

**Response to Comments**  
**Comments Received on Proposed Program Policy DMM-2**  
**Household Cleansing Product Information Disclosure Program**

Public Comment Period: April 25, 2017- July 14, 2017

The proposed guidance document (now known as DMM-2) was published in DEC’s *Environmental Notice Bulletin* on April 25, 2017 and public comment period ended on July 14, 2017. DEC received 864 comments. We received 14 individual comments from industry stakeholders, NGOs, and private citizens as well as a form letter from 850 private citizens. DEC’s responses to the comments received are provided below.

Specific Comments	Response
<b>Category 1: Certification Form, Number of Comments Received: 4</b>	
1-1: DEC needs to clearly define an enforcement and penalty regimen associated with any alleged violations of the Proposed Guidance. Would it encompass Penal Law and/ or Environmental Conservation law?	Response 1-1: Pursuant to Section 71-303 of the Environmental Conservation Law (ECL) violators may be subject to an initial fine of up to \$2500, \$500 for each additional day of violation, and injunctive relief. While criminal violations of the ECL or Penal Law are also possible under the regulation, DEC would not have a defined process for such violations, as they are largely determined by the Court and prosecutor.
1-2: Any violation of the Guidance should be treated as an administrative matter and be subject to standard DEC procedures associated with administrative violations. There should be no criminal offense.	Response 1-2: It is expected that the great majority of violations would be addressed through DEC’s administrative process. However, submitting false information with the requisite mental state can be a criminal offense. Other criminal charges may also occur.
1-3: DEC should provide manufacturers with a notice of violation and reasonable time to cure such violation before pursuing a penalty.	Response 1-3: The process noted in the comment is followed by DEC in addressing many violations, and would be available in this case as well. However, the specific facts of each case will dictate the appropriate enforcement response.
1-4: Will DEC pursue the civil penalties outlined in Environmental Conservation Law Section 71-3103 if a manufacturer fails to timely comply with a deadline set forth in the Guidance?	Response 1-4: Each enforcement response will be dictated by the facts of each case. It is likely that DEC will initially provide a notice of violation and opportunity to fix the violation prior to initiating enforcement under Section 71-3103.
<b>Category 2: Authority, Number of Comments Received: 3</b>	
2-1: DEC's legal authority to propose these guidelines is not accepted. We reserve the right to pursue legal action.	Response 2-1: Article 35 of the ECL and Part 659 of Title 6 of the New York Code of Rules and Regulations (6 NYCRR Part 659) provide clear authority for the Commissioner to require manufacturers “to furnish to the commissioner for the public record” information regarding the ingredients present in

**Response to Comments**  
**Comments Received on Proposed Program Policy DMM-2**  
**Household Cleansing Product Information Disclosure Program**

Public Comment Period: April 25, 2017- July 14, 2017

Specific Comments	Response
	cleaning products, and their potential effects on human health and the environment, “in a form prescribed by the Commissioner.”
2-2: Complying with the Guidance would be expensive and time consuming for a small business; the Guidance should not be released.	Response 2-2: Conversations with small business stakeholders indicate that this comment was based on a misinterpretation that the proposal requires information to be disclosed on product labels. Once the requirements were clarified, small business stakeholders did not seem to think that the cost of posting information on websites would be unreasonable. In addition, small businesses, defined as being independently owned and operated and having less than 100 employees, are provided an additional year to comply with initial reporting requirements.
2-3: DEC should rescind the draft Guidance and implement it through SAPA or make it voluntary.	Response 2-3: Article 35 of the ECL and 6 NYCRR Part 659 provide clear authority and ample direction empowering the Commissioner to require manufacturers to disclose information regarding the ingredients present in cleaning products and their potential effects on human health and the environment. The Guidance exercises the Commissioner’s existing statutory and regulatory authority to require disclosure, and prescribes the form such disclosure should take.
Category 3: Form of Disclosure, Number of Comments Received: 1	
3-1: Pleased that the Guidance specifies both the form and content of the ingredient disclosure required.	Response 3-1: Noted.
Category 4: Posting Parameters, Number of Comments Received: 8	
4-1: The Guidance should align more with 6 NYCRR Part 659. The Department should require disclosure posting on a single, searchable-content website, a link to which would be contained on the Department’s website.	Response 4-1: The Guidance aligns with Part 659. After extensive discussions with stakeholders, the requirement to post all disclosures on a single centralized website was deemed impracticable. Manufacturers are required to submit the uniform resource locator (URL) links for each of their product disclosures to DEC. Working in partnership with the Interstate Chemicals Clearinghouse (IC2), an association of state, local and tribal governments of which New York is a founding member, DEC will create and maintain a centralized database of manufacturer URLs with links to

**Response to Comments**  
**Comments Received on Proposed Program Policy DMM-2**  
**Household Cleansing Product Information Disclosure Program**

