

## Full Disclosure:

### What we learned about EPA's *Design for the Environment (DfE)* Program

#### *Background and Presentation to US EPA, March 16, 2010*

The National Collaborative Work Group on Green Cleaning and Chemical Policy Reform in Schools (The Collaborative) was formed in late 2006, and by summer 2008 had successfully assisted Green Seal in upgrading its GS 37 standard for certifying cleaning products commonly sold to K-12 schools, and had launched a new "industry-free" green cleaning training toolkit and website found at [www.CleaningforHealthySchools.org](http://www.CleaningforHealthySchools.org). The Collaborative has since expanded to include additional national and state groups.

In Fall 2008, The Collaborative published a Memo regarding Model State Bill language, building on lessons from New York State which requires all schools to use certified green cleaning products (enacted 2005) and Illinois (enacted 2007), as well as to offset the efforts of chemical companies to keep conventional cleaning products on government procurement lists.

A happy result of several years' intensive work is that The Collaborative recommends Green Seal and Eco Logo as independent third-party certifiers of general all-purpose cleaning products.

**The Collaborative does not recommend products carrying the EPA *Design for the Environment (DfE)* Label at this time.** We applaud EPA's technical assistance program that helps companies design better chemical-intensive products, and we are urging EPA to consider renewing its partnerships with existing certifiers. However, there are many issues EPA needs to address, such as whether DfE should or could be a certifier, or how it should re-structure to at least meet EPA's own criteria for certifiers and meet the needs of government procurement agencies.

**Full disclosure:** the following pages contain the list of meeting participants, agenda, handouts, and other documentation prepared for an advocates-led meeting with EPA on March 16, 2010 that included representatives from fifteen different organizations, including public interest nonprofits and educational associations, government agencies, and certifiers. EPA's non-technical response is also attached for the readers' interest.

**Summary of Meeting with  
United States Environmental Protection Agency (EPA)  
RE: Design for the Environment (DfE) Program  
Washington, DC  
March 16, 2010, 1 PM**

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**ATTENDEES**

**EPA Representatives in the room:**

Barbara A. Cunningham, Acting Deputy Director, Office of Pollution Prevention and Toxic, US EPA  
Clive Davies, Chief, Design for the Environment Program, US EPA  
Neil Patel, Deputy Director, Economics, Exposure and Technology Division, US EPA

**Public Interest Nonprofits in the room:**

Claire Barnett, MBA, Founder and Executive Director, Healthy Schools Network, Inc.  
C. Denise Bowles, MOSH, CEI, Industrial Hygienist, AFSCME International  
Veronika Carella, children's advocate, past Chair Maryland PTA Health & Environmental Issues Committee

**Independent Third party Certifier/Nonprofits in the room:**

Scott Case, Vice President, TerraChoice, Manager, EcoLogo Program/ PA  
Mark S. Rentschler, PhD, VP, Institutional Greening Programs, Green Seal, Inc.

**By Telephone - Public interest advocates:**

Alicia Culver, Executive Director Green Purchasing Institute/CA  
Julia Earl, Executive Director Preventing Harm Minnesota/MN  
Tolle Graham, CIH Organizer, MassCOSH; Coordinator, MA- HSN, MA Committee for Occupational Safety and Health;  
MA Healthy Schools Network/MA  
Joellen Lawson, Honorary President Connecticut Foundation for Environmentally Safe Schools (ConnFESS)/CT  
Deborah Moore, Executive Director Green Schools Initiative/CA  
Rebecca Sutton, PhD, Senior Scientist, Environmental Working Group/CA  
Shirley Schantz, PhD, National Association of School Nurses

**By Telephone - State/Public Agency Purchasers:**

Elizabeth Meer, Special Assistant, Commissioner's Policy Office, NYS Department of Environmental Conservation/NYS  
Marcia Deegler, Director of Environmental Purchasing, Operational Services Division, State of Massachusetts/MA  
Chris Geiger, EPP Manager, San Francisco

**MEETING SUMMARY**

The meeting opened shortly after 1 PM with distribution of agenda and supplementary materials, and self-introductions. Links to the PowerPoint Illustration, participant list, and all meeting handouts are included at the end of this document.

**Purpose of the Meeting**

The purpose of this meeting was to discuss the advocates' interests in advancing safer cleaning products and environmentally preferable purchasing policies for K-12 schools nationwide and to solicit DfE's cooperation and partnership in that effort. The advocates stated that their organizations along with DfE have been operating on parallel fronts. While significant success has been achieved by all parties, the group believes that the process now finds itself at a cross-roads, and urged that EPA officials make major decisions about the DfE program and communicate them widely.

**Summary**

Public interest nonprofit attendees requested a detailed, formal written response from senior officials of the US Environmental Protection Agency (EPA) to the multiple concerns expressed last fall via written public comments to the EPA in response to DfE's document *Criteria for a Safer Cleaning Products in the Form of a Standard*. The group also requested that EPA decide if DfE would become a third-party certification program, and if so, how it would restructure to meet those operational requirements and the needs of government procurement agencies. They also requested that EPA exert new oversight on DfE operations. Attendees look forward to working with EPA officials and with DfE to resolve the issues documented and discussed at the meeting.

