

Considerations for State Model Bill Text

Requiring the Use of Green Cleaning Products in Schools

developed by

The National Collaborative Work Group on Green Cleaning and Policy Reform in Schools

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Updated June 2009: see pp 5-8 for CT and NY bill texts

Updated August 2014 with VT law and other details

Green cleaning is growing in popularity. **Eleven states** and the District of Columbia now require or promote the use of certified green cleaning products in schools. First was New York in 2005 (required). The recommended model state laws today (2014) are Connecticut's enacted in 2009 and Vermont's, in 2012. See the end of this document for links to those laws and links to New York State's green cleaning and green procurement programs.

States and cities are increasingly considering various executive orders, legislative mandates, directives for best practices, and chemical policy reforms banning specific substances or creating green chemistry and pollution prevention initiatives, such as buying green and green cleaning.

Develop in 2008 to offset chemical industry lobbying for state policies that permitted any entity including the industry to define what was "green", the purpose of this memo is to provide high quality guidance on model bill text for consideration by NGO's and public agencies promoting state/city legislation for green cleaning.

Core elements:

Define the scope and timing of implementing the law or program:

- The legislative intent should speak to children's special vulnerabilities, exposure of school staff to chemicals, and the problem of release of chemicals to the environment (Example: see NYS bill intent. See Appendix to CleaningforHealthySchools.org).
- The state/city regulations or guidelines shall be followed by both private and public elementary and secondary schools; an effective date shall be identified
- The responsible state/city agency (s) must be identified that will develop the implementation regulations or guidelines, maintain a sample list of products, and disseminate compliance information to all elementary and secondary schools. (Example: see NYS bill text).

- Option: If childcare centers are to be addressed, separate legislative approval may be required, because childcare facilities may not be under the education agency.

Define what “green products” and/or “environmentally preferable products” are; define green cleaning.

One definition used for green cleaning is that it is an approach to facility maintenance that puts health first by promoting effective cleaning through the use of less toxic cleaning products, state of the art cleaning practices, and advanced technology to clean buildings while protecting the environment and the health of children, workers and other building occupants (From Cleaning for Healthy Schools Toolkit).

“Environmentally Preferable” is defined by the Federal government in Executive Order 13101 which has since been superceded, but this classic text is still in wide use:

“Environmentally preferable” means products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service.”

To specifically include children as sensitive populations, the New York State-enacted law states: *“Environmentally-sensitive cleaning and maintenance products” means those cleaning and maintenance products that minimize adverse impacts on children’s health and the environment.*

The bill should also specify the **types of cleaning products** addressed in the policy: general all purpose cleaning products, including floor cleaners and floor finishes, cleaners for carpets, walls, desks, lavatories, and windows; hand soaps and hand sanitizers; paper towels. Room deodorizers/air fresheners and toilet deodorizers should be prohibited. Review the websites of two international independent third-party certification organizations-- Green Seal and Terra Choice-- to see the types of cleaning products those organizations certify.

Define how the state/city agency should decide which products are ‘green’.

A-The bill may mandate use of **Third Party Certified** (TPC) products. TPC means that cleaning products have been certified by an established and legitimate, nationally-recognized program developed for the purpose of identifying environmentally preferable products. Any such TPC certification program shall:

- Have an open, transparent process for setting standards that involves the public and key stakeholders
- Clearly define the fees a manufacturer must pay for certification;
- Clearly identify any potential conflicts of interest;
- Have criteria for certification that are publicly available and transparent;
- Base certification on consideration of human health and safety, ecological toxicity, other environmental impacts, and resource conservation, as appropriate, for the product and its packaging, on a life cycle basis;
- Require periodic revisions and updates of the standards;

- Monitor and enforce the standards, provide for the authority to inspect the manufacturing facilities, and periodically do so;
- Have a registered/legally protected certification mark;
- Make the standards easily accessible to purchasers and manufacturers (e.g. available for download on the program's website);
- Be developed by consensus, if possible;
- Establish leadership levels in standards for products.

B- If the bill text does not require the use of "Third Party Certified" products as written above, the text should identify the state/city agency or agencies responsible for identifying green products and how the agency shall establish guidelines and specifications for environmentally-preferable cleaning and maintenance products for use in elementary and secondary school facilities. The bill should describe the process the agency(s) will use, paralleling the processes used by leading Third Party Certifiers, and including:

- The frequency with which guidelines should be updated;
- A revision process that reviews and evaluates existing research, standards, and guidelines regarding environmentally-preferable cleaning and maintenance products, including, but not limited to, research and guidance issued by the United States Environmental Protection Agency, the Office of the Federal Environmental Executive, and independent third party certification organizations, among others, in order to develop such guidelines;
- The lead agency(s) will consult with the state agencies for health, environment, and education, as well as other relevant state agencies and other stakeholders in developing the guidelines;
- A procedure to provide public notice and an opportunity to comment on guidelines prior to their adoption.