Public Comment Period: April 25, 2017- July 14, 2017

Specific Comments	Response
	manufacturer websites. The database will be housed on the IC2's website, with a link posted on DEC's main website.
4-2: The disclosed information should be posted on the brand page instead of the product's manufacturer's website.	Response 4-2: There is no one definition of "brand page" or approach to displaying brand information which applies to all manufacturers. The Guidance has been carefully crafted to ensure that disclosures are readily noticeable and accessible to the public. The requirement that disclosed information be no more than five "clicks" away from the home page of the manufacturer's main website or four "clicks" away from the home page of the website on which it is posted will help to ensure ease of access without being overly prescriptive about the way websites are designed and utilized.
4-3: A brand owner's SmartLabel landing page should be considered a "main page".	Response 4-3: Posting required information on a brand owner's SmartLabel landing page fits the Guidance's allowance for posting on a website separate from the manufacturer's main website. However, if a manufacturer chooses SmartLabel as their disclosure site, a link to the SmartLabel site must be provided on the manufacturer's home page.
4-4: Four clicks should be changed to "a reasonable number".	Response 4-4: Specifying "a reasonable number of clicks" would be too vague. Based on extensive discussions with stakeholders, DEC has determined that the number of "clicks" prescribed in the Guidance is reasonable and satisfies both the manufacturers' concerns for flexibility and the public interest in ease of access and availability.
4-5: Information should be available in both Spanish and English.	Response 4-5: While DEC staff acknowledge that disclosing in two or more languages may increase the accessibility of the information, complying with such a provision could be resource intensive. Therefore, the Guidance encourages manufacturers to provide information in multiple languages, but does not require it.
4-6: Information should be easily accessible and machine readable.	Response 4-6: These are both core aspects of the information disclosure program, and are specified in Section A of the Guidance under "Posting Parameters".

**Response to Comments**  
**Comments Received on Proposed Program Policy DMM-2**  
**Household Cleansing Product Information Disclosure Program**

Public Comment Period: April 25, 2017- July 14, 2017

Specific Comments	Response
4-7: DEC should remove the detailed language on website design for ingredient disclosure.	Response 4-7: Much of the detailed language on website design has been restructured in the final Guidance. After lengthy conversations with representatives from both industry and advocacy organizations, the web posting requirements have been tailored to be compatible with existing disclosure schemes, while continuing to ensure that posting provides information that is readily accessible and machine readable, with enough consistency across sites to enable meaningful review and analysis.
4-8: DEC should incorporate or mirror the American Cleaning Institute’s voluntary Consumer Product Ingredient Communication Initiative, ACI’s Cleaning Product Ingredient Safety Initiative, CSPA’s Voluntary Consumer Product Ingredient Communications Initiative, and GMA’s SmartLabel.	Response 4-8: DEC appreciates the comment pointing out the existing communication platforms within industry. DEC worked closely with stakeholders to create an approach to disclosure that is flexible, harmonized with the requirements of other jurisdictions, and compatible with website designs already in use by manufacturers. We cannot favor any one private sector approach to disclosure over others, but we have offered to work with any entity who would like to provide a model of how DEC’s program requirements can be met through their platform. Mock-ups of these approaches will be provided in the Guidance in Appendix E.
Category 5: Covered Products, Number of Comments Received: 4	
5-1: Please clarify that the Guidance does not cover a sample that is included with the purchase of a home appliance.	Response 5-1: A sample cleaning product included with the purchase of a home appliance is covered under this Guidance. Because the Guidance does not have any labeling requirements, it should not materially change the requirements applicable to a manufacturer.
5-2: The program should only cover cleaning products that fall under the Consumer Product Safety Commission (CPSC) and exclude commercial cleaning products and products covered by OSHA.	Response 5-2: The statute and regulations governing DEC’s ingredient disclosure program clearly cover commercial cleaning products. Cleaning products used primarily in industrial manufacturing, production and assembling processes are exempt. These exempt uses include, but are not limited to, oil and gas production, steel production, heavy industry manufacturing, industrial water treatment, industrial textile maintenance and processing other than industrial laundering, and food and beverage processing and packaging.

**Response to Comments**  
**Comments Received on Proposed Program Policy DMM-2**  
**Household Cleansing Product Information Disclosure Program**

