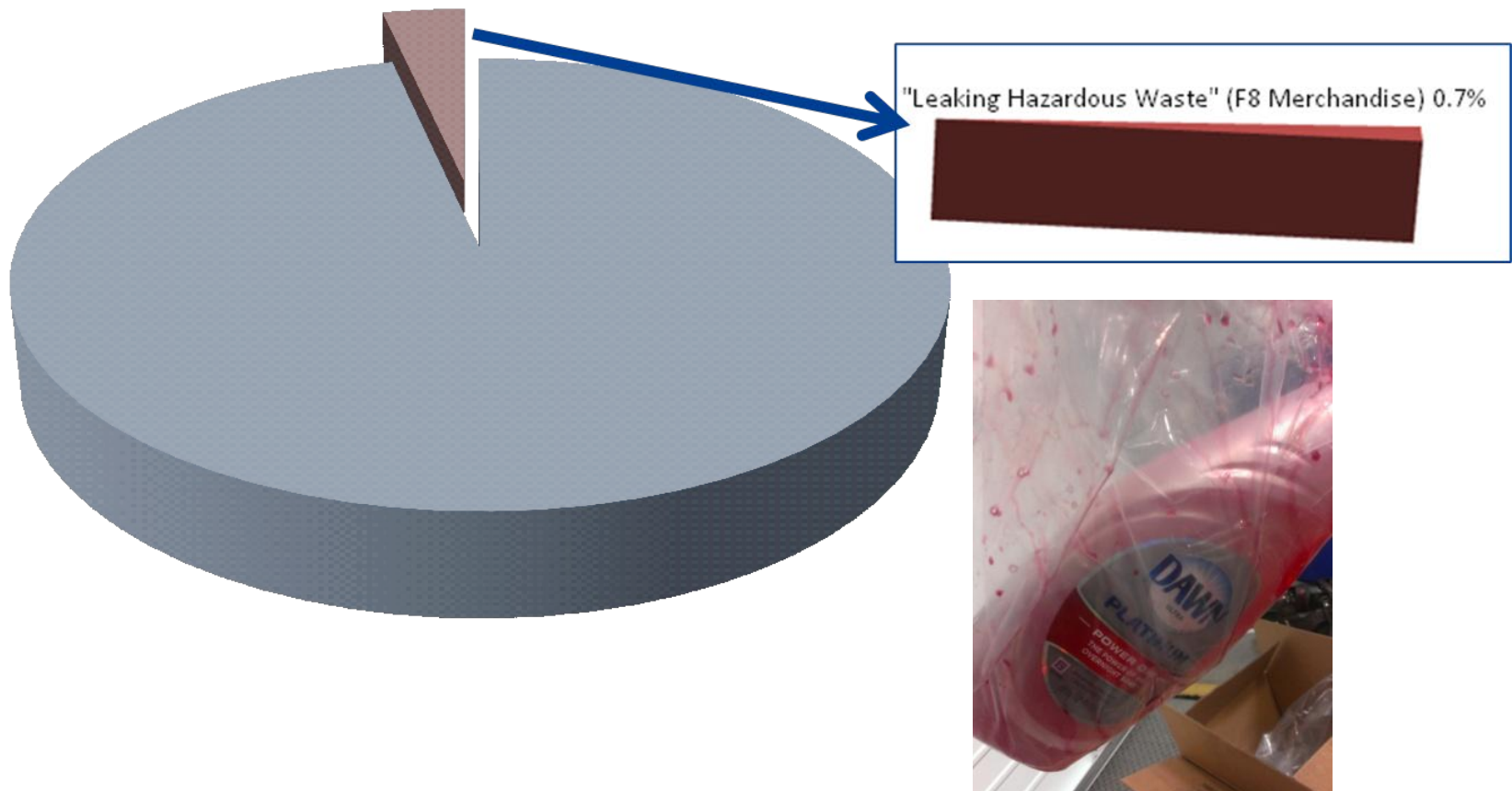
Merchandise originally prepared for shipment back to the product vendor is sometimes managed as hazardous waste when that vendor has a “change of heart” and no longer wants the product back and there is no alternative outlet for the product such as donation.

Example of Pallet Staged for Disposal



Broken/Leaking Hazardous Waste

3.5% of all products processed ends up as hazardous waste; of which 0.7% is waste due to dings and dents; this is 0.24% of the total volume of products handled



The End

APPENDIX E

**EPA’s Longstanding Policy Recognizes that Products
Returned for Credit are Not Wastes**

Authored By Scott H. Reisch, Hogan Lovells US LLP

Since the very inception of RCRA, EPA has maintained that a consumer product returned to a reverse distributor for evaluation for potential credit or other financial reconciliation is not a solid waste until the reverse distributor makes a decision to discard it. This interpretation is embedded in EPA regulations at 40 C.F.R. § 261.33, which provide that a commercial chemical product becomes a hazardous waste “if and when [it is] discarded or intended to be discarded” It is also reflected in the definition of “generator” in 40 C.F.R. § 260.10, which provides that a generator is “any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation.”

When EPA first issued federal hazardous waste regulations in November 1980, at the very outset of the hazardous waste program, EPA explicitly considered the question of when a “commercial chemical product” becomes a waste. According to EPA:

1. Where a customer receives an *off-specification product* listed in § 261.33 and returns it to the manufacturer for re-processing, the product is not being discarded and is not a hazardous waste.
2. Where a commercial chemical product becomes *excess inventory or outlives its expiration date in a wholesale or retail outlet* or in the hands of a user and *the supplier takes the product back for resale or reprocessing*, the product is not being discarded by the wholesaler, retailer or user and is not a hazardous waste.
3. Where there is a breakage of containers holding § 261.33 chemicals and the supplier takes back the affected chemicals, including recovered spilled chemicals, for repackaging or reprocessing, the chemicals are not being discarded and are not hazardous wastes. 1/

In adopting this interpretation, EPA noted:

[i]t is quite likely that, in some cases, a manufacturer or supplier will find it necessary to discard some portion of the materials returned to

1/ See 45 Fed. Reg. 78,532, 78,540-41 (Nov. 25, 1980) (final rule) (emphasis added) (Attachment I). This interpretation applies to both listed and characteristic hazardous wastes. 50 Fed. Reg. 14,216, 14,219 (Apr. 11, 1985) (final rule) (emphasis added).

him because he is unable to reprocess, repack, resell or use it. Where this occurs, that portion which is discarded becomes a hazardous waste *when it is discarded or when a decision is made to discard* the material. In this situation, *the manufacturer or supplier is the generator of a hazardous waste* because he is the “person . . . whose act . . . produces hazardous waste. . .” (see the definition of “generator” in § 260.10). 2/

Accordingly, when a retailer takes a consumer product off its shelves and sends it back to a manufacturer or supplier (or their agent) for further processing (e.g., financial reconciliation), the product is not a waste until the entity to whom it is returned decides to discard it. EPA embraced this approach because it “avoid[s] discarding valuable materials and thereby conserve[s] resources, while at the same time avoiding the potential hazards associated with discarding of hazardous chemicals.” 3/ In addition, reverse distribution avoids turning “many thousands of wholesalers, retailers and users [into] generators of hazardous wastes.” 4/ EPA has recognized that many of these retailers “will be unfamiliar . . . with the regulations and may fail to properly perform the responsibilities of a generator if they have to discard the materials.” 5/

Since promulgating the applicable hazardous waste regulations and associated interpretation in 1980, EPA has consistently applied its interpretation regarding reverse distribution systems. In a letter dated May 1981, EPA explained how EPA rules apply to an in-house reverse distribution system, where the majority of returned products were destined for disposal. 6/ In that case, a manufacturer of pharmaceuticals collected returned products at multiple branch operation facilities and, without making any assessment of the products, then shipped those products to a central manufacturing facility, where a decision was made as to the products’ final disposition. 7/ Most of the product returns involved expired products, but some were returned because of a lack of sales, a recall, or for other reasons. 8/ After careful analysis, EPA determined that the company’s central facility, and not its branch facilities, was the generator of the hazardous waste, because the decision to discard the products occurred at the central facility. 9/ Although the entire reverse distribution system was run within the same company, EPA made no effort to impute the

2/ 45 Fed. Reg. at 78,541 (emphasis added).

3/ *Id.*

4/ *Id.*

5/ *Id.*

6/ See Letter from A. Corson, Chief, Waste Characterization Branch, Hazardous and Industrial Waste Division, Office of Solid Waste, EPA to S. Wittmer, Environmental Facilities Engineer, Merck, Sharp & Dohme (May 13, 1981) (“Corson Letter”); Letter from S. Wittmer, Environmental Facilities Engineer, Merck, Sharp & Dohme to Alan S. Corson, Chief, Waste Characterization Branch, Hazardous and Industrial Waste Division, Office of Solid Waste, EPA (Mar. 26, 1981) (“Wittmer Letter”). Both letters are attached as Attachment II.

7/ Wittmer Letter at 1.

8/ *Id.*

9/ Corson Letter at 1.

knowledge of the company's personnel at the central facility to the company's employees at its branch facilities. Instead, because the company's "procedures for segregating returned products for reclamation or disposal . . . take place only at [the central location]," and because the company's "branch operations have no role in the decision to discard a particular material," EPA concluded that the materials "are not yet within the RCRA regulatory system when shipped to [the central location] from the branch operations" In reaching its conclusion, EPA focused on "if and when" the material is discarded, "because the event of discard, or the time of decision to discard, is determinative." 10/

In November 1990, EPA's Assistant Administrator authored a letter to the American Chemical Society explaining when commercial chemical products become wastes. According to EPA, "EPA views commercial chemical products as non-wastes until a decision is made to discard them. Surplus chemicals that are intact and unused are classified as commercial chemical products." 11/

In May 1991, EPA's Director of the Office of Solid Waste specifically addressed "the regulatory status of pharmaceutical products that are returned by the dispensers of these products to the manufacturers, wholesalers, or to a third-party service company that will facilitate the processing, crediting, and, if needed, the appropriate disposal of the returned products." 12/ In determining that returned products were not wastes, EPA relied on three main factors. First, "*in general* the dispensers of the pharmaceutical products do not know whether the returned products will be reused, reclaimed, sold overseas or disposed (i.e., they are not able to determine whether these materials are solids wastes.)" 13/ Second, the dispensers receive credit for the returned products, which therefore have a monetary value. 14/ Third, "recycling by use/reuse is *generally* a viable option." 15/ Notably, EPA did not require that dispensers have no knowledge regarding the disposition of the returned products or that use/reuse always be a viable option. Based on these factors, EPA characterized the returned pharmaceutical products as more "product-like" than "waste-like."16/ According to EPA, "if the underlying *assumption* is that the returned products will be recycled, until the manufacturer or wholesaler determines otherwise (assuming that this determination is beyond the ability of the dispenser), than those products managed within the

10/ *Id.*

11/ Letter from Don R. Clay, Assistant Administrator, Office of Solid Waste and Emergency Response ("OSWER"), EPA to Kathleen Ream, American Chemical Society (Nov. 28, 1990) (Attachment III).

12/ Letter from Sylvia K. Lowrance, Director, Office of Solid Waste, EPA to Mark J. Schulz, President, Pharmaceutical Services, Inc. (May 16, 1991) [hereinafter "1991 Lowrance Letter"] (Attachment IV).

13/ *Id.* (emphasis added).

14/ *Id.*

15/ *Id.*

16/ *Id.*

reverse distribution system are not solid wastes until the manufacturer or wholesaler makes the determination to dispose of them.” 17/

In 2002, when EPA adopted the cathode ray tube (“CRT”) rule, it again clarified the circumstances under which a product becomes a waste. In the proposed CRT rule, the Agency clarified that even a used CRT is a product, and not a waste, when it is taken out of service and sent to a reseller for repair or resale:

Many businesses and organizations that take CRTs out of service do not have the specialized knowledge needed to determine whether the unit can be reused as a computer or television display unit. Moreover, those entities often do not decide whether a particular CRT will, in fact, be reused. Many businesses and other organizations send used computers and televisions to resellers. Resellers often test CRTs or otherwise decide if the CRTs can be reused directly, if they can be reused after minor repairs, or if they must be sent for further processing or disposal. Because the typical original user usually lacks the specialized knowledge needed to decide the future of a CRT, EPA is today clarifying that we do not consider a user sending a CRT to a reseller for potential reuse to be a RCRA generator. 18/

Similarly, with respect to non-CRT electronic devices, EPA stated that “if an original user sends electronic materials to a reseller because he lacks the specialized knowledge needed to determine whether the units can be reused as products, the original user is not a RCRA generator. The materials would not be considered solid wastes until a decision was made to recycle them in other ways or dispose of them.” 19/ /In the reverse distribution context, as in the CRT context, retailers lack the specialized knowledge to determine if a particular consumer product returned to a reverse distributor is going to be discarded.

