

NYDEC Delays for Three Months Enforcement of its Household Cleansing Product Information Disclosure Program

Article By:

Government Regulation

On January 9, 2019, the New York Department of Environmental Conservation (NYDEC) announced it was delaying its enforcement of the New York [Household Cleansing Product Information Disclosure Program](#) (Disclosure Program) to **October 1, 2019**. NYDEC's announcement was published in the [Environmental Notice Bulletin](#).

As [previously reported](#), on June 6, 2018, NYDEC released its Disclosure Program setting forth extensive requirements for manufacturers of certain consumer cleaning products to disclose information regarding the ingredients in those products. The Disclosure Program is significantly different from California's [Cleaning Product Right to Know Act of 2017](#) (S.B. 258), which was signed into law in October 2017 with implementation required, in part, by **January 1, 2020**. Despite the fact that New York's Disclosure Program was released almost eight months after California's S.B. 258, NYDEC intended to require the first phase of its implementation six months earlier, or by **July 1, 2019**.

The lack of alignment between the New York and California programs, and the fact that the New York Disclosure Program, unlike the California law, was not extensively vetted among cleaning product manufacturers before its issuance, forced two trade associations, the Household Cleaning Products Association (HCPA) and the American Cleaning Institute (ACI), to challenge the New York Disclosure Program in court. According to a [Joint Statement issued by HCPA and ACI](#), the suit alleges NYDEC violated important administrative procedures and that its refusal to work with industry has created an "unworkable and impractical" policy that should be retracted so that a consistent national model for ingredient communication can be implemented instead. Some claim that NYDEC exceeded its regulatory authority by issuing the Disclosure Program under the authority of the Environmental Conservation Law, a law enacted back in the early 1970s.

While the case progresses through the New York courts, NYDEC has announced that it will not enforce those provisions of the Disclosure Program that become effective on **July 1, 2019**. Specifically, NYDEC states (emphasis in original):

The Commissioner of [NYDEC] has determined the form for disclosure, as set forth in the above

statute and regulation [**Environmental Conservation Law (ECL) 35-0107 and 6 NYCRR 659.6**], and has directed that manufacturers disclose ingredients on a phased implementation schedule. The first required milestone for disclosure is July 1, 2019 for manufacturers employing more than 100 people to disclose: intentionally added ingredients other than fragrance ingredients; and nonfunctional ingredients present above trace quantities.

[NYDEC] will not enforce the July 1, 2019 milestone requirement pursuant to ECL 35-0107 and 6 NYCRR 659.6, for a period running from July 1, 2019 to October 1, 2019. **[NYDEC] will begin enforcing any violations of the above required disclosure as of October 2, 2019.** Nothing set forth herein effect any other legally binding requirements for which manufactures must comply; or [NYDEC's] right to enforce any other legal requirements.

[NYDEC] will continue to work with any manufacturers on the design of their websites, or entertain any questions regarding compliance with website design or safety data sheets. [NYDEC] remains committed to working with the manufactures to implement this program in the best manner possible.

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