Public Comment Period: April 25, 2017- July 14, 2017

Specific Comments	Response
5-3: Please clarify that FIFRA-regulated substances present in covered cleaning products are exempt from disclosure.	Response 5-3: FIFRA regulated products are exempt from disclosure under the program pursuant to 6 NYCRR Part 659. Note, FIFRA regulates products, not individual ingredients within products. Therefore, it is possible that an ingredient found in a FIFRA regulated product may be present in a product that is not regulated by FIFRA. It depends on the claims and intended use of the product. However, if a product is defined as a pesticide, it is regulated under FIFRA and exempt from disclosure under this program.
5-4: DEC should release a comprehensive list of brick level codes of the GS1 GPC standard which would require disclosure if a product contains a "surfactant as a wetting or dirt emulsifying agent".	Response 5-4: A list of covered brick codes has been included in Appendix A of the Guidance to clarify the program's scope. The list applies to products classified under those brick codes as well as any retail, commercial or institutional products that would fall under those brick codes if they were classified under the system.
Category 6: CBI and Extent of Disclosure, Number of Comments Received: 20	
6-1: Support DEC requiring the disclosure of CAS Registry Numbers and stating why an ingredient is not being disclosed.	Response 6-1: Noted.
6-2: All ingredients, both intentional and unintentional, should be disclosed.	Response 6-2: All ingredients are required to be disclosed under the Guidance, except for ingredients withheld as confidential business information (CBI) or present in products below the threshold levels established in the Guidance. Ingredients divided into two categories: "intentionally added" and "nonfunctional." "Intentionally added" ingredients include "fragrance ingredients," which have modestly different reporting requirements under the Guidance. "Nonfunctional ingredients" are divided into two subcategories: "nonfunctional byproducts" and "nonfunctional contaminants." Both types of nonfunctional ingredients must be disclosed if they are present in a product above trace levels as defined in 6 NYCRR Part 659. Nonfunctional byproducts present below trace must be reported if they appear on one or more of the lists of chemicals of concern named in the Guidance and the manufacturer knows they are present in a product above practical quantification limits. Nonfunctional contaminants present below trace must be reported if they appear on one

**Response to Comments**  
**Comments Received on Proposed Program Policy DMM-2**  
**Household Cleansing Product Information Disclosure Program**

Public Comment Period: April 25, 2017- July 14, 2017

Specific Comments	Response
	or more lists of chemicals of concern and the manufacturer knows they are present in a product above the threshold levels described in the Guidance. Trace contaminants present in a product due to their presence in water drawn from a public water system regulated under the federal Safe Drinking Water Act which serves more than 10,000 people do not have to be disclosed.
6-3: Disclosure in a supply chain is a common challenge. How does DEC expect to address supply chain issues to uncover full disclosure?	Response 6-3: The Guidance has been amended to explicitly allow suppliers to make CBI claims. If a supplier fails to make such a claim, they should be expected to fully disclose the ingredients in their formulations to the manufacturer. In recent years, manufacturers and retailers have been successfully leveraging their influence in the marketplace to achieve the full disclosure of ingredients from suppliers. The Guidance supports those efforts.
6-4: The extent of disclosure requirement would be more clear to the consumer if the manufacturer included text describing their disclosure at the end of the ingredient list, instead of using check boxes.	Response 6-4: After discussion with stakeholders, DEC has determined that displaying the different disclosure levels and checking off the level achieved is the best way to ensure that the public understands what the level of disclosure achieved by a manufacturer means. Therefore, the requirement to display the hierarchy of disclosure has been retained, but requirements in this section have been streamlined to allow the use of “pop ups” or one click links to display the hierarchy, and only those levels of disclosure above or equal to the level achieved must be displayed. The number and title of the level of disclosure achieved by a manufacturer must still be prominently and clearly displayed under the heading “Level of Disclosure” just prior to and on the same page as the list of product ingredients.
6-5: Disclosure provisions should require a minimum level of public disclosure and full disclosure to DEC.	Response 6-5: DEC has determined that the least-burdensome and resource-intensive way to run the program is not to require manufacturers to submit information to DEC. DEC reserves the right, however, to require that any and all information withheld be submitted to DEC to support any CBI claims.

**Response to Comments**  
**Comments Received on Proposed Program Policy DMM-2**  
**Household Cleansing Product Information Disclosure Program**

Public Comment Period: April 25, 2017- July 14, 2017

Specific Comments	Response
6-6: DEC should incorporate the Uniform Trade Secrets Act (UTSA) or NYS Common Law, whichever is more protective, to clarify what falls under CBI.	Response 6-6: DEC will use the requirements and definitions set forth at Section 87 of the New York State Public Officers Law and the regulations set forth at 6 NYCRR Section 616.7 for addressing CBI questions. Part 616.7 provides that “an agency may deny access to records or portions thereof that are trade secrets [or] confidential commercial information submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise or critical infrastructure information.”
6-7: Fragrance manufacturers should be able to claim CBI independently of the cleaning product’s manufacturer.	Response 6-7: The Guidance has been amended to explicitly allow suppliers, including fragrance manufacturers, to claim CBI independently of the product manufacturer. The supplier should maintain justification for withholding consistent with 6 NYCRR 616.7 and provide that justification to DEC upon request. Manufacturers should provide the supplier’s contact information to DEC upon request.
6-8: The CBI guidelines should be changed to allow any substance on the federal Toxic Substances Control Act (TSCA) Confidential Inventory List to be withheld as CBI.	Response 6-8: CBI is always company and process specific, so this approach would not be appropriate. Language similar to this recommendation was been removed from the legislation in California.
6-9: Disclosure should be limited to intentionally added ingredients and substances present in trace quantities should be excluded from the definition of ingredient.	Response 6-9: The disclosure of nonfunctional ingredients is an important policy issue in New York State because the byproducts and unintentional contaminants present in products can be hazardous. A good example is the emerging contaminant 1,4 dioxane, which is an unintentional byproduct of ethoxylation, a process used to reduce the risk of skin irritation in cleaning products. Given the potential negative impacts on human health and the environment posed by byproducts such as 1,4-dioxane at very low concentrations (eg. parts per trillion), limiting the disclosure of trace intentionally added and nonfunctional ingredients would unduly restrict the ability of manufacturers, DEC, and the public to adequately assess a product’s potential impact on human health and the environment. It would