In the context of the 2008 proposed rulemaking under which EPA proposed to regulate pharmaceutical waste as universal waste, EPA again re-affirmed its interpretation that a product is not a waste until the reverse distributor decides to discard it. 20/ In the proposed rule, EPA indicated that “[b]ecause unused or expired pharmaceuticals are being returned (via the reverse distributor) *for possible manufacturer credit*, they still have potential value to the pharmacy or hospital and are thus not considered wastes.” 21/ Furthermore, EPA recognized that reverse

17/ *Id.* (emphasis added).

18/ 67 Fed. Reg. 40,508, 40,511 (June 12, 2002) (proposed rule).

19/ *Id.* at 40,512.

20/ *See* 73 Fed. Reg. 73,520, 73,525–26 (Dec. 2, 2008) (proposed rule).

21/ *Id.* at 73,525 (emphasis added).

distribution systems help ensure that pharmaceuticals do not get diverted to inappropriate uses and that the returned pharmaceuticals are managed appropriately. 22/

Finally, in 2015, EPA proposed to modify its policy on the waste status of pharmaceuticals returned for credit, but in the process reaffirmed that the regulatory interpretation described above remains in effect unless and until EPA's new proposal is adopted. 23/ Specifically, solely with respect to pharmaceuticals, EPA decided to reassess its position such that "once a decision is made to send a hazardous waste pharmaceutical to a reverse distributor, it is solid waste at the healthcare facility." 24/ However, EPA acknowledged that industry has relied on EPA's existing interpretation that materials returned to a reverse distributor for credit evaluation are not wastes. 25/ Accordingly, EPA emphasized that, until the proposed pharmaceutical waste rule is promulgated and effective, "EPA's previous interpretations will continue to be in effect." 26/ To date, the proposed rule has not been finalized, and thus EPA's longstanding interpretation that products sent to a reverse distributor for credit evaluation are not wastes remains federal law. 27/

This consistent, longstanding guidance demonstrates that, under existing federal law, an item managed within the reverse distribution supply chain for possible sale, donation, credit or recall is not a waste *unless and until* the reverse distributor evaluates the item and determines its disposition. 28/

22/ *Id.*

23/ 80 Fed. Reg. 58,014, 58,043 (Sept. 25, 2015) (proposed rule).

24/ *Id.*

25/ *Id.*

26/ *Id.*

27/ It is unlikely that the proposed rule would be finalized in its current form. Several commenters noted that EPA's proposed re-interpretation was based on the clearly erroneous finding that all pharmaceuticals (prescription and over-the-counter) and dietary supplements are discarded following processing by a reverse distributor. *See, e.g.,* Retail Industry Leaders Association, *Comments of the Retail Associations in Response to EPA's Proposed Management Standards for Hazardous Waste Pharmaceuticals*, Docket ID No. EPA-HQ-RCRA-2007-0932 at 19–21 (December 22, 2015); Inmar, Inc., *Comments on EPA's Proposed Rule: Management Standards for Hazardous Waste Pharmaceuticals*, Docket ID No. EPA-HQ-RCRA-2007-0932 at 10–11 (December 23, 2015) ("Inmar Comments"). At least one commenter suggested that EPA's change of interpretation was unlawful, and that if EPA proceeded with it, the rule should be limited to prescription drug. *See* Inmar Comments at 21.

28/ EPA's policies on reverse distribution are consistent with its approach in related contexts. *See* Letter from Sylvia K. Lowrance, Director, Office of Solid Waste, EPA, to Phillip C. McGuire, Associate Director, Law Enforcement, BATF (August 11, 1988) (RCRA Online #11363) ("1988 Lowrance Letter") (explosives being stored pending judicial proceedings are not subject to hazardous waste regulations until they are discarded); 62 Fed. Reg. 6622, 6628 (Feb. 12, 1997) (unexploded ordinance is not a waste when it is shipped off-range for further evaluation as to why it did not detonate).

APPENDIX F

Description	Manufacturer	UPC	Strength / Quantity	Main Ingredient / Or Usage / NOTES	Size of sample container (including units)	Type of sample container: Glass (G) Plastic (P) Metal tube (MT) VOA (V)	Evidence tape: Yes (Y) No (N)	Transported in iced cooler: Yes (Y) No (N)	96-hour fish bioassay	Sample Number (repeated)	Aquatic Testing Laboratories Screen	Aquatic Testing Laboratories Definitive (LC 50 =)	Eurofins Calscience, Inc. Screen	Eurofins Calscience, Inc. Definitive (LC 50 =)	Alpha Analytical Labs, Inc. Screen	Alpha Analytical Labs, Inc. Definitive (LC 50 =)	McCampbell Analytical, Inc. Screen	McCampbell Analytical, Inc. Definitive (LC 50 =)	Oilfield Environmental & Compliance, Inc. Screen	Oilfield Environmental & Compliance, Inc. Definitive (LC 50 =)
Vitamin A	Radiance	1733902470	8000IU	Vitamin A	200g (min)	P	N	N	X	1	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Niacin (Vitamin B-3)	Nature's Bounty	7431201976	500mg	B-3 (Inositol hexanicotinate)	200g (min)	P	N	N	X	2	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Vitamin B-6	Nature Made	3160401285	100mg	B-6	200g (min)	P	N	N	X	3	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Vitamin B12	Sundown	3076818565	6000mcg	B-12	200g (min)	P	N	N	X	4	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Vitamin C	Nature Made	3160401489	1000mg	(Man-made Vitamin C) Ascorbic Acid	200g (min)	P	N	N	X	5	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Emergen-C	Emergen-C	7631430297	1000mg	Natural Vitamin C (citric Acid)	200g (min)	P	N	N	X	6	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Caltrate Gummy Bites (D-3)	Caltrate	30005551750	1000mg	Calcium (Tribasic Calcium Phosphate) & D3	200g (min)	P	N	N	X	7	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Calcium Chews - Choc	Caltrate	30005556819	1200mg	Calcium Carbonate	200g (min)	P	N	N	X	8	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Vitamin E	Nature Made	3160401170	1000IU	Vitamin E	200g (min)	P	N	N	X	9	FAIL	899.1 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Geritol Liquid (Iron)	Geritol	34601701104	18 mg	Ferric Ammonium Citrate	200g (min)	P	N	N	X	10	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Omega 3	Centrum	30005760450	90% EPA and DHA (600mg)	Fish Oil Concentrate	200g (min)	P	N	N	X	11	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Krill Oil	Nature Made	3160402738	300mg	Krill Oil	200g (min)	P	N	N	X	12	FAIL	612.4 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Move Free Ultra	Schiff	2052511841	40 mg	Hyaluronic Acid & Collagen (for joints)	200g (min)	P	N	N	X	13	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Cosamin ASU	Nutra-Max	75597082002	1500mg in four capsules	Glucosamine HCl (Joints, but different than Hyaluronic acid/Collagen)	200g (min)	P	N	N	X	14	FAIL	141.0 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Flex-A-Min Triple Strength	Nature's Bounty	69986627822	1237 mg	Chondroitin Sulfate Complex	200g (min)	P	N	N	X	15	FAIL	780.5 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Melatonin	Sundown	3076815745	6mg	Melatonin	200g (min)	P	N	N	X	16	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Co Q-10	Nature's Bounty	7431202532	400mg	Co Q-10	200g (min)	P	N	N	X	17	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Prostate Formula	Bioglan	64712500001	N/A	Pomegranate, Quercin, Calcium Carbonate	200g (min)	P	N	N	X	18	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Lutein	Nature's Bounty	7431204902	20mg	Lutein	200g (min)	P	N	N	X	19	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Sam-E	Nature Made	3160441107	400mg	S-adenosylmethionine Tosylate Disulfate	200g (min)	P	N	N	X	20	FAIL	1000 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
EAS Lean Protein Powder	EAS / Myoplex	079108362405	n/a	Whey Protein / Muscle/Energy/Immune Support	200g (min)	P	N	N	X	21	FAIL	220.5 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Milk Thistle	Nature's Bounty	07431204549	250mg	Silymarin for liver function; also anti oxidant	200g (min)	P	N	N	X	22	FAIL	364.3 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Garlic	Nature's Bounty	07431241682	2000mg	Heart/Cardiovascular; also anti-oxidant	200g (min)	P	N	N	X	23	FAIL	277.5 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Ginkgo	Nature's Bounty	07431204544	120mg	Circulation, memory; also anti-oxidant	200g (min)	P	N	N	X	24	FAIL	302.1 mg/L	FAIL	505 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Saw Palmetto (softgels)	Nature's Way	03367462800	Standardized 85-95% Fatty Acids	(Serenoa repens) Prostate health	200g (min)	P	N	N	X	25	FAIL	186.2 mg/L	FAIL	604 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Magnesium	Sundown Naturals	03076830173	500mg	Bone & muscle health	200g (min)	P	N	N	X	26	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Potassium Gluconate	Nature's Bounty	07431201110	595mg	Muscle activity, nerve transmission	200g (min)	P	N	N	X	27	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Cod Liver Oil	Radiance	01733907743	1000mg	Vit A, D: Eye, Skin, Immune Health	200g (min)	P	N	N	X	28	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A

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Zinc	Nature's Bounty	07431202060	50mg	Immune System	200g (min)	P	N	N	X	29	FAIL	39.8 mg/L	FAIL	122 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Aloe	Nature's Way	03367410150	550mg	Aloe ferox (latex), Fennel, Beet	200g (min)	P	N	N	X	30	FAIL	955.0 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Biotin	Sundown Naturals	03076818545	7500mcg	Promotes Energy Metabolism	200g (min)	P	N	N	X	31	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Red Yeast Rice	Nature's Bounty	07431219989	600mg	Rice powder	200g (min)	P	N	N	X	32	FAIL	193.2 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Echinacea	Nature's Bounty	07431205569	400mg	Immune System	200g (min)	P	N	N	X	33	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Folic Acid	Radiance	01733902843	800mcg	Cardiovascular health, Pre-natal	200g (min)	P	N	N	X	34	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
L-Carnitine	Radiance	01733901684	500mg	Assists in the breakdown of fat	200g (min)	P	N	N	X	35	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Ginseng	Nature's Bounty	07431211932	300mg 50mg 50mg	Energy & Immune Function (Ginseng flavonoids)	200g (min)	P	N	N	X	36	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Ginger	Nature's Way	03367413108	550mg	Digestion	200g (min)	P	N	N	X	37	FAIL	179.3 mg/L	FAIL	408 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Ultimate Flora (Pro-biotic)	Renew Life	063125753550	10 strains	Digestion / immune Support	200g (min)	P	N	N	X	38	FAIL	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Ultimate Flora (Pro-biotic)	Renew Life	063125753550	50 billion live cultures; 10 strains	Digestion / immune Support	200g (min)	P	N	N	X	38.1	—	257.2 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
5 Hour Energy	5-Hour Brand	071941050006	1.93 oz. "shot"	Energy	200g (min)	P	N	N	X	39	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Shape Inner Beauty Liquid Collagen with Biotin	Media Brands LLC	035046085643	16 oz.		200g (min)	P	N	N	X	40	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
A&H 2X Liq Lavender & Linen	Arm & Hammer	3320009332	75 oz	liquid	200g (min)	P	N	N	X	41	FAIL	20.1 mg/L	FAIL	15.0 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
A&H Liq Det 2X Clean Burst	Arm & Hammer	3320009470	150 oz	liquid	200g (min)	P	N	N	X	42	FAIL	21.8 mg/L	FAIL	15.4 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Gain 2X Original Fresh Liq Deterg	Proctor & Gamble	3700012784	50 oz	liquid	200g (min)	P	N	N	X	43	FAIL	25.6 mg/L	FAIL	23.8 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Soft Scrub W/Lemon	The Dial Corporation	2340000865	24 oz	liquid	200g (min)	P	N	N	X	44	FAIL	44.7 mg/L	FAIL	41.2 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Ivory Liquid Hand Soap Original	Proctor & Gamble	3700040312	48 oz	liquid	200g (min)	P	N	N	X	45	FAIL	34.0 mg/L	FAIL	34.9 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Palmolive Ultra Pure And Clear	Colgate-Palmolive Company	3500046106	25 oz	liquid	200g (min)	P	N	N	X	46	FAIL	20.1 mg/L	FAIL	29.7 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Gain Liquid Dish Original Scent	Proctor & Gamble	3700086176	24 oz	liquid	200g (min)	P	N	N	X	47	FAIL	56.2 mg/L	FAIL	60.7 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
SSL Liquid Dishwash Lemon	Imported from Canada	71754411703	40 oz	liquid	200g (min)	P	N	N	X	48	FAIL	69.1 mg/L	FAIL	64.1 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Sun 2X Lq Tropical Breeze	Sun Products Corp.	7261370896	188 oz, 125 loads	liquid	200g (min)	P	N	N	X	49	FAIL	90.1 mg/L	FAIL	90.9 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Sun Burst Clean & Fresh 2X	Sun Products Corp.	7261370809	45.4 oz	liquid	200g (min)	P	N	N	X	50	FAIL	84.2 mg/L	FAIL	90.8 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Sun Lemon Liquid Dish Soap	Sun Products Corp.	7261316008	20 oz	liquid	200g (min)	P	N	N	X	51	FAIL	75.8 mg/L	FAIL	63.7 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Sun Sations Auto Dish Gel	Sun Products Corp.	7261324025	75 oz	liquid	200g (min)	P	N	N	X	52	FAIL	7.1 mg/L	FAIL	119 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Tide Lq Pods Ocean Mist	Proctor & Gamble	3700050962	27 oz, 31 ct	solid and liquid	200g (min)	P	N	N	X	53	FAIL	7.0 mg/L	FAIL	8.12 mg/L	N/A	N/A	N/A	N/A	N/A	N/A