Designate the lead state/city agency(s) responsible for administering the development of product specifications or guidelines and the program, including the following required activities:

- Dissemination of requirements and guidelines to all elementary and secondary schools;
- Identification of the elementary and secondary school personnel who will receive the regulations, guidelines, specifications, and product list;
- Maintaining a list of environmentally-preferable cleaning and maintenance products that meet the established regulations, guidelines or specifications. The sample TPC purchasing specifications should be made available to all state agencies, schools, and child care centers.
- Maintaining a list of contractors which produce, manufacture, or offer for sale environmentally-preferable cleaning and maintenance products in the form, function, and utility generally used by elementary and secondary schools.

Additional elements to be addressed:

1-The bill should include a clause on **training requirements** to ensure employees receive training about new products and procedures and are paid for the training time. For example, a state health agency can develop a curriculum or outline for training that schools can use.

2-The bill should determine a date by when a **report providing an analysis of the impact** of the guidelines and specifications on the purchasing, procurement, and use of environmentally-

preferable cleaning and maintenance products by elementary and secondary schools is to be complete. The report should include information about costs, occupational accidents, attendance, and avoided pollution, if possible.

3-The bill should allow schools to **deplete existing supplies, establish an effective date for the law**, and identify a **date by which schools must implement the use** green cleaning products.

4-**Ban the use of room deodorizers/air fresheners and toilet deodorizers**

Options for strengthening a state/city bill:

1. Adopt a **Penalty**. Establish an enforcement mechanism that defines the amount of a fine, the agency responsible for enforcement, and the individual or agency who would receive the fine should cleaning products be used in schools that do not conform to the established guidelines after the effective date of the law.
2. Create **incentives** (along with or in place of penalties). Incentive programs can be designed to offer incentive grants, rebates, or discounts to schools to implement green cleaning or purchase some kinds of equipment. Future fees from non-compliance could be contributed to incentive programs.
3. Authorize a state agency (e.g., Department of Health, Department of Education) to **seize** any cleaning product found at a school in violation of this act. The seized cleaning product shall be forfeited.
4. Offer **Technical Assistance**. Identify (or contract out) an agency that will provide technical assistance such as school facility audits.
5. **State/city contracts**. Encourage the state procurement agency to offer green janitorial products that comply with the guidelines via state procurement contracts. Encourage schools to utilize state or regional purchasing contracts for janitorial products to generate bulk purchasing discounts.
6. Procure only environmentally preferable **disinfectants**, if and when such disinfectants are identified and become readily available. (Note: EPA set up a study group fall 2008 to consider EPP disinfectants).
7. Allow an **accommodation waiver** in order to provide protection for staff and school children who still may be sensitive to a green-rated product. The bill could allow an individual who works or occupies a regulated building to request [and the facility to utilize] an alternative cleaning product if the individual experiences adverse health effects from allergic or hypersensitivity reactions due to exposure to a listed product.

FOOTNOTES

Sources: The above considerations are based on bills successfully enacted in the states of New York and Illinois, bills introduced in Massachusetts and California, Work Group discussions, advice from Green Seal and Terra Choice (Eco-Logo), and policy features outlined by the Environmental Law Institute in its 2007 green cleaning policy memo.

Certifiers: Caveat Emptor- "let the buyer beware". There are many new 'certifiers' for green products, but not all qualify as independent third party certification organizations.

At this time, US EPA's Design for the Environment program operations do not make it a Third Party Certifier, although EPA licenses the program logo to participating companies that may appear on product labels. This does not mean that EPA DfE has verified or certified the actual ingredients of a product.

Appendix I

Model State Bill Consideration

Connecticut:



Substitute House Bill No. 6496

Public Act No. 09-81

AN ACT CONCERNING GREEN CLEANING PRODUCTS IN SCHOOLS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2009*) (a) As used in this section, (1) "green cleaning program" means the procurement and proper use of environmentally preferable cleaning products in school buildings and facilities, and (2) "environmentally preferable cleaning product" includes, but is not limited to, general purpose cleaners, bathroom cleaners, carpet cleaners, glass cleaners, floor finishes, floor strippers, hand cleaners and soaps, but does not include (A) any disinfectant, disinfecting cleaner, sanitizer or any other antimicrobial product regulated by the federal Insecticide, Fungicide and Rodenticide Act, 7 USC 136 et seq., or (B) any product for which no guideline or environmental standard has been established by any national or international certification program approved by the Department of Administrative Services, or which is outside the scope of or is otherwise excluded under guidelines or environmental standards established by such a national or international certification program.