**Response to Comments**  
**Comments Received on Proposed Program Policy DMM-2**  
**Household Cleansing Product Information Disclosure Program**

Public Comment Period: April 25, 2017- July 14, 2017

Specific Comments	Response
	also weaken the ability of ingredient disclosure to move the cleaning product market toward less toxic alternatives.
6-10: Support the disclosure parameters set out for intentionally and unintentionally added ingredients and CBI requirements.	Response 6-10: Noted.
6-11: DEC should ensure that 1,4-dioxane must be disclosed.	See Response 6-9.
6-12: "Full Disclosure of All Fragrances" in the extent of disclosure list should have a minimum threshold of 0.01%.	Response 6-12. Many fragrance ingredients are present in products in concentrations below 0.01%, which is equivalent to 100 ppm. Limiting disclosure to only those fragrance ingredients present above 100 ppm would unduly limit the disclosure of fragrance ingredients. DEC has amended the Guidance to clarify that fragrance ingredients present under 100 ppm which are not present on a list of chemicals of concern may, if withheld as CBI, be grouped together with other fragrance ingredients meeting such criteria and be disclosed as "fragrance ingredients" instead of listing each withheld ingredient separately as a "fragrance." In such cases, however, the range of the number of fragrance ingredients withheld should be indicated as provided in the Guidance.
6-13: The disclosure criteria and level of disclosure checklist for fragrances should include a de minimis. Suggested de minimis for nonfunctional constituents (NFCs) is 0.01%.	See Response 6-12.
6-14: "The Partial Disclosure of Fragrances; Master List Provided" and "No Disclosure of Fragrances; Master List Provided" should be expanded to include fragrance ingredients used in all of a manufacturer's products; or fragrance ingredients used in a category of a manufacturer's designated consumer products; or fragrance ingredients used in an individual finished product.	Response 6- 14: The Guidance allows manufacturers the option of simply publishing a list of the fragrance ingredients included in all their products, but to do so they have to make and maintain an appropriate justification that more specific product-level fragrance ingredient information can legitimately be withheld as CBI.
6-15: DEC should remove the requirement that an ingredient's presence on a list of chemicals of concern should be disclosed even when the name of the chemical is withheld as CBI.	Response 6-15: The overarching intent of Article 35 of the ECL and 6 NYCRR Part 659 is to provide DEC, the public, and manufacturers with the information they need to assess the potential for cleaning products to adversely affect human health or the environment. The presence of an ingredient on one or more of the lists of chemicals of concern named in the

**Response to Comments**  
**Comments Received on Proposed Program Policy DMM-2**  
**Household Cleansing Product Information Disclosure Program**

Public Comment Period: April 25, 2017- July 14, 2017

Specific Comments	Response
	Guidance is a key indicator of that potential. It is especially important for DEC and the public to know if an ingredient in a cleaning product is potentially hazardous in those cases where information is being withheld as CBI and the precise name and nature of the chemical is unknown.
6-16: New York should follow California's suit and call unintentionally added ingredients "Nonfunctional Constituents".	Response 6-16: The final Guidance refers to unintentionally added ingredients as "nonfunctional ingredients", which includes two subcategories: nonfunctional byproducts and nonfunctional contaminants.
6-17: DEC should use the same list of "Nonfunctional Constituents" as California.	Response 6-17: The law recently enacted by California severely restricts the disclosure of nonfunctional constituents to 34 listed chemicals. There are currently tens of thousands of chemicals used in commerce, and more than 2,000 chemicals appear on the lists of chemicals of concern named in both the California law and DEC's Guidance. New York's approach to nonfunctional ingredients is much more protective. First, DEC requires all known nonfunctional ingredients above 5,000 ppm to be disclosed. Nonfunctional ingredients present in a product under 5,000 ppm must be disclosed if they appear on one of the lists of chemicals of concern named in the Guidance and the manufacturer knows they are present in a product above the threshold levels described in the Guidance.
6-18: The phrase "knows or should reasonably know" is too broad and subjective. Who determines if it is "reasonable to know"?	Response 6-18: The Guidance has been changed to require the reporting of only known contaminants.
6-19: The reporting threshold should be changed to the lowest quantifiable amount if individual chemical evaluations are not going to be done.	Response 6-19: There is no de minimis for the reporting of intentionally added ingredients. The threshold for nonfunctional byproducts that appear on one or more lists of chemicals of concern is the chemical-specific practical quantitation limit. Nonfunctional contaminants have a hierarchy of de minimis levels, with the default being 50 ppb if no other threshold applies.
6-20: DEC should add a table of the various threshold levels for clarity.	Response 6-20: Such a table has been added to the Guidance as Appendix E.
<b>Category 7: Lists of Chemicals of Concern, Number of Comments Received: 14</b>	
7-1: Manufacturers should not be required to "indicate whether each ingredient is present on one or more lists of chemicals of concern, or	Response 7-1: The overarching intent of Article 35 of the ECL and 6 NYCRR Part 659 is to provide DEC, the public, and manufacturers with the