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Lysol Toilet Bowl Cleaner	Reckitt Benckiser	1920002522	24 oz	liquid	200g (min)	P	N	N	X	54	FAIL	7.1 mg/L	FAIL	10.7 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Palmolive Original	Colgate-Palmolive Company	3500046112	25 oz	liquid	200g (min)	P	N	N	X	55	FAIL	15.2 mg/L	FAIL	15.7 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Clorox Toilet Bowl Cleaner Bich G	The Clorox Company	4460030619	24 oz	liquid	200g (min)	P	N	N	X	56	FAIL	8.6 mg/L	FAIL	117 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Clorox Toilet Bowl Green Works	The Clorox Company	4460000451	24 oz	liquid	200g (min)	P	N	N	X	57	FAIL	173.9 mg/L	FAIL	360 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Drano Professional Strength	SC Johnson & Son Inc.	1980040109	80 oz	liquid	200g (min)	P	N	N	X	58	FAIL	2.2 mg/L	FAIL	11.7 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Snuggle Blue Sparkel	Sun Products Corp.	7261345171	64 oz, 26 loads	liquid	200g (min)	P	N	N	X	59	FAIL	40.4 mg/L	FAIL	62 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
All Oxi-Active Stainlifters Water	Sun Products Corp.	7261345497	150 oz	liquid	200g (min)	P	N	N	X	60	FAIL	15.8 mg/L	FAIL	92.7 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Surf Aloha Splash	Sun Products Corp.	072613710621	50 oz.	liquid	200g (min)	P	N	N	X	61	FAIL	23.6 mg/L	FAIL	17.6 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Sun Triple Clean Free & Clear	Sun Products Corp.	072613708130	45.4 oz.	liquid	200g (min)	P	N	N	X	62	FAIL	123.1 mg/L	FAIL	78.5 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Dove sensitive skin unscented bath bars	Unilever	0-11111-61164-1	4 oz per bar	solid	200g (min)	C	N	N	X	63	FAIL	85.5 mg/L	FAIL	145 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Renzit gel air freshener raspberry	The Dial Corporation	0-23400-03731-5	7.0 oz each	solid	200g (min)	P	N	N	X	64	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Kirks original coco castile bar soap	Kirk's Natural LLC	6-39844-1008-1	4 oz per bar	solid	200g (min)	C	N	N	X	65	FAIL	19.3 mg/L	FAIL	27.9 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
4 pack Terro liquid ant bait stations	Senoret Chemical Co Inc.	0-70923-00324-2	.36 fl. oz (11cc) each	liquid	200g (min)	P	N	N	X	66	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Morton natural Epsom salts with Eucalyptus	Morton Salt Inc.	0-24600-06408-8	3 lbs.	solid	200g (min)	P	N	N	X	67	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Aveeno baby wash and shampoo	Johnson & Johnson	3-8137-102390-5	18 fl. oz	liquid	200g (min)	P	N	N	X	68	FAIL	42.8 mg/L	FAIL	347 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Comet with bleach lavender fresh	The Spic and Span Co.	6-78112-56544-1	21 oz	liquid	200g (min)	P	N	N	X	69	FAIL	704.6 mg/L	FAIL	966 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Rit liquid dye Denim Blue	Phoenix Brands LLC	8-85967-88360-2	8 fl. oz	liquid	200g (min)	P	N	N	X	70	PASS	—	FAIL	>1600 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Enoz Para Moth balls	Willert Home Products	0-70922-31107-2	10 oz	solid	200g (min)	C	N	N	X	71	FAIL	184.2 mg/L	FAIL	223 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Gillette Body shave gel tube	Procter & Gamble	0-47400-65047-3	5.9 fl. oz	liquid	200g (min)	P	N	N	X	72	FAIL	82.8 mg/L	FAIL	105 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Neutrogena Alcohol Free toner	Neutrogena Corporation	0-70501-02700-4	8.5 fl. oz	liquid	200g (min)	P	N	N	X	73	FAIL	822.2 mg/L	FAIL	792 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Ivory original bar soap (3 pack of soaps)	Procter & Gamble	0-37000-32136-1	3.1 oz per bar	solid	200g (min)	C	N	N	X	74	FAIL	66.8 mg/L	FAIL	100 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Febreze Allergen Reducer spray pump "Clean Splash" scent for fabrics	Procter & Gamble	0-37000-88767-6	16.9 fl. oz	liquid	200g (min)	P	N	N	X	75	FAIL	201.3 mg/L	FAIL	330 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Wahl waterless shampoo for dogs Coconut- Lime Verbena scent Oatmeal formula	Wahl Clipper Corp	0-43917-82015-6	7.10 fl. oz	liquid	200g (min)	P	N	N	X	76	FAIL	54.9 mg/L	FAIL	98.3 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Dr. Bronners Magic Soaps peppermint pure castile soap	Dr. Bronners Magic All-One	0-18787-77608-0	8 fl. oz	liquid	200g (min)	P	N	N	X	77	FAIL	151.9 mg/L	FAIL	100 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Rit liquid dye Fuchsia color	Phoenix Brands LLC	8-85967-88120-2	8 fl. oz	liquid	200g (min)	P	N	N	X	78	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A

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Studio 3s Oil free Witch Hazel	Walgreens Co.	0-49022-67663-3	16 fl. oz	liquid	200g (min)	P	N	N	X	79	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Lime-A-Way "Turbo Power"	Reckitt-Benkiser	0-51700-39605-4	28 fl. oz	liquid	200g (min)	P	N	N	X	80	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Parsley Plus all surface cleaner pump spray	For Love of the Planet	7-49174-09746-0	22 fl. oz	liquid	200g (min)	P	N	N	X	81	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Sta-Flo concentrated liquid starch	The Dial Corporation	0-24200-13101-2	64 fl. oz	liquid	200g (min)	P	N	N	X	82	PASS	—	FAIL	>1600 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Arm & Hammer Fresh Scentsations carpet odor eliminator "Majestic Meadows"	Church & Dwight Co Inc.	0-33200-00002-0	30 oz	liquid	200g (min)	C	N	N	X	83	PASS	—	FAIL	>1600 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Hartz Conditioning dog shampoo "Groomers Best" tropical breeze scent	The Hartz Mountain Corporation	0-32700-95068-2	18 fl. oz	liquid	200g (min)	P	N	N	X	84	FAIL	158.1 mg/L	FAIL	182 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Nair Hair Remover lotion "softening baby oil" formula	Church & Dwight Co Inc.	0-22600-22319-1	9 oz	liquid	200g (min)	P	N	N	X	85	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Murphy's Oil Soap Original wood cleaner	Colgate-Palmolive Company	0-70481-01102-4	32 fl oz	solid	200g (min)	P	N	N	X	86	FAIL	63.0 mg/L	FAIL	66.2 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Johnsons & Johnsons baby head-to-toe wash	Johnson & Johnson	3-8137-003195-6	28 fl. oz	liquid	200g (min)	P	N	N	X	87	FAIL	57.4 mg/L	FAIL	69.7 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Simple Green All Purpose cleaner spray pump	Sunshine Makers Inc	0-43318-13022-9	22 fl. oz	liquid	200g (min)	P	N	N	X	88	PASS	—	FAIL	67.1 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Tide Free & Gentle laundry soap	Proctor & Gamble	0-37000-81550-1	42oz.	solid	200g (min)	C	N	N	X	89	FAIL	7.1 mg/L	FAIL	8.99 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Arm & Hammer All natural Super Washing Soda Detergent Booster	Church & Dwight Co Inc.	0-33200-03020-1	55 oz.	solid	200g (min)	C	N	N	X	90	PASS	—	FAIL	>2000 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Hartz Multi-Cat cat litter clumping for odor removal	The Hartz Mountain Corporation	0-32700-14621-4	14 lbs.	solid	200g (min)	P	N	N	X	91	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Calcium + Vitamin D3	CVS/pharmacy	050428613658	80 caplets	solid	200g (min)	P in C	N	N	X	92	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Biotene Dry Mouth Oral Rinse	GlaxoSmithKline	048582003309	16 fl oz	liquid	200g (min)	P	N	N	X	93	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Nighttime Cleansing Towelettes	CVS/pharmacy	050428898574	2pkgs of 30 towelettes	solid	200g (min)	P	N	N	X	94	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Joint Juice Easy Shot	Joint Juice, Inc.	680214054480	20fl oz	liquid	200g (min)	P	N	N	X	95	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Glucosamine HCL MSM Joint Health	CVS/pharmacy	050428806487	150 caplets	solid	200g (min)	P	N	N	X	96	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Fructis Triple Nutrition Miracle Dry Oil	Garnier	603084253067	5 fl oz	liquid	200g (min)	P	N	N	X	97	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Oil-free moisture combination skin	Neutrogena Corporation	070501062401	4 fl oz	liquid	200g (min)	P in C	N	N	X	98	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Hair Polisher Heat Protector Straightening Serum	Fantasia Industries	011313030158	6 fl oz	liquid	200g (min)	P	N	N	X	99	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Eucerin Original Healing Soothing Repair Crème	Beiersdorf Inc.	072140000226	4 oz	solid	200g (min)	P	N	N	X	100	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Eye makeup remover oil-free	CVS/pharmacy	050428096673	4 fl oz	liquid	200g (min)	P	N	N	X	101	FAIL	962.3 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Digestive Advantage Kids	Reckitt Benckiser	020525901248	60 gummies	solid	200g (min)	P	N	N	X	102	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Baby Bee Nourishing Oil	Burt's Bees Inc.	792850712997	4 fl oz	liquid	200g (min)	P	N	N	X	103	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Scope Outlast	Procter & Gamble	037000227472	25.4 fl oz	liquid	200g (min)	P	N	N	X	104	FAIL	227.1 mg/L	FAIL	462 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Extenze Maximum Strength	Global Product Management Inc.	846345000714	4.8 fl oz	liquid	200g (min)	P in C	N	N	X	105	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
B-12 10,000% Energy shot	NVE Pharmaceuticals	878114005187	2 * 2 fl oz	liquid	200g (min)	P	N	N	X	106	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Durex massage & play	Reckitt Benckiser	302340876391	6.76 fl oz	liquid	200g (min)	P	N	N	X	107	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Aftersun Aloe Vera	CVS/pharmacy	050428071816	6 fl oz	liquid	200g (min)	P	N	N	X	108	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A