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**Overview of Discussion Points:**

Advocates outlined and provided documentation of their primary concerns to the DfE staff and engaged the participation of group members at the table as well as those calling in from other parts of the country to present or to comment on various slides in the discussion.

The three key aspects in the discussion addressed the following:

- The success in using third-party certifications to specify green cleaning products, and how the DfE program might complement that process - as it once did;
- Shortfalls of the DfE program with respect to 1- criteria screen development and application of the screens, 2- insufficient oversight of corporate partners, and 3- misrepresentations of the DfE label by DfE and by partners; and
- The variety of reasons as to why the DfE labeling program does not meet the needs of government purchasers, including the lack of a clearly defined and verifiable sets of standards for chemical-intensive products.

The advocates expressed long-standing support of DfE as an innovative technical assistance program in green chemistry; however, they detailed mounting concerns over DfE's awarding of EPA labels to corporate partners whose products do not meet existing independent third-party certification standards. Moreover, when placed on chemical products, the EPA label gives the appearance of an EPA "certification and endorsement" of these products, when in fact, by law, EPA cannot endorse or test products.

There were also concerns regarding DfE program and its contractors meeting the requirements of Federal Advisory Committee Act (reliance on sets of advisers who do not have federal appointments; no public records of recommendations), the National Technology Transfer Act, and FTC regulations on misleading environmental claims, and other issues were also brought to the attention of the EPA program offices present.

The key request from public interest advocates, state/public agency and from certifiers was to ask EPA to make a decision if DfE would become an independent third party certifier of chemical intensive products, especially since there are already third party certifiers in operation with transparent, known, verifiable -- and stronger -- comprehensive standards.

Concern was also expressed that given the need and the pressure for Toxic Substances Control Act reforms (TSCA, chemical policy) and EPA's mandate to regulate chemicals in commerce, that DfE labeling is setting an unfortunate federal precedent that will be open to abuses in less progressive administrations.

Advocates urged that instead of solving DfE programmatic issues piecemeal, and given the multiple interlocking problems documented by advocates and state agencies present, EPA senior officials should seize the opportunity to develop careful written administrative policies and procedures that would prevent past and future problems at the root.

It was also suggested that EPA should proactively explore renewing collaborations with public interest advocates and government purchasing sectors to advance its technical assistance work.

The group stated that they look forward to a response from EPA senior officials on all their concerns expressed at the meeting and first elevated in DfE technical comments filed last fall.

Prior to leaving the meeting at 2 PM, Cunningham directed DfE's Davies to ensure that all individuals and groups that had submitted technical comments on the DfE program last fall were given copies of DfE's formal response to comments; Davies indicated these had been posted to the DfE web in late February (*Note: the first meeting with EPA/ DfE had been scheduled for late February but was cancelled due to a major snowstorm*).

None of the meeting attendees had been informed that DfE had posted a response to Nov 30<sup>th</sup> technical comments.

Attendees also declined the offer of Davies to conduct another webinar on the progress of the DfE program to date; most attendees had already participated in multiple DfE presentations, webinars, and phone calls during the last two years and into 2009.

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Attendees instead look forward to working with EPA officials and with DfE to resolve the issues documented and discussed at the meeting.

*Culver identified and circulated the link that day: EPA response to comments on the DfE proposed screens:*

[http://www.epa.gov/dfe/response\\_to\\_comments\\_on\\_enhancements\\_to\\_the\\_dfe\\_standard\\_for\\_safer\\_cleaning\\_products\\_final.pdf](http://www.epa.gov/dfe/response_to_comments_on_enhancements_to_the_dfe_standard_for_safer_cleaning_products_final.pdf)

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**CIRCULATED MATERIALS**

1. "Agenda" – a detailed agenda with bullet points and speakers: moderated by Claire Barnett.
2. "Participants Contact Information" - Self introduction and identification of affiliations by participants and a disclaimer that public agency representatives had been invited for technical comments on what purchasers need.
3. "INSIDE EPA.COM Risk Policy Report – 2/23/2010: EPA Urged to Strengthen 'Design' Plan To Guide Green Cleaning Bills"
4. Copies of DfE Public Comments of November 30, 2009: including Nov 30<sup>th</sup> group technical comments, technical comments to New York State of Nov 19, 2009, and a Technical Review of DfE characteristics conducted for California's pending bill AB 821 (2009-2010)
5. "Meeting with EPA re: DfE March 16, 2010" A PowerPoint to Illustrate Issues (16 pages hardcopy)
  - i. History of > ten NGO meetings and discussions with DfE Program Staff – Claire Barnett
  - ii. Success of Existing Third Party Certifiers - Mark S. Rentschler
  - iii. Attributes of Credible Third Party Certification Programs - Scott Case
  - iv. Multiple Concerns with EPA's DfE Program - Deborah Moore and Alicia Culver
  - v. DfE Does Not Follow Acceptable Type 1 Eco-labeling Protocols - Deborah Moore
  - vi. Some of DfE's Screens are Vague & Weaker than GS/EcoLogo Standards - Alicia Culver
  - vii. DfE Screening Criteria Keep Changing - Mark S. Rentschler
  - viii. Old DfE-recognized Products Not Required to Meet New Screens - Alicia Culver and Deborah Moore
  - ix. DfE Represents Itself as a Third-party Certification Program – Deborah Moore
  - x. "DfE Certified" misused by DfE; misused by manufacturers and retailers – Elizabeth Meer and Claire Barnett
  - xi. Technical Comments: Purchasers and Advocates - Marcia Deegler, Beth Meer; Joellen Lawson and Veronika Carella
  - xii. Federal Compliance Questions – Claire Barnett
  - xiii. Wrap up and Summary –with additional supporting comments from Denise Bowles, Julia Earl and Tolle Graham
6. "Attributes for Credible Third-Party Certification Programs (2 pages hardcopy) –(*supporting document for slide # iv*)
7. "EPA Design for the Environment – September 2009 Flyer" -- (*example supporting slide # xi*)
8. SDA and CSPA Testimonies for Connecticut House Bill 6496 February 23, 2009 – Joellen Lawson (*supporting slide # xii*)
9. Maryland House Bill 1380 Introduced February 18, 2010 – Veronika Carella (*example #4 supporting slide # xii*)