**Response to Comments**  
**Comments Received on Proposed Program Policy DMM-2**  
**Household Cleansing Product Information Disclosure Program**

Public Comment Period: April 25, 2017- July 14, 2017

Specific Comments	Response
if an ingredient meets one or more of the hazard characteristics listed by DEC."	information they need to assess the potential for household cleaning products to adversely affect human health or the environment. The presence of an ingredient on one or more of the authoritative lists of chemicals of concern named in the Guidance is a key indicator of that potential. Similarly, the hazard characteristics named in the Guidance are drawn from the Globally Harmonized System of Hazard Characteristics used across the globe to notify manufacturers, workers and the public of potential hazards associated with a product, ranging from skin irritation to aquatic toxicity. These too are key indicators of the potential for a product to adversely affect human health or the environment.
7-2: DEC should require disclosure if an intentionally added ingredient is on one of the chemical of concern lists, even if the ingredient name is being withheld as CBI.	See Response 7-1 and 6-15.
7-3: Science-based evaluation of risk should be used instead of hazard-based lists.	Response 7-3: Article 35 of the ECL and 6 NYCRR Part 659 clearly contemplate an approach to ingredient disclosure that is based on the gathering of any and all information related to the potential for cleaning products to adversely affect human health or the environment. Such an approach includes the disclosure of hazard information, whether or not the full risk of exposure to a cleaning product is known. A manufacturer is welcome to perform a risk assessment or point to other available information to support the safety of a product that contains hazardous ingredients. Risk assessment is a time consuming and costly undertaking, and the disclosure of potential hazards should not be held up pending the performance of such assessments, which may never be undertaken or take years to complete.
7-4: The Guidance should include only existing US governmental lists and no EU or UN lists.	Response 7-4: The international community and the European Union have often taken a leading role in addressing the presence of chemical hazards in products. The EU and UN lists named in the Guidance are authoritative government lists that provide valuable insight into the potential for

**Response to Comments**  
**Comments Received on Proposed Program Policy DMM-2**  
**Household Cleansing Product Information Disclosure Program**

Public Comment Period: April 25, 2017- July 14, 2017

Specific Comments	Response
	ingredients in cleaning products to adversely affect human health or the environment.
7-5: More lists of chemicals of concern should be included: <ul style="list-style-type: none"> <li>• Guidance lists used in the Green Screen List Translator</li> <li>• Lists identified by the State of California</li> <li>• Target’s most recent Sustainable Product Index and Walmart’s Priority Chemicals list</li> <li>• CDCP’s 4th Report on Human Exposure to Environmental Chemicals.</li> </ul>	Response 7-5: DEC added more lists of chemicals of concern to the final Guidance including the lists identified by the State of California in order to harmonize the two States’ programs as much as possible. However, not all the additional lists named here were added as DEC’s existing lists covered many of the same chemicals.
7-6: Remove the AOEC Asthmagen List.	Response 7-6: While the AOEC Asthmagen list is not a governmental list, it remains the most robust list of asthmagens in the country and the world. New York State has a long history with this list in relation to cleaning products. It forms the basis of the specification for environmentally sensitive cleaning and maintenance products issued pursuant to Chapter 584 of the Laws of 2005 (Education Law §409-i), which requires elementary and secondary schools to purchase such products, as well as the specification issued pursuant to Executive Order No. 4 which requires state agencies and authorities to purchase such products. Asthma is a common result of exposure to cleaning products, especially in children, and the potential to trigger asthma is a key aspect of a chemical’s ability to adversely affect human health and the environment.
7-7: Is the United States Environmental Protection Agency’s (EPA’s) PBT list the same as TRI PBT?	Response 7-7: Yes, the list was initially referred to differently in the New York Guidance and California law, but DEC has harmonized the two.
7-8: Cannot find "possible human carcinogen" list.	Response 7-8: This list does not exist and reference to it has been removed from the Guidance.
7-9: DEC should remove California's Prop 65 from the list of chemical of concern lists.	Response 7-9: The CA Prop 65 list is an important authoritative government list covering carcinogens and reproductive toxins. In order to give manufacturers some protection from self-incrimination in the face of Prop 65’s bounty hunter provisions, the Guidance has been amended to phase in the requirement that manufacturers disclose the fact that a chemical appears on the Prop 65 list. Such disclosure need not be made until January

**Response to Comments**  
**Comments Received on Proposed Program Policy DMM-2**  
**Household Cleansing Product Information Disclosure Program**