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Hello seriously friendly mouthwash	Hello products LLC	854296004040	16 fl oz	liquid	200g (min)	P	N	N	X	109	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Viactiv Calcium plus D	Viactiv Lifestyle LLC	857141004981	115 chews	solid	200g (min)	C	N	N	X	110	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Ultimate CHIAlife	Renew Life	631257654014	454g	solid	200g (min)	P	N	N	X	111	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Johnsons baby oil	Johnson & Johnson	381370033141	14 fl oz	liquid	200g (min)	P	N	N	X	112	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
KY Ultra gel	McNeil-PPC	380040087378	4.5 fl oz	liquid	200g (min)	P in C	N	N	X	113	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Airbrush Legs	Sally Hansen	074170398373	4 fl oz	liquid	200g (min)	P	N	N	X	114	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Out of Bed Texturizer	L'Oreal	071249119259	4 oz	solid	200g (min)	P	N	N	X	115	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Udderly Smooth Body Cream	Redex Industries	731064602519	12 oz	solid	200g (min)	P	N	N	X	116	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Thicker Fuller Hair	Newhall Laboratories, Inc.	819933010204	5 fl oz	liquid	200g (min)	P	N	N	X	117	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Build-a-tan	Neutrogena Corporation	086800871525	6.7 fl oz	liquid	200g (min)	P	N	N	X	118	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Honey & Shea Body Butter	Burt's Bees Inc.	792850012011	6.5 oz	solid	200g (min)	P	N	N	X	119	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Dentu Creme	GlaxoSmithKline	310158092063	2 * 3.9 oz	solid	200g (min)	P in C	N	N	X	120	FAIL	428.5 mg/L	FAIL	725 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Benefiber	Novartis	886790013624	8.3 oz	solid	200g (min)	P	N	N	X	121	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Multi-Vitamin Gummies	NatureSmart, LLC	759427167802	180 pieces	solid	200g (min)	P	N	N	X	122	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Assorted Citrus Vitamin C	CVS/pharmacy	050428847503	80 drops	solid	200g (min)	P	N	N	X	123	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Pantene Classic Care Daily Conditioner	Procter & Gamble	080878008995	12.6 fl oz	liquid	200g (min)	P	N	N	X	124	FAIL	70.7 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Herbal Essences naked moisture conditioner hydration	Procter & Gamble	381519181771	10.1 fl oz	liquid	200g (min)	P	N	N	X	125	FAIL	256.2 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
renewing argan oil of morocco	Vogue International	022796916143	2 * 3.3 fl oz	liquid	200g (min)	P in C	N	N	X	126	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Alberto Vo5 Moisture Milks Strawberries & Cream Moisturizing Conditioner	High Ridge Brands Co.	0816559013039	12.5 fl oz	liquid	200g (min)	P	N	N	X	127	FAIL	35.4 mg/L	FAIL	396 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
SCD Essential Probiotics	SCD Probiotics	184368000213	16.3 fl oz	liquid	200g (min)	P	N	N	X	128	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Vaseline Rich Conditioning Petroleum Jelly Cocoa Butter	Unilever	305210069275	7.5 oz	solid	200g (min)	P	N	N	X	129	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
SOS Steel Wool Soap Pads	Clorox Company	016500980322	1 BOX (10 pads)	solid	200g (min)	C	N	N	X	130	FAIL	158.1 mg/L	FAIL	181 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Whey Protein Elite Series (Chocolate)	MuscleTech	631656701869	2.00 lbs.	solid	200g (min)	P	N	N	X	131	FAIL	766.5 mg/L	FAIL	537 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Fit Organic Fruit & Veg Wash	HealthPro Brands	828545-11012-7	12 fl. oz.	liquid	200g (min)	P	N	N	X	132	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Glade Carpet Powder Hawaiian Breeze	SC Johnson & Son Inc.	46500154799	32 oz.	solid	200g (min)	P	N	N	X	133	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Tropical Citrus Solid Odor Absorber	Beaumont Products Inc.	087052715335	1	solid	200g (min)	P	N	N	X	134	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Moco de gorila Hair Gel	Moca de Gorila Inc.	878971000042	1	solid	200g (min)	P	N	N	X	135	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Kiwi Cleaner	SC Johnson & Son Inc.	031600112008	2	liquid	200g (min)	P	N	N	X	136	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Pro Sense Skin & Coat Care	United Pet Group Inc.	026851017592	1	liquid	200g (min)	P	N	N	X	137	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Kiwi Leather Dye	SC Johnson & Son Inc.	031600118116	2	liquid	200g (min)	P	N	N	X	138	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Corn Huskers Lotion	Valeant Pharmaceuticals North America LLC	301875510077	1	liquid	200g (min)	P	N	N	X	139	FAIL	205.1 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Village Naturals Mineral Bath Soak	The Village Company	735303504206	1	solid	200g (min)	P	N	N	X	140	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Barefoot Foot Scrub	Freeman Beauty Labs	072151187602	1	solid	200g (min)	P	N	N	X	141	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A

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Carmex Original Healing Ointment	Carma Laboratories Inc.	083078500801	1	solid	200g (min)	P	N	N	X	142	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Cutter Insect Repellent	United Industries Corp	071121960146	1	liquid	200g (min)	P	N	N	X	143	FAIL	266.8 mg/L	FAIL	335 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Pro Sense Brewer's Yeast Supplement	United Pet Group Inc.	026851017752	1	solid	200g (min)	P	N	N	X	144	FAIL	289.1 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Kaz Steam Activated Inhalant	Kaz USA Inc.	028785300405	1	liquid	200g (min)	P	N	N	X	145	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Noxzema Deep Cleansing Cream	Unilever	087300560106	1	solid	200g (min)	P	N	N	X	146	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Luster's Pink Oil Moisturizer Lotion	Luster Products Inc.	038276005122	1	liquid	200g (min)	P	N	N	X	147	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
African Pride Olive Miracle	Strength of Nature Global LLC	802535453531	1	solid	200g (min)	P	N	N	X	148	FAIL	164.6 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Madre Perla Skin Brightening Mask	DLC Laboratories Inc.	324286161041	1	solid	200g (min)	P	N	N	X	149	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
EcoSmart Insect Repellent	EcoSmart	895591001754	1	liquid	200g (min)	P	N	N	X	150	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Downy Unstoppables Scent Booster	Procter & Gamble Inc.	037000834274	1	solid	200g (min)	P	N	N	X	151	FAIL	180.0 mg/L	FAIL	78.1 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Ology Lavender Pure Castile Soap	Walgreens Co.	049022684010	1	liquid	200g (min)	P	N	N	X	152	FAIL	70.7 mg/L	FAIL	210 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Arm & Hammer Pet Fresh Dry Carpet Cleaner	Electrolux Home Care Products Inc.	23169134478	1	solid	200g (min)	P	N	N	X	153	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Lipstick - Rich Girl Red	Revlon Consumer Products Corp	309972924308	31	solid	200g (min)	P	N	N	X	154	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
CoverGirl Blush - Classic Pink	Procter & Gamble	061972053524	34	solid	200g (min)	P	N	N	X	155	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
CVS Nicotine Gum Original	CVS/pharmacy	050428006818	1	solid	200g (min)	C	N	N	X	156	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Coppertone Sport Sunscreen SPF50	Merck & Co. Inc.	04153713	1	solid	200g (min)	P	N	N	X	157	FAIL	274.8 mg/L	FAIL	124 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Banana Boat Sport Sunscreen SPF50	Sun Pharmaceuticals	079656049725	1	solid	200g (min)	P	N	N	X	158	FAIL	129.3 mg/L	FAIL	58 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Chapstick Original Moisturizer	Pfizer, Inc.	036600828003	27	solid	200g (min)	P	N	N	X	159	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Chapstick Classic Original	Wyeth Consumer Healthcare	036600814815	27	solid	200g (min)	P	N	N	X	160	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Nicorette Gum Original	GlaxoSmithKline	307667847086	1	solid	200g (min)	C	N	N	X	161	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Nicorette Gum Fresh Mint	GlaxoSmithKline	307667847505	1	solid	200g (min)	C	N	N	X	162	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Nicorette Gum Cinnamon Surge	GlaxoSmithKline	307667858709	1	solid	200g (min)	C	N	N	X	163	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Nicorette Gum Fruit Chill	GlaxoSmithKline	307667857603	1	solid	200g (min)	C	N	N	X	164	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Nicorette Gum White Ice Mint	GlaxoSmithKline	307667760002	1	solid	200g (min)	C	N	N	X	165	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
CVS Nicotine Gum Coated Mint	CVS/pharmacy	050428098370	1	solid	200g (min)	C	N	N	X	166	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
CVS Nicotine Gum Coated Fruit	CVS/pharmacy	050428117378	2	solid	200g (min)	C	N	N	X	167	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
CVS Nicotine Lozenge Mint	CVS/pharmacy	050428996881	1	solid	200g (min)	C	N	N	X	168	FAIL	840.7 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
CVS Nicotine Lozenge Mini	CVS/pharmacy	050428406472	3	solid	200g (min)	C	N	N	X	169	FAIL	490.0 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
CVS Nicotine Lozenge Cherry	CVS/pharmacy	050428165270	1	solid	200g (min)	C	N	N	X	170	FAIL	930.6 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
CVS Nicotine Transdermal System	CVS/pharmacy	050428007730	2	solid	200g (min)	C	N	N	X	171	FAIL	174.1 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A

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Nicoderm CQ Nicotine Transdermal System	GlaxoSmithKline	307661420209	2	solid	200g (min)	C	N	N	X	172	FAIL	225.2 mg/L	FAIL	126 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Colgate Toothpaste	Colgate-Palmolive Company	035000509000	1	solid	200g (min)	C	N	N	X	173	FAIL	505.3 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Colgate Optic White Platinum	Colgate-Palmolive Company	035000763778	2	solid	200g (min)	C	N	N	X	174	FAIL	339.6 mg/L	FAIL	412 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Listerine Cool Mint	McNeil-PPC	312547427203	1	liquid	200g (min)	P	N	N	X	175	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Scope Outlast	Proctor & Gamble	037000227472	1	liquid	200g (min)	P	N	N	X	176	FAIL	328.1 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Orajel	Church & Dwight Co Inc.	310310033132	13	solid	200g (min)	C	N	N	X	177	FAIL	440.4 mg/L	FAIL	588 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Vicks Baby Rub	Proctor & Gamble	323900006171	3	solid	200g (min)	C	N	N	X	178	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Men's Speed Stick Regular	Colgate-Palmolive Company	022200941525	2	solid	200g (min)	P	N	N	X	179	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Lady Speed Stick Shower Fresh	Colgate-Palmolive Company	022200954419	2	solid	200g (min)	P	N	N	X	180	FAIL	794.2 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Odor-Eaters Foot Powder	Blistex Inc.	041388004464	1	powder	200g (min)	P	N	N	X	181	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Hawaiian Tropic Dark Tanning Oil	Tanning Research Laboratories LLC	075486087432	1	liquid	200g (min)	P	N	N	X	182	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
CVS Nicotine Gum Original	CVS/pharmacy	050428052525	2	solid	200g (min)	C	N	N	X	183	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
CVS Nicotine Gum Coated Cinnamon	CVS/pharmacy	050428165300	1	solid	200g (min)	C	N	N	X	184	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Almay Clear Complexion Beige	Almay Inc.	309974947053	4	liquid	200g (min)	G	N	N	X	185	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Almay Smart Shade Skintone Matching	Almay Inc.	309975603033	4	liquid	200g (min)	P	N	N	X	186	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Almay Smart Shade Mousse Makeup	Almay Inc.	309972298041	6	solid	200g (min)	G	N	N	X	187	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Clearasil Vanishing Treatment Cream	Reckitt Benckiser	839977009095	4	solid	200g (min)	C	N	N	X	188	FAIL	24.5 mg/L	FAIL	181 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Revlon Bold Lacquer Mascara	Revlon Consumer Products Corp	309972310019	17	solid	200g (min)	C	N	N	X	189	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
One-A-Day Prenatal Multivitamin + DHA Multivitamin tablets	Bayer Healthcare LLC	16500552819	1	solid	200g (min)	C	N	N	X	190 -A	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
One-A-Day Prenatal Multivitamin + DHA Multivitamin tablets/Liquid gels mix	Bayer Healthcare LLC	16500552819	1	solid	200g (min)	C	N	N	X	190 -A & B	FAIL	66.8 mg/L	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
One-A-Day Prenatal Multivitamin + DHA Liquid gels	Bayer Healthcare LLC	16500552819	1	solid	200g (min)	C	N	N	X	190 -B	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
NatureMade Iron 65 mg, 180 tablets	Nature Made Nutritional Products	031604026127	1	solid	200g (min)	P	N	N	X	191	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
PreserVision Eye Vitamin & Mineral	Bausch & Lomb Inc	324208432723	1	solid	200g (min)	P	N	N	X	192	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
One-A-Day Women's VitaCraves	Bayer Healthcare LLC	016500555926	1	solid	200g (min)	P	N	N	X	193	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Sundown Naturals Acidophilus	Rexall Sundown Inc.	030768177461	2	solid	200g (min)	P	N	N	X	194	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Nature's Bounty Protein & Vitamin Shake	Nature's Bounty Inc.	074312508745	1	powder	200g (min)	P	N	N	X	195	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Radiance Flaxseed oil 1200 mg	Radiance LLC	050428480090	1	liquid	200g (min)	P	N	N	X	196	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
L'il Critters Immune C + Zinc & Echinacea	Church & Dwight Co, Inc.	027917019451	1	solid	200g (min)	P	N	N	X	197	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Enfamil D-Vi-Sol Vit D Supplement Drops	Mead Johnson & Co LLC	300870866448	2	liquid	200g (min)	C	N	N	X	198	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
CVS D3, 5000 IU	CVS Pharmacy Inc.	050428165164	2	solid	200g (min)	P	N	N	X	199	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Flintstones Chewable Multivitamin	Bayer Healthcare LLC	016500088066	1	solid	200g (min)	C	N	N	X	200	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Nature's Way Alive! Calcium	Nature's Way Products LLC	033674158388	1	solid	200g (min)	C	N	N	X	201	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A