**LINKS to MEETING MATERIALS:**

**Agenda and other handouts:**

[http://docs.google.com/fileview?id=0B-jj-Uqv\\_J65NDk4YjVjZjgtYmRlMmY0MTRkLWlyMTgtOTEzZDU2ZDU3NzNk&hl=en](http://docs.google.com/fileview?id=0B-jj-Uqv_J65NDk4YjVjZjgtYmRlMmY0MTRkLWlyMTgtOTEzZDU2ZDU3NzNk&hl=en)

**PowerPoint Illustrations of Concerns:**

[http://docs.google.com/present/edit?id=0Aejj-Uqv\\_J65ZGM2bTlZNGtfMzA4N2ZjcG10Y3Q&hl=en](http://docs.google.com/present/edit?id=0Aejj-Uqv_J65ZGM2bTlZNGtfMzA4N2ZjcG10Y3Q&hl=en)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 08 2010

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

Ms. Claire L. Barnett  
Executive Director  
Healthy Schools Network, Inc.  
773 Madison Avenue  
Albany, NY 12208

Dear Ms. Barnett:

Thank you for coming in on March 16 to share your comments on the Design for the Environment (DfE) Safer Product Labeling Program and for arranging the participation of the other meeting attendees. While I was not able to attend the meeting, I have seen your materials and been briefed by my staff.

DfE is an EPA program dedicated to implementing green-chemistry solutions and improving the human health and environmental profile of chemical-based products. Under the Safer Product Labeling Program, DfE harnesses EPA's chemical expertise to ensure that each ingredient in a labeled product is among the safest in its class. DfE works in partnership with product manufacturers to help them formulate with green chemistry ingredients and continue to improve their products over time. We allow the use of our DfE label only after a manufacturer has demonstrated that its product meets the DfE safer ingredient criteria for a full array of toxicological endpoints. These criteria are based on EPA and international guidelines and contain pass/fail requirements along with other requirements.

We consider the DfE program to be an essential part of EPA's mission and a valuable service to the public. It is important to note that chemical exposures during the use and disposal of cleaning products represent the largest source of potential risks from these products. The DfE program's unique green chemistry focus and product review criteria help to provide the highest level of protection for families and the environment.

To complement our leadership position on safer chemistry, DfE has sought to enhance other aspects of its labeling program. Our continuous improvement ethic extends not only to our partners who are required to improve their formulations to keep pace with green-chemistry advances but to the DfE program as well. Based on feedback from you and others, EPA has adopted many of the recommendations it has received, especially those related to increasing the program's transparency and ability to oversee partners and recognized products. Please see the enhanced version of the DfE standard and the response-to-comment document where we have addressed many of your concerns and comments at: [http://www.epa.gov/dfe/standard\\_for\\_safer\\_cleaning\\_products.pdf](http://www.epa.gov/dfe/standard_for_safer_cleaning_products.pdf) and

[http://www.epa.gov/dfe/response\\_to\\_comments\\_on\\_enhancements\\_to\\_the\\_dfe\\_standard\\_for\\_safer\\_cleaning\\_products\\_final.pdf](http://www.epa.gov/dfe/response_to_comments_on_enhancements_to_the_dfe_standard_for_safer_cleaning_products_final.pdf)

EPA shares your commitment to protecting children's health and looks forward to your participation in our ongoing efforts to enhance the DfE program.

I hope that this information is useful. If you have further questions about the DfE Program, please contact Barbara Cunningham at 202-564-8198 or Robert Lee at 202-564-8786.

Sincerely,



Stephen A. Owens  
Assistant Administrator

Cc: Denise Bowles  
Veronika Carella  
Scot Case  
Alicia Culver  
Marcia Deegler  
Julia Earl  
Chris Geiger  
Tolle Graham  
Joellen Lawson  
Beth Meer  
Deborah Moore  
Shirley Schantz  
Rebecca Sutton  
Mark Rentschler