Public Comment Period: April 25, 2017- July 14, 2017

Specific Comments	Response
	1, 2023. The Guidance makes it clear, however, that this exception in no way affects any other requirements contained in the Guidance. In other words, a chemical on the Prop 65 list would still have to be reported, unless it is withheld as CBI, and the fact that it appears on another list of chemicals of concern, for example the National Toxicology Program’s carcinogen list, would still have to be reported, whether the specific name of the ingredient is withheld as CBI or not.
7-10: What are the GHS lists and where can they be accessed to find out more?	Response 7-10: The Globally Harmonized System, an organization that oversees the design and use of hazard communication safety data sheets, designates hazard characteristics to be disclosed on safety data sheets. They are widely recognized in the scientific and manufacturing communities as a valid and authoritative source of information regarding the potential impact of products on human health and the environment. Links to the characteristics are included in the Guidance.
7-11: The GHS classifications should be applied to finished products instead of individual ingredients.	Response 7-11: The Guidance has been amended to conform with this recommendation.
7-12: DEC should allow manufacturers of commercial cleaning products the option to disclose the required information in another form, such as within a Safety Data Sheet (SDS).	Response 7-12: The Guidance has been amended to allow the disclosure of required information in an SDS as long as the content and form of disclosure meets all the requirements included in the Guidance, including machine readability.
7-13: SDS’ are not machine readable and should not be used as a form of ingredient disclosure.	Response 7-13: Manufacturers will only be able to use an SDS for disclosure if it is in a form that is machine readable.
7-14: Manufacturers already disclose hazardous ingredients in a product's SDS. Could disclosure happen through requiring SDS to be available without making a user account?	Response 7-14: The disclosure requirements for ingredients in an SDS are not as robust as the requirements of the NYS Cleaning Product Information Disclosure Program, so simply allowing an SDS to substitute for meeting program requirements would not be adequate. See also Responses 7-12 and 7-13.

**Response to Comments**  
**Comments Received on Proposed Program Policy DMM-2**  
**Household Cleansing Product Information Disclosure Program**

Public Comment Period: April 25, 2017- July 14, 2017

Specific Comments	Response
Category 8: Research on Human Health and the Environment, Number of Comments Received: 8	
8-1: The section regarding the disclosure of research on effects on human health and the environment should be removed.	Response 8-1. ECL §35-0107 explicitly directs that “the nature and extent of investigations and research performed by the manufacturer concerning the effects of such products on human health and the environment” be included in the disclosure of information about cleaning products. This type of information is key to providing DEC and the public with the data they need to assess the potential for household cleaning products to adversely affect human health or the environment. In response to requests from stakeholders, DEC provided additional clarity in the final Guidance regarding which investigations are covered by this requirement. For example, manufacturers do not need to post studies submitted under the federal TSCA program or EU’s REACH program where the name of the company has been withheld as CBI. In addition, for investigations which are not reported under TSCA or REACH, manufacturers must simply report the number and type of studies they have conducted on each ingredient and the product as a whole.
8-2: Support for the requirement that companies provide information concerning effects on human health and the environment.	Response 8-2: Noted.
8-3: The requirement for research on human health and environmental effects should be strengthened and provide more details.	Response 8-3: Substantial detail has been added to this section to provide more information and direction to manufacturers, and to harmonize DEC’s requirements with existing requirements under the federal TSCA and EU REACH.
8-4: Is research reporting ingredient by ingredient?	Response 8-4: Research on human health and environmental effects must be reported per ingredient where available. This requirement has been clarified in the language of the Guidance.
8-5: The manufacturer should include who conducted the research, who financed it, and when the research was performed.	Response 8-5: Noted. This requirement has been clarified the final Guidance.
8-6: The mandatory heading "Effects on Human Health and the Environment" should be removed.	Response 8-6. The heading “Effects on Human Health and the Environment” is clearly in keeping with the language and intent of Article 35 of the ECL and 6 NYCRR Part 659. The requirement to provide and code this phrase as an

**Response to Comments**  
**Comments Received on Proposed Program Policy DMM-2**  
**Household Cleansing Product Information Disclosure Program**

Public Comment Period: April 25, 2017- July 14, 2017

Specific Comments	Response
	<H1> or <H2> heading will make online searches more effective and allow the public to easily locate the information they need to assess the potential impact of a specific cleaning product on human health and the environment.
8-7: Manufacturers should be allowed to claim CBI for the research requirement.	Response 8-7: The language in the Guidance and New York State law clearly allow for CBI claims in this area.
8-8: The risk-based ingredient information manufacturers provide under Federal Hazardous Substances Act (FHSA) is sufficient to fulfill the research requirement.	Response 8-8: The Guidance has been amended to provide more detail regarding the information needed to fulfill the research disclosure requirement, and to allow the posting of information through such programs as the American Cleaning Institute’s Ingredient Safety Initiative to satisfy the requirement as long as the content and form of the information meets all the requirements described in the Guidance.
Category 9: Headings, Number of Comments Received: 1	
9-1: The headings should be changed to Manufacturer Information, Product Identity, Ingredients, Fragrance Ingredients, Non-Functional Constituents, and Effective Dates.	Response 9-1: The headings have been reduced to “Ingredients,” “Extent of Disclosure,” and “Effects on Human Health and the Environment.” In lieu of other headings, the actual name of the product, the product’s manufacturer, and the product’s UPC code must all be coded as an <H1> or <H2> HTML heading.
Category 10: Manufacturer Information, Number of Comments Received: 2	
10-1: The requirement for a company contact should be changed to a toll-free customer service number or other form of electronic communication. The requirement for a single employee contact could cause delays. However, the manufacturer representative must be someone who can answer questions about the ingredient reporting, not just a customer service representative.	Response 10-1: The requirement has been changed to the name, title, email address, toll-free telephone number and mailing address of a staff person or customer service department trained to work with the public and help consumers obtain the most up to date ingredient information in the most efficient manner. Answers to inquiries should be provided in no more than seven business days.
10-2: The requirement for the complete name of the manufacturer of the final product should be removed and replaced with a requirement for the private label distributor's company name.	Response 10-2: DEC recognizes that the name of the manufacturer of the final product is considered CBI in some cases. We have changed the language in the Guidance to allow disclosure of the name of the final domestic distributor in lieu of the manufacturer name in these cases.