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Align Digestive Probiotic Supplement	Proctor & Gamble	037000294177	4	solid	200g (min)	C	N	N	X	202	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
CVS Hormone-free Menopause Relief	CVS Pharmacy Inc.	050428452660	3	solid	200g (min)	C	N	N	X	203	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Nature's Bounty Cinnamon Plus Chromium	Nature's Bounty Inc.	074312150616	1	solid	200g (min)	P	N	N	X	204	FAIL	23.7 mg/L	FAIL	67.3 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Radiance Ginger Root, 550 mg	Radiance LLC	050428478707	2	solid	200g (min)	P	N	N	X	205	FAIL	191.6 mg/L	FAIL	228 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
CVS Zinc, 50 mg	CVS Pharmacy Inc.	050428247235	2	solid	200g (min)	P	N	N	X	206	FAIL	54.1 mg/L	FAIL	173 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Nature's Lab Milk Thistle, 600 mg	DrVita Labs	818014014094	1	solid	200g (min)	P	N	N	X	207	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
CVS Red Yeast Rice, 600 mg	CVS Pharmacy Inc.	050428131282	1	solid	200g (min)	P	N	N	X	208	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Nature's Lab Ginkgo Biloba, 120 mg	DrVita Labs	818014014100	3	solid	200g (min)	P	N	N	X	209	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
CVS Saw Palmetto, 450 mg	CVS Pharmacy, Inc	050428162323	1	solid	200g (min)	P	N	N	X	210	FAIL	176.1 mg/L	FAIL	663 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
CVS Green Coffee Been, 400 mg	CVS Pharmacy, Inc	050428482162	3	solid	200g (min)	P	N	N	X	211	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Gas Stop Potent Digestive Enzymes & Fennel	ReNew Life Formulas	631257534897	3	solid	200g (min)	C	N	N	X	212	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
DigestMore	ReNew Life Formulas	631257851116	2	solid	200g (min)	P	N	N	X	213	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Radiance Platinum St John's Wort	Radiance LLC	050428483794	2	solid	200g (min)	P	N	N	X	214	FAIL	31.5 mg/L	FAIL	63.8 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
CVS Super B Complex with Vit C	CVS Pharmacy, Inc	050428076705	1	solid	200g (min)	P	N	N	X	215	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
CVS L-Lysine, 500 mg	CVS Pharmacy, Inc	050428076743	1	solid	200g (min)	P	N	N	X	216	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
CVS Cranberry, 4200 mg	CVS Pharmacy, Inc	050428130025	3	solid	200g (min)	P	N	N	X	217	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Sundown Naturals 5-HTP	Rexall Sundown Inc	030768301743	2	solid	200g (min)	P	N	N	X	218	FAIL	640.6 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Estroven Weight Management	Icon Group LLC	092961040027	3	solid	200g (min)	C	N	N	X	219	FAIL	228.0 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Ben Gay Pain Relieving Patch, Large	Johnson & Johnson	074300081496	7	solid	200g (min)	C	N	N	X	220	FAIL	612.4 mg/L	FAIL	648 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Salonpas Arthritis Pain Patch	Hisamitsu Pharmaceutical Co. Inc.	346581680058	10	solid	200g (min)	C	N	N	X	221	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Aleve Liquid Gels, 220 mg, 80 gels	Bayer HealthCare LLC	325866535900	4	liquid caps	200g (min)	C	N	N	X	222	FAIL	177.1 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Aleve Tablets, 220 mg, 40 gels	Bayer HealthCare LLC	325866536464	8	solid	200g (min)	C	N	N	X	223	FAIL	191.2 mg/L	FAIL	590 mg/L	N/A	N/A	N/A	N/A	N/A	N/A
Olay Micro-Sculpting Serum	Proctor & Gamble	075609037696	2	liquid	200g (min)	C	N	N	X	224	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Olay Regenerating Serum, Fragrance Free	Proctor & Gamble	075609010187	2	liquid	200g (min)	C	N	N	X	225	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Excedrin Extra Strength, 250 mg, 200 caplets	Novartis Consumer Health Inc.	300678104926	1	solid	200g (min)	C	N	N	X	226	FAIL	383.9 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Crayola Squeeze-a-color Toothpaste (composite)	Sunstar Americas Inc.	070942305808	2	liquid	200g (min)	C	N	N	X	227	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Crayola Squeeze-a-color Toothpaste (red)	Sunstar Americas Inc.	070942305808	2	liquid	200g (min)	C	N	N	X	227	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Crayola Squeeze-a-color Toothpaste (blue)	Sunstar Americas Inc.	070942305808	2	liquid	200g (min)	C	N	N	X	227	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Crayola Squeeze-a-color Toothpaste (green)	Sunstar Americas Inc.	070942305808	2	liquid	200g (min)	C	N	N	X	227	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Bayer Safety Coated, 325 mg, 100 caplets	Bayer HealthCare LLC	312843555655	3	solid	200g (min)	C	N	N	X	228	FAIL	209.6 mg/L	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A

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Tylenol Extra Strength, 500 mg, 100 caplets	McNeil Consumer Healthcare	300450449092	2	solid	200g (min)	C	N	N	X	229	PASS	—	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A
Advil, 200 mg, 150 coated tablets	Pfizer Inc.	305730154352	2	solid	200g (min)	C	N	N	X	230	FAIL	158.1 mg/L	N/A	N/A	FAIL	<125 mg/L	N/A	N/A	N/A	N/A
CVS Dye-Free Allergy Tablets	CVS Pharmacy, Inc.	050428440483	1	solid	200g (min)	C	N	N	X	231	FAIL	70.7 mg/L	N/A	N/A	FAIL	<125 mg/L	N/A	N/A	N/A	N/A
CVS 100% Tea Tree Oil	CVS Pharmacy, Inc.	050428583890	3	liquid	200g (min)	C	N	N	X	232	FAIL	151.9 mg/L	N/A	N/A	FAIL	<125 mg/L	N/A	N/A	N/A	N/A
Benadryl Allergy	McNeil Consumer Healthcare	312547170314	1	solid	200g (min)	C	N	N	X	233	FAIL	80.3 mg/L	N/A	N/A	FAIL	<125 mg/L	N/A	N/A	N/A	N/A
Arm & Hammer PeroxiCare	Church & Dwight Co, Inc.	033200187707	2	liquid	200g (min)	C	N	N	X	234	PASS	—	N/A	N/A	PASS	—	N/A	N/A	N/A	N/A
CVS Itch Relief Gel	CVS Pharmacy, Inc.	050428432594	1	liquid	200g (min)	P	N	N	X	235	FAIL	356.6 mg/L	N/A	N/A	FAIL	300 mg/L	N/A	N/A	N/A	N/A
IcyHot Pain Relieving Balm	Chattem, Inc.	041167008799	1	liquid	200g (min)	P	N	N	X	236	PASS	—	N/A	N/A	PASS	—	N/A	N/A	N/A	N/A
Sensodyne	GlaxoSmithKline	310158077046	2	liquid	200g (min)	C	N	N	X	237	FAIL	313.4 mg/L	N/A	N/A	FAIL	483 mg/L	N/A	N/A	N/A	N/A
Aquafresh Extreme Clean	GlaxoSmithKline	053100338832	1	liquid	200g (min)	C	N	N	X	238	FAIL	353.6 mg/L	N/A	N/A	FAIL	182 mg/L	N/A	N/A	N/A	N/A
CVS Capsaicin Arthritis Pain Relief	CVS Pharmacy, Inc.	050428379929	2	liquid	200g (min)	C	N	N	X	239	PASS	—	N/A	N/A	PASS	—	N/A	N/A	N/A	N/A
Neosporin First Aid Antibiotic Ointment	Johnson & Johnson	300810730877	2	liquid	200g (min)	C	N	N	X	240	PASS	—	N/A	N/A	FAIL	184 mg/L	N/A	N/A	N/A	N/A
CVS Bacitracin	CVS Pharmacy Inc.	050428219638	3	liquid	200g (min)	C	N	N	X	241	PASS	—	N/A	N/A	PASS	—	N/A	N/A	N/A	N/A
CVS Cold & Hot Pain Relieving Cream	CVS Pharmacy Inc.	050428469095	1	liquid	200g (min)	C	N	N	X	242	FAIL	140.1 mg/L	N/A	N/A	FAIL	<125 mg/L	N/A	N/A	N/A	N/A
Universal Color Inkjet Refill Kit (composite)	NCR Corporation	011461001383	2	liquid	200g (min)	P	N	N	X	243	PASS	—	N/A	N/A	PASS	—	N/A	N/A	N/A	N/A
Universal Color Inkjet Refill Kit (blue/cyan)	NCR Corporation	011461001383	2	liquid	200g (min)	P	N	N	X	243	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Universal Color Inkjet Refill Kit (red/magenta)	NCR Corporation	011461001383	2	liquid	200g (min)	P	N	N	X	243	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Universal Color Inkjet Refill Kit (yellow)	NCR Corporation	011461001383	2	liquid	200g (min)	P	N	N	X	243	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Universal Color Inkjet Refill Kit (clear/cleaning solution)	NCR Corporation	011461001383	2	liquid	200g (min)	P	N	N	X	243	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Aleve, 220 mg, 100 caplets	Bayer HealthCare LLC	325866536471	3	solid	200g (min)	P	N	N	X	244	FAIL	158.1 mg/L	N/A	N/A	FAIL	147 mg/L	N/A	N/A	N/A	N/A
Revlon Photoready	Revlon Consumer Prod. Corp.	309974104012	2	liquid	200g (min)	G	N	N	X	245	PASS	—	N/A	N/A	PASS	—	N/A	N/A	N/A	N/A
L'Oreal True Match	L'Oreal USA Inc.	071249078693	2	liquid	200g (min)	G	N	N	X	246	PASS	—	N/A	N/A	PASS	—	N/A	N/A	N/A	N/A
CVS Anti-Microbial Silver Gel	CVS Pharmacy Inc.	050428469767	4	liquid	200g (min)	C	N	N	X	247	FAIL	42.1 mg/L	N/A	N/A	FAIL	<125 mg/L	N/A	N/A	N/A	N/A
Lysol Disinfecting Wipes, Lemon & Lime	Reckitt Benckiser	019200771825	1	solid	200g (min)	P	N	N	X	248	FAIL	151.9 mg/L	N/A	N/A	FAIL	175 mg/L	N/A	N/A	N/A	N/A
Clorox Disinfecting Wipes, Citrus	The Clorox Company	044600016283	1	solid	200g (min)	P	N	N	X	249	FAIL	158.1 mg/L	N/A	N/A	FAIL	170 mg/L	N/A	N/A	N/A	N/A
Pine-Sol	The Clorox Company	041294973267	1	liquid	200g (min)	P	N	N	X	250	FAIL	158.1 mg/L	N/A	N/A	FAIL	<125 mg/L	N/A	N/A	N/A	N/A
Betadine Solution	Purdue Products LP	367618150085	1	liquid	200g (min)	P	N	N	X	251	FAIL	35.4 mg/L	N/A	N/A	FAIL	<125 mg/L	N/A	N/A	N/A	N/A
CVS Calamine Plus Itch Relief	CVS Pharmacy Inc.	050428109403	1	liquid	200g (min)	P	N	N	X	252	PASS	—	N/A	N/A	FAIL	182 mg/L	N/A	N/A	N/A	N/A