(b) On or before July 1, 2011, each local and regional board of education shall implement a green cleaning program for the cleaning and maintenance of school buildings and facilities in its district. No person shall use a cleaning product inside a school unless such cleaning product meets guidelines or environmental standards set by a national or international environmental certification program approved by the Department of Administrative Services, in consultation with the Commissioner of Environmental Protection. Such cleaning product shall,

to the maximum extent possible, minimize the potential harmful impact on human health and the environment.

(c) On or before April 1, 2010, the Department of Education, in consultation with the Department of Public Health, shall amend the school facility survey form to include questions regarding the phase-in of green cleaning programs at schools.

(d) On or before October 1, 2010, and annually thereafter, each local and regional board of education shall provide the staff of each school and, upon request, the parents and guardians of each child enrolled in each school with a written statement of the school district's green cleaning program. Such notice shall include (1) the types and names of environmentally preferable cleaning products being applied in schools, (2) the location of the application of such cleaning products in the school buildings and facilities, (3) the schedule of when such cleaning products are applied in the school buildings and facilities, (4) the statement, "No parent, guardian, teacher or staff member may bring into the school facility any consumer product which is intended to clean, deodorize, sanitize or disinfect.", and (5) the name of the school administrator, or a designee, who may be contacted for further information. Such notice shall be provided to the parents or guardians of any child who transfers to a school during the school year and to staff hired during the school year. Each local or regional board of education shall make such notice, as well as the report submitted to the Department of Education pursuant to subsection (a) of section 10-220 of the general statutes, as amended by this act, available on its web site and the web site of each school under such board's jurisdiction. If no such web site exists, the board shall make such notice otherwise publicly available.

Sec. 2. Section 10-220 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) Each local or regional board of education shall maintain good public elementary and secondary schools, implement the educational interests of the state as defined in section 10-4a and provide such other educational activities as in its judgment will best serve the interests of the school district; provided any board of education may secure such opportunities in another school district in accordance with provisions of the general statutes and shall give all the children of the school district as nearly equal advantages as may be practicable; shall provide an appropriate learning environment for its students which includes (1) adequate instructional books, supplies, materials, equipment, staffing, facilities and technology, (2) equitable location of resources among its schools, (3) proper maintenance of facilities, and (4) a safe school setting; shall have charge of the schools of its respective school district; shall make a continuing study of the need for school facilities and of a long-term school building program and from time to time make recommendations based on such study to the town; shall adopt and implement an indoor air quality program that provides for ongoing maintenance and facility reviews necessary for the maintenance and improvement of the indoor air quality of its facilities; shall adopt and implement a green cleaning program, pursuant to section 1 of this act, that provides for the procurement and use of environmentally preferable cleaning products in school buildings and facilities; shall report biennially to the Commissioner of Education on the condition of its facilities and the action taken to implement its long term school building program, [and] indoor air quality

program and green cleaning program, which report the Commissioner of Education shall use to prepare a biennial report that said commissioner shall submit in accordance with section 11-4a to the joint standing committee of the General Assembly having cognizance of matters relating to education; shall advise the Commissioner of Education of the relationship between any individual school building project pursuant to chapter 173 and such long-term school building program; shall have the care, maintenance and operation of buildings, lands, apparatus and other property used for school purposes and at all times shall insure all such buildings and all capital equipment contained therein against loss in an amount not less than eighty per cent of replacement cost; shall determine the number, age and qualifications of the pupils to be admitted into each school; shall develop and implement a written plan for minority staff recruitment for purposes of subdivision (3) of section 10-4a; shall employ and dismiss the teachers of the schools of such district subject to the provisions of sections 10-151 and 10-158a; shall designate the schools which shall be attended by the various children within the school district; shall make such provisions as will enable each child of school age, residing in the district to attend some public day school for the period required by law and provide for the transportation of children wherever transportation is reasonable and desirable, and for such purpose may make contracts covering periods of not more than five years; may place in an alternative school program or other suitable educational program a pupil enrolling in school who is nineteen years of age or older and cannot acquire a sufficient number of credits for graduation by age twenty-one; may arrange with the board of education of an adjacent town for the instruction therein of such children as can attend school in such adjacent town more conveniently; shall cause each child five years of age and over and under eighteen years of age who is not a high school graduate and is living in the school district to attend school in accordance with the provisions of section 10-184, and shall perform all acts required of it by the town or necessary to carry into effect the powers and duties imposed by law.