**Response to Comments**  
**Comments Received on Proposed Program Policy DMM-2**  
**Household Cleansing Product Information Disclosure Program**

Public Comment Period: April 25, 2017- July 14, 2017

Specific Comments	Response
<b>Category 11: Product Identification, Number of Comments Received: 1</b>	
11-1: The requirement to list the product's category in the GS1 Global Product Classification standard should be removed.	Response 11-1: This is useful information that should be easy for manufacturers to provide.
<b>Category 12: Ingredient Information to be Disclosed, Number of Comments Received: 12</b>	
12-1: The Guidance should state that all required information be provided for each ingredient individually, not for the entire product.	Response 12-1: The language in the Guidance has been edited to clarify that the information to be disclosed is per ingredient.
12-2: Support for the requirement for the disclosure of CAS number. However, there should be an option to withhold it as confidential business information (CBI).	Response 12-2: The Guidance allows for CAS numbers to be withheld as CBI where appropriate. In the case where a CAS number or specific chemical name is being withheld, the generic name for the chemical as provided in the federal Toxic Substances Control Act Confidential Inventory should be used. If no such name exists, a generic name should be used that is only as generic as necessary to protect the chemical's confidential identity.
12-3: DEC should allow manufacturers to disclose the CAS name in lieu of the CAS number.	Response 12-3: The disclosure of CAS number is required for all ingredients for which a CAS number is available, unless it is being withheld as CBI. The CAS number is important because it provides consistency across nomenclature systems. The CAS name is not universally used, so it is not equivalent to CAS number.
12-4: Manufacturers should have the freedom to decide which chemical naming system they use between CAS, CSPA, INCI, IUPAC, or common name.	Response 12-4: The common name is not specific enough to provide useful information. Manufacturers have the freedom to use the nomenclature system of their choice between CSPA, INCI, IUPAC, and the Chemical Abstract Index until January 1, 2020. After this time, manufacturers must follow the hierarchy outlined in the final Guidance, which was designed to align with the nomenclature requirements in the California law and the systems most widely used by industry. Establishment of a hierarchy is necessary to improve the consistency of disclosures across manufacturers.
12-5: The following hierarchy of chemical naming systems should be used: CSPA, INCI, IUPAC, CAS name or common name. CAS Registry Number should be required for all.	Response 12-5: The nomenclature hierarchy outlined in the final Guidance has CSPA or INCI as the primary naming systems, IUPAC as the secondary, CAS name as the tertiary, with the common name being only used when none of these are available. CAS Registry Number is always required, except when withheld as CBI.

**Response to Comments**  
**Comments Received on Proposed Program Policy DMM-2**  
**Household Cleansing Product Information Disclosure Program**

Public Comment Period: April 25, 2017- July 14, 2017

Specific Comments	Response
12-6: INCI nomenclature should be an available system for disclosure.	Response 12-6: Under the new nomenclature hierarchy, INCI is one of the primary systems that can be used to disclose ingredients.
12-7: The naming options offered in the American Cleaning Institute's programs should be used. If mandating the disclosure of CAS number, manufacturers should be allowed to pick which naming option they use.	Response 12-7: The revised nomenclature hierarchy allows manufacturers more flexibility and aligns more with the nomenclature used in industry. See also Responses 12-4 and 12-5.
12-8: Oppose the requirement for manufacturers to list the descriptor "fragrance" for every occurrence of a CBI fragrance ingredient.	Response 12-8: The number of chemicals in a fragrance may be considered as CBI in some cases. The Guidance has been changed to allow a manufacturer to list "Fragrance Ingredients" with a range of the number of chemicals that are being withheld. However, this level of disclosure is only permitted for fragrance chemicals present under 100 ppm that are not on a list of chemicals of concern. Fragrances present above 100 ppm or present on a list of chemicals of concern may also be withheld as CBI, but must be listed individually as "Fragrance," along with a clear indication of the lists of chemicals of concern on which a chemical appears.
12-9: A manufacturer should be allowed to list chemical function in lieu of a chemical name to protect CBI. Fragrances should be allowed to be listed as such and refer to the availability of more information elsewhere.	Response 12-9: Manufacturers are allowed to do this, but they must also indicate that the name of the ingredient was withheld as CBI.
12-10: Ingredients greater than 1% should be listed in descending order without disclosing percentages, fixed or range, and those under 1% should be listed in any order.	Response 12-10: After extensive discussions with stakeholders, DEC has changed the content by weight reporting requirement to descending order of predominance above 1% and any order below 1%. DEC believes this approach will provide a similar degree of information to consumers.
12-11: An ingredient's presence on a list of chemicals of concern should not be in a different location than the list of ingredients. An additional category for each ingredient should be required under which all relevant lists of chemicals of concern should be named.	Response 12-11: The language of the Guidance has been changed to make it clear that an ingredient's presence on a list of chemicals of concern should be noted as part of the main ingredient list. Each list of chemicals of concern on which an ingredient appears must be listed for each ingredient.
12-12: DEC should require that the lists on which an ingredient appears be identified using the name highlighted in the Guidance.	Response 12-12: The language in the Guidance has been edited to clarify this.