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Vetscription Joint-Eze Plus	Sergeant's Pet Care Products, Inc.	073091541004	1	solid	200g (min)	P	N	N	X	253	FAIL	780.6 mg/L	N/A	N/A	PASS	—	N/A	N/A	N/A	N/A
Pinaud Clubman Finest Talc	American Int'l Industries	070066230024	1	solid (powder)	200g (min)	P	N	N	X	254	PASS	—	N/A	N/A	PASS	—	N/A	N/A	N/A	N/A
Shout Triple-Acting	SC Johnson & Son, Inc.	046500022517	1	liquid	200g (min)	P	N	N	X	255	FAIL	70.7 mg/L	N/A	N/A	FAIL	<125 mg/L	N/A	N/A	N/A	N/A
ArmorAll Original Protectant	The Amor All/STP Products Co.	070612101600	1	liquid	200g (min)	P	N	N	X	256	PASS	—	N/A	N/A	PASS	—	N/A	N/A	N/A	N/A
Turtle Wax	Turtle Wax, Inc.	074660012239	1	liquid	200g (min)	P	N	N	X	257	PASS	—	N/A	N/A	PASS	—	N/A	N/A	N/A	N/A
NuFinish Scratch Doctor	Reed-Union Corp	078161170450	1	liquid	200g (min)	P	N	N	X	258	PASS	—	N/A	N/A	PASS	—	N/A	N/A	N/A	N/A
Magic Shaving Powder	SoftSheen-Carson LLC	072790000119	1	solid (powder)	200g (min)	C	N	N	X	259	PASS	—	N/A	N/A	PASS	—	N/A	N/A	N/A	N/A
CVS Dandruff Shampoo & Conditioner	CVS Pharmacy, Inc.	050428457764	1	liquid	200g (min)	P	N	N	X	260	FAIL	5.9 mg/L	N/A	N/A	FAIL	<125 mg/L	N/A	N/A	N/A	N/A
Tecnu Original Outdoor Skin Cleanser	Tec Laboratories, Inc.	083926112002	1	liquid	200g (min)	P	N	N	X	261	FAIL	68.8 mg/L	N/A	N/A	FAIL	<125 mg/L	N/A	N/A	N/A	N/A
CVS Isopropyl Alcohol 91%	CVS Pharmacy, Inc.	050428262535	1	liquid	200g (min)	P	N	N	X	262	PASS	—	N/A	N/A	PASS	—	N/A	N/A	N/A	N/A
CVS Isopropyl Alcohol 70%	CVS Pharmacy, Inc.	050428262559	1	liquid	200g (min)	P	N	N	X	263	PASS	—	N/A	N/A	PASS	—	N/A	N/A	N/A	N/A
Maybelline Signature Scarlet Lipstick	Maybelline LLC	041554327540	20	solid	200g (min)	P	N	N	X	264	PASS	—	N/A	N/A	PASS	—	N/A	N/A	N/A	N/A
Covergirl Starlit Pink Rose Lipcolor (composite)	Proctor & Gamble	046200012221	20	1 solid, 1 liquid	200g (min)	C	N	N	X	265	PASS	—	N/A	N/A	PASS	—	N/A	N/A	N/A	N/A
Covergirl Starlit Pink Rose Lipcolor (top coat)	Proctor & Gamble	046200012221	20	1 solid, 1 liquid	200g (min)	C	N	N	X	265	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Covergirl Starlit Pink Rose Lipcolor (color coat)	Proctor & Gamble	046200012221	20	1 solid, 1 liquid	200g (min)	C	N	N	X	265	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
L'oreal Sleek It Iron Straight Heatspray, 5.7 fl oz	L'oreal USA Inc	071249274699	1	liquid	200g (min)	P	N	N	X	266	N/A	N/A	FAIL	479 mg/L	N/A	N/A	FAIL	308.01 mg/L	N/A	N/A
L'oreal Txt It Touse Waves Spray, 6.8 fl oz	L'oreal USA Inc	071249276860	1	liquid	200g (min)	P	N	N	X	267	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
L'oreal Studio Line Melting Gel, 6.8 fl oz	L'oreal USA Inc	071249119341	1	liquid	200g (min)	P	N	N	X	268	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
L'oreal Color Vibrancy Instant Shock Treatment, 6.8 fl oz	L'oreal USA Inc	071249265864	1	liquid	200g (min)	P	N	N	X	269	N/A	N/A	FAIL	38.1 mg/L	N/A	N/A	FAIL	11.88 mg/L	N/A	N/A
L'oreal Smooth Intense Polishing Shampoo, 12.6 fl oz	L'oreal USA Inc	071249239971	1	liquid	200g (min)	P	N	N	X	270	N/A	N/A	FAIL	34.7 mg/L	N/A	N/A	FAIL	11.68 mg/L	N/A	N/A
L'oreal Smooth Intense Polishing Conditioner, 12.6 fl oz	L'oreal USA Inc	071249239988	1	liquid	200g (min)	P	N	N	X	271	N/A	N/A	PASS	—	N/A	N/A	FAIL	277.22 mg/L	N/A	N/A
CVS Complete Moisture Lotion, Soothing Oat Extract, 24.5 fl oz	CVS Pharmacy Inc	050428088326	1	liquid	200g (min)	P	N	N	X	272	N/A	N/A	PASS	—	N/A	N/A	FAIL	448.43 mg/L	N/A	N/A
Garnier Fructis Triple Nutrition Nutrient Spray, 4.2 fl oz	Garnier LLC	603084215157	1	liquid	200g (min)	C	N	N	X	273	FAIL	236.1 mg/L	N/A	N/A	N/A	N/A	FAIL	114.87 mg/L	N/A	N/A
Bausch & Lomb re-nu Multipurpose Solution, 12 fl oz	Bausch & Lomb	310119030189	1	liquid	200g (min)	C	N	N	X	274	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
Garnier Fructis Triple Nutrition Dryness Reversal Treatment, 8.5 fl oz	Garnier LLC	603084215140	1	liquid	200g (min)	P	N	N	X	275	FAIL	132.3 mg/L	N/A	N/A	N/A	N/A	FAIL	259.99 mg/L	N/A	N/A
Garnier Skin Renew Dark Spot Treatment Mask, .64 fl oz	Garnier LLC	603084404810	6	liquid	200g (min)	C	N	N	X	276	PASS	—	N/A	N/A	N/A	N/A	FAIL	353.39 mg/L	N/A	N/A
Garnier Fructis Fortifying Shampoo Fall Fight, 13 fl oz	Garnier LLC	603084275984	1	liquid	200g (min)	P	N	N	X	277	FAIL	47.8 mg/L	N/A	N/A	N/A	N/A	FAIL	49.14 mg/L	N/A	N/A
L'oreal EverCurl Sculpt & Hold Cream-Gel, 5.0 fl oz	L'oreal USA Inc	071249243947	1	liquid	200g (min)	P	N	N	X	278	PASS	—	N/A	N/A	N/A	N/A	FAIL	474.83 mg/L	N/A	N/A

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Clearasil Daily Face Wash, 6.78 fl oz	Reckitt Benckiser LLC	839977009224	1	liquid	200g (min)	P	N	N	X	279	FAIL	185.1 mg/L	N/A	N/A	N/A	N/A	FAIL	131.95 mg/L	N/A	N/A
Johnson's Baby Lotion	Johnson & Johnson Inc	381370035138	1	liquid	200g (min)	P	N	N	X	280	PASS	—	N/A	N/A	N/A	N/A	FAIL	598.32 mg/L	N/A	N/A
Huggies Natural Care Wipes Fragrance Free, 64 count	Kimberly-Clark Corp	*3600031811*	1	solid	200g (min)	P	N	N	X	281	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
Bausch & Lomb re-nu Multipurpose Solution Twin Value Pack, two 12 fl oz	Bausch & Lomb	310119031643	1	liquid	200g (min)	C	N	N	X	282	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
L'oreal Youth Code Texture Perfector, 1.0 fl oz	L'oreal USA Inc	071249239155	3	liquid	200g (min)	C	N	N	X	283	PASS	—	N/A	N/A	N/A	N/A	FAIL	103.58 mg/L	N/A	N/A
L'oreal Revitalift Moisture Blur Moisturizer, 1.7 fl oz	L'oreal USA Inc	071249275320	4	liquid	200g (min)	C	N	N	X	284	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
Durex Play Tingling Intimate Lubricant, 3.38 fl oz	Durex Consumer Products Inc	302340300483	3	liquid	200g (min)	P	N	N	X	285	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
Garnier Skin Renew Dark Spot Overnight Peel, 1.6 fl oz	Garnier LLC	603084288861	3	liquid	200g (min)	C	N	N	X	286	PASS	—	N/A	N/A	N/A	N/A	FAIL	236.15 mg/L	N/A	N/A
Johnson's Baby Pure Cornstarch Powder, 9 oz	Johnson & Johnson	381370030485	1	solid	200g (min)	P	N	N	X	287	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
Complete Multi-purpose Solution, 12 fl oz	Abbott Medical Optics Inc	827444000621	1	liquid	200g (min)	P	N	N	X	288	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
Gojo Natural Orange Pumice Hand Cleaner, 14 fl oz	GOJO Industries Inc	073852009576	1	liquid	200g (min)	P	N	N	X	289	FAIL	289.1 mg/L	N/A	N/A	N/A	N/A	FAIL	263.9 mg/L	N/A	N/A
Dap DryDex Spackling, 16 fl oz	DAP Products Inc	070798123489	1	liquid	200g (min)	P	N	N	X	290	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
Elmer's Carpenter's Wood Glue Max, 8 fl oz	Elmer's Products Inc	026000073004	1	liquid	200g (min)	P	N	N	X	291	FAIL	533.8 mg/L	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
Dap StrongStik Instant Grab Adhesive, 5 fl oz	DAP Products Inc	070798013100	1	liquid	200g (min)	P	N	N	X	292	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
DAP Kwik Seal Plus Premium Kitchen & Bath Adhesive Sealant, 5.5 fl oz	DAP Products Inc	070798185463	1	liquid	200g (min)	P	N	N	X	293	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
Liquid Nails Subfloor & Deck Construction Adhesive, 10 fl oz	Akzo Nobel Paints LLC	022078450013	1	liquid	200g (min)	C	N	N	X	294	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
Loctite Painter's Express 2 in 1 Seal and Bond, 10 fl oz	Henkel Corporation	079340647695	1	liquid	200g (min)	P	N	N	X	295	FAIL	150.3 mg/L	N/A	N/A	N/A	N/A	FAIL	168.18 mg/L	N/A	N/A
Loctite Pro Line 375 Heavy Duty Construction Adhesive, 10 fl oz	Henkel Corporation	079340648500	1	liquid	200g (min)	P	N	N	X	296	FAIL	628.5 mg/L	N/A	N/A	N/A	N/A	FAIL	315.14 mg/L	N/A	N/A
Loctite All Purpose 2 in 1 Seal & Bond, 10 fl oz	Henkel Corporation	079340647671	1	liquid	200g (min)	P	N	N	X	297	FAIL	154.4 mg/L	N/A	N/A	N/A	N/A	FAIL	168.18 mg/L	N/A	N/A
Loctite Painter's Express Polyseamseal Caulk+, 10 fl oz	Henkel Corporation	079340646735	1	liquid	200g (min)	P	N	N	X	298	FAIL	209.6 mg/L	N/A	N/A	N/A	N/A	FAIL	207.05 mg/L	N/A	N/A
DAP Alex Painter's Acrylic Latex Caulk, 10.1 fl oz	DAP Products Inc	070798180659	1	liquid	200g (min)	P	N	N	X	299	FAIL	353.6 mg/L	N/A	N/A	N/A	N/A	FAIL	237.84 mg/L	N/A	N/A
GE Silicone, Black, 10.1 fl oz	Momentive Performance Materials Inc	077027050301	1	liquid	200g (min)	P	N	N	X	300	FAIL	154.4 mg/L	N/A	N/A	N/A	N/A	FAIL	174.11 mg/L	N/A	N/A
GE Paintable Silicone, White, 10.1 fl oz	Momentive Performance Materials Inc	077027070002	1	liquid	200g (min)	P	N	N	X	301	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
Liquid Nails Tub Surround & Shower Wall Adhesive, 10 fl oz	Akzo Nobel Paints LLC	022078449994	1	liquid	200g (min)	C	N	N	X	302	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
KY Yours + Mine Couples Lubricant, (YOURS 1.5 fl oz)	Johnson & Johnson	380040088924	8	liquid	200g (min)	C	N	N	X	303	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
KY Yours + Mine Couples Lubricant, (MINE 1.5 fl oz)	Johnson & Johnson	380040088924	8	liquid	200g (min)	C	N	N	X	303	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
KY Yours + Mine (COMPOSITE)	Johnson & Johnson	380040088924	8	liquid	200g (min)	C	N	N	X	303	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A