(b) The board of education of each local or regional school district shall, with the participation of parents, students, school administrators, teachers, citizens, local elected officials and any other individuals or groups such board shall deem appropriate, prepare a statement of educational goals for such local or regional school district. The statement of goals shall be consistent with state-wide goals pursuant to subsection (c) of section 10-4. Each local or regional board of education shall develop student objectives which relate directly to the statement of educational goals prepared pursuant to this subsection and which identify specific expectations for students in terms of skills, knowledge and competence.

(c) Annually, each local and regional board of education shall submit to the commissioner of Education a strategic school profile report for each school under its jurisdiction and for the school district as a whole. The superintendent of each local and regional school district shall present the profile report at the next regularly scheduled public meeting of the board of education after each November first. The profile report shall provide information on measures of (1) student needs, (2) school resources, including technological resources and utilization of such resources and infrastructure, (3) student and school performance, (4) equitable allocation of resources among its schools, (5) reduction of racial, ethnic and economic isolation, and (6) special education. For purposes of this subsection, measures of special education include (A) special education identification rates by disability, (B) rates at which

special education students are exempted from mastery testing pursuant to section 10-14q, (C) expenditures for special education, including such expenditures as a percentage of total expenditures, (D) achievement data for special education students, (E) rates at which students identified as requiring special education are no longer identified as requiring special education, (F) the availability of supplemental educational services for students lacking basic educational skills, (G) the amount of special education student instructional time with nondisabled peers, (H) the number of students placed out-of-district, and (I) the actions taken by the school district to improve special education programs, as indicated by analyses of the local data provided in subparagraphs (A) to (H), inclusive, of this subdivision. The superintendent shall include in the narrative portion of the report information about parental involvement and if the district has taken measures to improve parental involvement, including, but not limited to, employment of methods to engage parents in the planning and improvement of school programs and methods to increase support to parents working at home with their children on learning activities.

(d) Prior to January 1, 2008, and every five years thereafter, for every school building that is or has been constructed, extended, renovated or replaced on or after January 1, 2003, a local or regional board of education shall provide for a uniform inspection and evaluation program of the indoor air quality within such buildings, such as the Environmental Protection Agency's Indoor Air Quality Tools for Schools Program. The inspection and evaluation program shall include, but not be limited to, a review, inspection or evaluation of the following: (1) The heating, ventilation and air conditioning systems; (2) radon levels in the water and the air; (3) potential for exposure to microbiological airborne particles, including, but not limited to, fungi, mold and bacteria; (4) chemical compounds of concern to indoor air quality including, but not limited to, volatile organic compounds; (5) the degree of pest infestation, including, but not limited to, insects and rodents; (6) the degree of pesticide usage; (7) the presence of and the plans for removal of any hazardous substances that are contained on the list prepared pursuant to Section 302 of the federal Emergency Planning and Community Right-to-Know Act, 42 USC 9601 et seq.; (8) ventilation systems; (9) plumbing, including water distribution systems, drainage systems and fixtures; (10) moisture incursion; (11) the overall cleanliness of the facilities; (12) building structural elements, including, but not limited to, roofing, basements or slabs; (13) the use of space, particularly areas that were designed to be unoccupied; and (14) the provision of indoor air quality maintenance training for building staff. Local and regional boards of education conducting evaluations pursuant to this subsection shall make available for public inspection the results of the inspection and evaluation at a regularly scheduled board of education meeting and on the board's or each individual school's web site.

(e) Each local and regional board of education shall establish a school district curriculum committee. The committee shall recommend, develop, review and approve all curriculum for the local or regional school district.

Vermont 2012

<http://www.leg.state.vt.us/docs/2012/Acts/ACT068.pdf>

New York 2005

Chapter 584 of the Laws of 2005 - New York State Green Cleaning Law:

<https://greencleaning.ny.gov/Docs/s5435.pdf>

For a complete description of New York's overall interagency and K-12 school green cleaning and green procurement programs, along with reports from the state interagency green procurement council on successes, costs, and lists of approved products, please visit:

<http://www.ogs.ny.gov/bu/pc/Green.asp>