**Response to Comments**  
**Comments Received on Proposed Program Policy DMM-2**  
**Household Cleansing Product Information Disclosure Program**

Public Comment Period: April 25, 2017- July 14, 2017

Specific Comments	Response
<b>Category 13: GreenScreen Benchmark, Number of Comments Received: 4</b>	
13-1: GreenScreen Benchmark section should be deleted.	Response 13-1: The GreenScreen Benchmark requirement has been removed.
13-2: GreenScreen Benchmark should be optional. DEC should consider assessment options from other entities.	See Response 13-1.
13-3: Are there requirements of who can perform the GreenScreen?	See Response 13-1.
13-4: Can you clarify what "entity" means? Could that mean the location for the information such as Pharos database?	See Response 13-1.
<b>Category 14: Nanoscale Materials, Number of Comments Received: 2</b>	
14-1: The definition of a nanomaterial should be deleted as no unified determination of the definition of nanomaterial exists	Response 14-1: EPA requires disclosure of nanoscale materials under TSCA. In doing so, they have created a definition for what is considered a nanoscale material. The Guidance has been updated to harmonize with this EPA definition.
14-2: The requirement to disclose nanomaterials should be removed. Rely on TSCA/ LCSA.	Response 14-2: The requirement to disclose nanoscale materials is important as the potential human health and environmental effects of such substances are not yet fully understood. However, the disclosure of this information is subject to CBI claims.
<b>Category 15: Dates of Disclosure, Number of Comments Received: 7</b>	
15-1: When will the program be implemented? Asks that manufacturers have two years from the publication of the final Guidance to post the required information.	Response 15-1: The effective dates for implementation have been changed in the final Guidance. Manufacturers will have until July 1, 2019 to disclose intentionally added ingredients (excluding fragrances) and nonfunctional ingredients above trace. Small businesses, defined as those that are independently owned and operated and have less than 100 employees, have until July 1, 2020 to comply with these requirements. Flexibility in the nomenclature hierarchy remains until July 1, 2020, and manufacturers have until July 1, 2020 to disclose fragrances, a short list of nonfunctional byproducts and nonfunctional contaminants below trace, and research on human health and the environment. Manufacturers have until

**Response to Comments**  
**Comments Received on Proposed Program Policy DMM-2**  
**Household Cleansing Product Information Disclosure Program**

Public Comment Period: April 25, 2017- July 14, 2017

Specific Comments	Response
	January 1, 2023 to disclose the full list of nonfunctional byproducts and nonfunctional contaminants.
15-2: Please allow 5 years to disclose substances listed in Prop 65.	Response 15-2: The Guidance has also been amended to allow manufacturers until January 1, 2023 to disclose the fact that a chemical appears on the CA Prop 65 list.
15-3: The Guidance should require manufacturers to update the disclosed information annually instead of every 2 years.	Response 15-3: In an effort to balance the burden of updating the information disclosed with the value of having up-to-date information available to consumers, DEC has retained the requirement to update the disclosed information every two years. However, language has been added to require updates related to a change in the list of chemicals of concern or a change to the product no later than six months after the change occurs.
15-4: Requests that DEC remove the provision to edit the list of chemicals of concern. If DEC keeps this in the final Guidance, DEC should notify the regulated industry and provide opportunity for comment.	Response 15-4: DEC retains the right to edit the list of chemical of concern lists, but will notify industry and allow for comment before adding or subtracting to the list.
15-5: Support the six-month implementation date and the requirement for updates every two years.	Response 15-5: Noted.
15-6: DEC should strike the provision for posting legacy data on discontinued products until the expiration of the date of the product.	Response 15-6: Since cleaning products do not generally have an expiration date, ingredient information should be accessible to the public as long as customers are using a product, and not be removed simply because a product is no longer available in stores. The Guidance has been amended to require that such information be retained for 2 years after the manufacturer discontinues a product.
15-7: DEC should require that new forms be submitted when the manufacturer's websites are redesigned.	Response 15-7: Language has been added to the Guidance requiring that new certification forms be submitted to the DEC within two months of a uniform resource locator (URL) change or a new product entering the market.