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Simple Green All-Purpose Cleaner, 32 fl oz	Sunshine Makers, Inc	043318130335	1	liquid	200g (min)	P	N	N	X	304	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	636.67 mg/L	PASS	—
Simple Green d Pro 3, 1 gallon	Sunshine Makers, Inc	043318303203	1	liquid	200g (min)	P	N	N	X	305	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	12.64 mg/L	FAIL	<20 mg/L
Simple Green Pro HD, 1 gallon	Sunshine Makers, Inc	043318134210	1	liquid	200g (min)	P	N	N	X	306	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	387.3 mg/L	FAIL	689 mg/L
Glade Plug Ins Poppy Groove, 2 refills 1.34 fl oz	S.C. Johnson & Son, Inc	046500762055	3	liquid	200g (min)	P	N	N	X	307	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	90.13 mg/L	FAIL	75.0 mg/L
Glade Candle Poppy Groove, 3.8 oz	S.C. Johnson & Son, Inc	046500762116	2	solid	200g (min)	G	N	N	X	308	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—	PASS	—
LemiShine Detergent Booster, 12 oz	Envirocon Technologies, Inc	703074228744	1	solid	200g (min)	P	N	N	X	309	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—	FAIL	>500 mg/L
Sun In Hair Lightener, Tropical Breeze, 4.7 fl oz	Chattem, Inc	041167320532	1	liquid	200g (min)	P	N	N	X	310	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	131.95 mg/L	FAIL	283 mg/L
DAP Dynaflex 230 Window, Door & Trim Sealant, 10.1 fl oz	DAP Products Inc	070798183001	1	liquid	200g (min)	P	N	N	X	311	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	168.18 mg/L	FAIL	152 mg/L
Loctite Pro Line S40 Polyurethane Sealant, 10 fl oz	Henkel Corporation	079340689206	1	liquid	200g (min)	C	N	N	X	312	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—	PASS	—
babyganics alcohol-free foaming hand sanitizer, mandarin, 8.45 fl oz	KAS Direct, LLC	813277010685	1	liquid	200g (min)	P	N	N	X	313	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	146.41 mg/L	FAIL	148 mg/L
Mustela Dermo-Cleansing, 16.90 fl oz	Laboratories Expanscience	504105022808	1	liquid	200g (min)	P	N	N	X	314	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	48.30 mg/L	FAIL	35.0 mg/L
Shea Moisture Raw Shea Chamomile & Argan Oil Baby Eczema Bar Soap, 5 oz	Sundial Brands LLC	764302901365	1	solid	200g (min)	P	N	N	X	315	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	68.30 mg/L	FAIL	123 mg/L
Original Blend Sparrow Pipe Tobacco, 6 oz	Prime Time International Co	789502960004	1	solid	200g (min)	P	N	N	X	316	N/A	N/A	PASS	—	N/A	N/A	FAIL	246.23 mg/L	N/A	N/A
Camel Turkish Domestic Blend Filters	RJReynolds Tobacco Company	01230331	3	solid	200g (min)	C	N	N	X	317	N/A	N/A	PASS	—	N/A	N/A	FAIL	221.91 mg/L	N/A	N/A
Garcia y Vega Miniatures, 5 Cigars	Garcia y Vega Imports	031700008225	1	solid	200g (min)	C	N	N	X	318	N/A	N/A	FAIL	517 mg/L	N/A	N/A	FAIL	672.62 mg/L	N/A	N/A
Garcia y Vega Cigarillos, 5 Cigars	Garcia y Vega Imports	031700000519	1	solid	200g (min)	C	N	N	X	319	N/A	N/A	FAIL	392 mg/L	N/A	N/A	FAIL	521.65 mg/L	N/A	N/A
Jewels Original Hav-a-Tampa Birchwood Tip Cigars, 5 Cigars	Altadis USA	076452700201	3	solid	200g (min)	C	N	N	X	320	N/A	N/A	PASS	—	N/A	N/A	FAIL	385.54 mg/L	N/A	N/A
Royal King Panax Ginseng Extract, 0.35 fl oz	TBD - Photos taken of packaging	799745283044	5	liquid	200g (min)	G	N	N	X	321	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Blendz e-liquid Virginia Select, 15mL	TBD - Photos taken of packaging	616453280809	2	liquid	200g (min)	G	N	N	X	322	N/A	N/A	FAIL	170 mg/L	N/A	N/A	FAIL	263.90 mg/L	N/A	N/A
Beech-Nut Original Chewing Tobacco, 3 oz	National Tobacco Company LP	035106057047	3	solid	200g (min)	P	N	N	X	323	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Crayola Anti-Dust Chalk, 12 white chalk	Crayola	071662014025	1	solid	200g (min)	C	N	N	X	324	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Crayola Drawing Chalk, 12 colored chalk sticks	Crayola	071662004033	1	solid	200g (min)	C	N	N	X	325	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Sharpie Fine Permanent Marker, 12 ct	Newell Rubbermaid Office Products	071641300019	1	liquid	200g (min)	C	N	N	X	326	N/A	N/A	PASS	—	N/A	N/A	FAIL	81.23 mg/L	N/A	N/A
Sharpie Highlighter, Fluorescent Yellow, 12 ct	Newell Rubbermaid Office Products	071641250253	1	liquid	200g (min)	C	N	N	X	327	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Aelos E-liquid Tobacco, 20 ML	Ballaj, Inc	799418210612	2	liquid	200g (min)	G	N	N	X	328	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Copenhagen Long Cut, Original, 1.2 oz	U.S. Smokeless Tobacco Co.	07312115	3	solid	200g (min)	C	N	N	X	329	N/A	N/A	PASS	—	N/A	N/A	FAIL	568 mg/L	N/A	N/A

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Copenhagen Long Cut, Straight, 1.2 oz	U.S. Smokeless Tobacco Co.	07388215	3	solid	200g (min)	P	N	N	X	330	N/A	N/A	PASS	—	N/A	N/A	FAIL	550 mg/L	N/A	N/A
Clear Care 3% Hydrogen Peroxide Cleaning & Disinfecting Solution, 12 fl oz	Alcon Laboratories, Inc	047113609027	1	liquid	200g (min)	P	N	N	X	331	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Edge Body non-Foaming Face & Body Shave Cream, 5.1 fl oz	Energizer Personal Care, LLC	841058006473	1	liquid	200g (min)	P	N	N	X	332	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Tom's of Maine Whole Care Fluoride Toothpaste, Cinnamon Clove, 4.7 oz	Tom's of Maine, Inc.	077326830734	1	liquid	200g (min)	C	N	N	X	333	N/A	N/A	FAIL	446 mg/L	N/A	N/A	FAIL	522 mg/L	N/A	N/A
TopCare Hydrogen Peroxide Solution 3%, 16 fl oz	Topco Associates, LLC	036800267114	1	liquid	200g (min)	P	N	N	X	334	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
STP Heavy Duty Brake Fluid DOT3, 12 fl oz	The Armor All/STP Products Co.	071153002036	1	liquid	200g (min)	P	N	N	X	335	N/A	N/A	FAIL	167 mg/L	N/A	N/A	PASS	—	N/A	N/A
Efferdent Anti-Bacterial Denture Cleanser, 44 tablets	Medtech Products Inc	814832015862	1	solid	200g (min)	C	N	N	X	336	FAIL	953.2 mg/L	N/A	N/A	N/A	N/A	FAIL	533 mg/L	N/A	N/A
Greenerways Organic Eco-Tizer, On-the-Go Surface Cleaner, 2 fl oz.	Greener Days LLC	853812003031	2	liquid	200g (min)	P	N	N	X	337	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
Grandma's Secret Spot Remover, 2 fl oz	Zafar Products, Inc	784923000018	2	liquid	200g (min)	P	N	N	X	338	FAIL	15.8 mg/L	N/A	N/A	N/A	N/A	FAIL	<25 mg/L	N/A	N/A
Tulip Metallics Fabric Paint, Black, 4 fl oz	iLoveToCreate	017754173737	1	liquid	200g (min)	P	N	N	X	339	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
EO Organic Deodorant, Citrus, 4 fl oz	Small World Trading Co	636874040813	1	liquid	200g (min)	P	N	N	X	340	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
Johnson's baby head-to-toe washcloths, 14 count	Johnson & Johnson Consumer Products Co	381371028283	1	solid	200g (min)	C	N	N	X	341	FAIL	61.2 mg/L	N/A	N/A	N/A	N/A	FAIL	75 mg/L	N/A	N/A
Hugo Naturals Effervescent Bath Salts, French Lavender, 14 oz	DM Natural Products Inc	879779004300	1	solid	200g (min)	P	N	N	X	342	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
Boogie Wipes, Simply Unscented, 30 wipes	Little Busy Bodies Inc	897752002211	1	solid	200g (min)	P	N	N	X	343	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
TopCare Hydrogen Peroxide Wipe, 40 wipes	Topco Associates LLC	036800330849	1	solid	200g (min)	P	N	N	X	344	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
Nair Men Hair Remover Body Cream, 13 oz	Church & Dwight Co Inc	022600588559	1	liquid	200g (min)	P	N	N	X	345	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
Palmer Washable Poster Paint, 16 fl oz	LaRose Industries LLC	047138125618	1	liquid	200g (min)	P	N	N	X	346	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
Listerine Total Care Zerio Anticavity Mouthwash, 1.0 L	Johnson & Johnson Healthcare Products	312547306713	1	liquid	200g (min)	P	N	N	X	347	PASS	—	N/A	N/A	N/A	N/A	PASS	—	N/A	N/A
Seventh Generation Natural Dishwasher Detergent Gel, 42 oz	Seventh Generation Inc	732913221714	1	liquid	200g (min)	P	N	N	X	348	FAIL	61.2 mg/L	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	60.2 mg/L
ForceField FireGuard, Flame Retardant for Fabrics & Upholstery, 22 fl oz	Shield Industries Inc	609052130224	1	liquid	200g (min)	P	N	N	X	349	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—
Armorall Leather Wipes, 20 wipes	The Armor All/STP Products Co	070612108814	1	solid	200g (min)	P	N	N	X	350	FAIL	353.6 mg/L	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	258 mg/L
Armorall Glass Wipes, 25 wipes	The Armor All/STP Products Co	070612108654	1	solid	200g (min)	P	N	N	X	351	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—
Prestone 50/50 Prediluted Antifreeze/Coolant, 1 gal	Prestone Products Corporation	797496871671	1	liquid	200g (min)	P	N	N	X	352	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—
Prestone Concentrate Antifreeze/Coolant, 1 gal	Prestone Products Corporation	797496871572	1	liquid	200g (min)	p	N	N	X	353	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—
Argan Oil Hair Color, Very Black, 3 fl oz	One 'n Only	074108258342	1	liquid	200g (min)	C	N	N	X	354	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—
Febreze Scented Oil Refill, 1.75 oz	Proctor & Gamble	037000461036	2	liquid	200g (min)	C	N	N	X	355	FAIL	70.7 mg/L	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	71.8 mg/L
Ion Color-Preserving Masque, for color treated hair, 6 fl oz	Ion Professional Products	033102833349	1	liquid	200g (min)	P	N	N	X	356	FAIL	67.5 mg/L	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	90.4 mg/L
Mane 'n Tail Shampoo, 12 fl oz	Straight Arrow Products Inc	071409543214	1	liquid	200g (min)	P	N	N	X	357	FAIL	35.4 mg/L	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	31.6 mg/L

Description	Manufacturer	UPC	Strength / Quantity	Main Ingredient / Or Usage / NOTES	Size of sample container (including units)	Type of sample container: Glass (G) Plastic (P) Metal tube (MT) VOA (V)	Evidence tape: Yes (Y) No (N)	Transported in iced cooler: Yes (Y) No (N)	96-hour fish bioassay	Sample Number (repeated)	Aquatic Testing Laboratories Screen	Aquatic Testing Laboratories Definitive (LC 50 =)	Eurofins Calscience, Inc. Screen	Eurofins Calscience, Inc. Definitive (LC 50 =)	Alpha Analytical Labs, Inc. Screen	Alpha Analytical Labs, Inc. Definitive (LC 50 =)	McCampbell Analytical, Inc. Screen	McCampbell Analytical, Inc. Definitive (LC 50 =)	Oilfield Environmental & Compliance, Inc. Screen	Oilfield Environmental & Compliance, Inc. Definitive (LC 50 =)
Mane 'n Tail Conditioner, 12 fl oz	Straight Arrow Products Inc	071409543221	1	liquid	200g (min)	P	N	N	X	358	FAIL	98.5 mg/L	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	254 mg/L
L'oreal Preference Permanent Haircolor, Medium Brown 5, 2 fl oz	L'oreal USA Inc	657201010255	2	liquid	200g (min)	P	N	N	X	359	FAIL	4.2 mg/L	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	<20 mg/L
Wella Permanent Liquid Hair Toner, T28 Natural Blonde, 1.4 fl oz	The Wella Corporation	070018066909	3	liquid	200g (min)	C	N	N	X	360	FAIL	9.4 mg/L	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	<20 mg/L
Clairol Professional Soy4Plex Haircolor, 3RN Medium Red-Neutral Brown, 2 oz	Proctor & Gamble	381519024153	2	liquid	200g (min)	C	N	N	X	361	FAIL	13.6 mg/L	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	<20 mg/L
Ion Color Brilliance Temporary Color Masque, Golden Blonde, 1.5 oz	Ion Professional Products	033102821605	2	liquid	200g (min)	C	N	N	X	362	FAIL	209.6 mg/L	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—
Ensure Original Nutrition Shake Strawberry, 8 fl oz	Abbott Laboratories	070074407050	3	liquid	200g (min)	P	N	N	X	363	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	>500 mg/L
Ensure Original Nutrition Shake Vanilla, 8 fl oz	Abbott Laboratories	070074407111	3	liquid	200g (min)	P	N	N	X	364	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—
Old English Lemon Oil, 16 fl oz	Reckitt Benckiser Inc	062338073255	1	liquid	200g (min)	P	N	N	X	365	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—
Windex Multisurface Disinfectant, 32 fl oz	SC Johnson & Son Inc	019800317690	1	liquid	200g (min)	P	N	N	X	366	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—
Windex Crystal Rain, 32 fl oz	SC Johnson & Son Inc	019800317881	1	liquid	200g (min)	P	N	N	X	367	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—
Rain X Bug Remover, 1 gallon	ITW Global Brands	079118688066	1	liquid	200g (min)	P	N	N	X	368	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—
SuperTech Windshield Washer Fluid Summer Formula, 1 gallon	Walmart Stores Inc	681131056304	1	liquid	200g (min)	P	N	N	X	369	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—
Crayola Crayons, 24 pack	Crayola	071662000240	2	solid	200g (min)	C	N	N	X	370	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—
Glade 2 in 1 Candle, Moonlit Walk & Wandering Stream, 2 pack, 3.8 oz each	SC Johnson & Son Inc	046500753657	1	solid	200g (min)	C/G	N	N	X	371	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—
Equate Makeup Remover Cleansing Towelettes, 40 towelettes	Walmart Stores Inc	681131034999	1	solid	200g (min)	P	N	N	X	372	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—
Play Day Bubble Stick, 3.9 fl oz	Walmart Stores Inc	825131017174	2	liquid	200g (min)	P	N	N	X	373	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—
Comet with Bleach Cleanser Lemon Fresh, 21 oz	The Spic and Span Company	678112101795	1	solid	200g (min)	C	N	N	X	374	FAIL	562.4 mg/L	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	146 mg/L
Bar Keepers Friend Cleanser & Polish, 21 oz	Servaas Laboratories Inc	071618115141	1	solid	200g (min)	C	N	N	X	375	FAIL	322.4 mg/L	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	225 mg/L
AJAX with Bleach, 28 oz	Colgate-Palmolive Company	035000053640	1	solid	200g (min)	C	N	N	X	376	FAIL	227.1 mg/L	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	109 mg/L
Renuzit Simply Vanilla, 7 oz	The Dial Corporation	019800036614	2	solid	200g (min)	P	N	N	X	377	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—
Play-Doh Orange, 5 oz	Hasbro	653569289890	2	solid	200g (min)	P	N	N	X	378	PASS	—	N/A	N/A	N/A	N/A	N/A	N/A	PASS	—
Febreze Vent Clip Fresh Citrus, .06 fl oz	Proctor & Gamble	037000906285	4	liquid	200g (min)	C	N	N	X	379	FAIL	69.9 mg/L	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Febreze Vent Clip Fresh Citrus, .06 fl oz	Proctor & Gamble	037000906285	4 36	liquid liquid (additional sample needed)	200g (min)	C	N	N	X	379	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	35 mg/L
Febreze Vent Clip Midnight Storm, .06 fl oz	Proctor & Gamble	037000811169	4	liquid	200g (min)	C	N	N	X	380	FAIL	40.8 mg/L	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Febreze Vent Clip Midnight Storm, .06 fl oz	Proctor & Gamble	037000811169 037000811329	4 20	liquid liquid (additional sample needed)	200g (min)	C	N	N	X	380	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	FAIL	35 mg/L
Great Value Original Clean Dryer Sheets, Bold Clean Scent, 160 sheets	Walmart Stores Inc	078742088112	1	solid	200g (min)	C	N	N	X	381	N/A	N/A	PASS	—	N/A	N/A	FAIL	293.9 mg/L	N/A	N/A
Great Value Free & Delicate Dryer Sheets, Hypoallergenic, 160 sheets	Walmart Stores Inc	078742072159	1	solid	200g (min)	C	N	N	X	382	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A

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Parent's Choice Fresh Scent Wipes, 80 wipes	Walmart Stores Inc	681131099059	1	solid	200g (min)	P	N	N	X	383	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Parent's Choice Fragrance Free Wipes, 80 wipes	Walmart Stores Inc	681131099042	1	solid	200g (min)	P	N	N	X	384	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Top Job Basic Cleaning Vinegar All Purpose Cleaner, 64 fl oz	KIK International Inc	836272010375	1	liquid	200g (min)	P	N	N	X	385	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Top Job Basic Clear Ammonia All Purpose Cleaner, 64 fl oz	KIK International Inc	836272010399	1	liquid	200g (min)	P	N	N	X	386	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Tiki Clean Burn Torch Fuel, 32 fl oz	Lamplight Farms Inc	086861141557	1	liquid	200g (min)	P	N	N	X	387	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Purex Crystals in-wash fragrance booster, Fresh Spring Waters, 18 oz	The Dial Corporation	024200089962	1	solid	200g (min)	P	N	N	X	388	N/A	N/A	FAIL	444 mg/L	N/A	N/A	FAIL	576.1 mg/L	N/A	N/A
Purex Crystals in-wash fragrance booster, Lavender Blossom, 18 oz	The Dial Corporation	024200089993	1	solid	200g (min)	P	N	N	X	389	N/A	N/A	FAIL	693 mg/L	N/A	N/A	FAIL	606.2 mg/L	N/A	N/A
Neutrogena Body Oil, Light Sesame Formula, Fragrance Free, 8.5 fl oz	Neutrogena Corporation	070501618301	1	liquid	200g (min)	P	N	N	X	390	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Equate Feminine Wash, Sensitive Skin, 12 fl oz	Walmart Stores Inc	681131078290	1	liquid	200g (min)	P	N	N	X	391	N/A	N/A	FAIL	53.9 mg/L	N/A	N/A	FAIL	43.5 mg/L	N/A	N/A
Jergens Natural Glow Tan Extender, All Skin Tones, 7.5 fl oz	Kao USA Inc	019100209411	1	liquid	200g (min)	P	N	N	X	392	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Elmer's Washable Clear School Glue, 9 fl oz	Elmer's Products Inc	026000003094	1	liquid	200g (min)	P	N	N	X	393	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Expo White Board Care, Cleaner, 8 oz	Newell Rubbermaid Office Products	071641818033	1	liquid	200g (min)	P	N	N	X	394	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Hair & Body Baby Wash, 10 fl oz	Vi-Jon	072785111721	1	liquid	200g (min)	P	N	N	X	395	N/A	N/A	FAIL	61.4 mg/L	N/A	N/A	FAIL	66.0 mg/L	N/A	N/A
Miracle Gro All Purpose Plant Food, 8 oz	Scotts Miracle-Gro Products Inc	073561000994	1	solid	200g (min)	C	N	N	X	396	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Carbona Color Grabber with Microfiber, 30 sheets	Delta Carbona LP	070409004749	1	solid	200g (min)	C	N	N	X	397	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
A thru Z Select Multivitamin, 50+ Advanced Formula, 220 tablets	Walgreen Co	311917116440	1	solid	200g (min)	P	N	N	X	398	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
AZO Cranberry Gummies, Mixed Berry Flavor, 72 gummies	i-Health Inc	787651760100	1	solid	200g (min)	P	N	N	X	399	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Waverly Inspirations Chalk, Peacock, Acrylic Paint, Matte Finish, 8 fl oz	Plaid Enterprises Inc	028995607059	1	liquid	200g (min)	P	N	N	X	400	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Waverly Inspirations Varnish, Matte, Durable Sealant, 8 fl oz	Plaid Enterprises Inc	028995605642	1	liquid	200g (min)	P	N	N	X	401	N/A	N/A	FAIL	587 mg/L	N/A	N/A	FAIL	>750 mg/L	N/A	N/A
Elmer's X-treme School Glue, 8 fl oz	Elmer's Products Inc	026000005920	1	liquid	200g (min)	P	N	N	X	402	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Equate Immune Support Dietary Supplement, Orange Flavor, 10 tablets	Walmart Stores Inc	078742092898	2	solid	200g (min)	C	N	N	X	403	N/A	N/A	PASS	—	N/A	N/A	PASS	—	N/A	N/A
Febreze Vent Clips, Island Fresh, 2 clips, .13 fl oz total	Proctor & Gamble	037000905004	5	liquid	200g (min)	C	N	N	X	404	N/A	N/A	FAIL	67.1 mg/L	N/A	N/A	FAIL	34.0 mg/L	N/A	N/A