



State of Wisconsin
2009 - 2010 LEGISLATURE

Wanted Thurs, 9/24

LRB-0136/AS
RCT:kjf&jld:jf
stays rnr

2009 BILL

Note

Regen

1 AN ACT *to create* 15.197 (5) and 254.565 of the statutes; **relating to:** healthy and
2 environmentally sensitive cleaning in certain buildings, providing an
3 exemption from emergency rule procedures, and granting rule-making
4 authority.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Health Services (DHS) to promulgate rules requiring cleaning that minimizes adverse effects on human health and the environment (healthy and environmentally sensitive cleaning) in school buildings, buildings on University of Wisconsin campuses, other buildings owned by this state, buildings owned by a technical college district board, and buildings owned by a city, village, town, or county. DHS must consult with the Council on Healthy and Environmentally Sensitive Cleaning, created by the bill, in promulgating the rules. The rules apply beginning one year after the bill is enacted. Under the bill, DHS may grant a one-year exemption from a requirement in the rules if a person responsible for complying with the requirement demonstrates that compliance would increase its cleaning costs.

The bill requires DHS to include, in the initial rules for healthy and environmentally sensitive cleaning, standards for certain products, based on existing voluntary standards adopted by the Environmental Protection Agency (EPA) or specified private groups. The products include restroom cleaners, general purpose cleaners, hand soap, toilet paper and paper towels, and vacuum cleaners. DHS may later modify the standards for those products. The bill authorizes DHS to

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* adopt, by rule, a standard for an additional ^{Insert A} product for janitorial or sanitation use if EPA ^{type of} or Green Seal, Inc., ^{type of} has adopted a standard for the product. The bill also authorizes DHS to adopt, by rule, a standard for a janitorial or sanitation process if Greenguard Environmental Institute has adopted or certified a standard for the process. DHS is not required to base a rule on the standard adopted or certified by one of the specified bodies, if DHS determines that another body has adopted a better standard.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 SECTION 1. 15.197 (5) [✓] of the statutes is created to read:
- 2 15.197 (5) COUNCIL ON HEALTHY AND ENVIRONMENTALLY SENSITIVE CLEANING. (a)
- 3 In this subsection, "school" has the meaning given in s. 254.565 (1) (i).
- 4 (b) There is created in the department of health services a council on healthy
- 5 and environmentally sensitive cleaning consisting of the following members:
- 6 1. The superintendent of public instruction or the superintendent's designee.
- 7 2. The secretary of natural resources or the secretary's designee.
- 8 3. A representative of a producer of cleaning products in this state.
- 9 4. A representative of a labor union that represents workers who use cleaning
- 10 products.
- 11 5. A representative of the organization Healthy Schools Campaign ^{Wisconsin Association of School Nurses or a similar organization}
- 12 6. Two parents of school students.
- 13 7. One school student.
- 14 8. One school principal.
- 15 9. One school teacher.
- 16 10. One school district administrator, as defined in s. 115.001 (8).
- 17 11. One health professional with expertise in public health.

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1 (c) The secretary of health services shall appoint the members under par. (b)
2 3. to 11. for 3-year terms.

3 **SECTION 2.** 254.565 of the statutes is created to read:

4 **254.565 Healthy and environmentally sensitive cleaning in certain**
5 **buildings. (1) DEFINITIONS.** In this section:

6 (a) "Campus" has the meaning given in s. 36.05 (3).

7 (b) "Charter school" has the meaning given in s. 115.001 (1).

8 (c) "Council" means the council on healthy and environmentally sensitive
9 cleaning.

10 (d) "Healthy and environmentally sensitive cleaning" means cleaning that
11 minimizes adverse impacts on human health and the environment.

12 (e) "Political subdivision" means a city, village, town, or county.

13 (f) "Private school" has the meaning given in s. 115.001 (3r).

14 (g) "Public school" means a school described in s. 115.01 (1).

15 (h) "Responsible person" means one of the following:

16 1. For a public school, other than a charter school, the school board.

17 2. For a charter school, the governing body of the charter school.

18 3. For a private school with 50 or more students, the governing body of the
19 private school.

20 4. For a building owned by a political subdivision, the political subdivision.

21 5. For a building owned by a technical college district board, the technical
22 college district board.

23 6. For a building on a campus, the Board of Regents of the University of
24 Wisconsin System.

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1 7. For a building owned by this state, other than a building on a campus, the
2 department of administration.

3 (i) "School" means any of the following:

4 1. A public school, including a charter school.

5 2. A private school with 50 or more students.

6 (j) "School board" has the meaning given in s. 115.001 (7).

7 (2) RULES. (a) The department, in consultation with the council, shall
8 promulgate rules requiring healthy and environmentally sensitive cleaning in all of
9 the following:

10 1. School buildings.

11 2. Buildings that are owned by political subdivisions.

12 3. Buildings that are owned by technical college district boards.

13 4. Buildings on a campus.

14 5. Buildings owned by this state, other than buildings on a campus.

15 (b) In the initial rules under this subsection, the department shall include all
16 of the following:

17 1. Standards for hand cleaners and hand soap based on the standards of Green
18 Seal, Inc., that are in effect on the effective date of this subdivision [LRB inserts
19 date].

20 2. Standards for general purpose cleaners, restroom cleaners, glass cleaners,
21 and carpet cleaners based on the standards of Green Seal, Inc., that are in effect on
22 the effective date of this subdivision [LRB inserts date], ^{Insert 4-22} or on the standards of the
23 federal environmental protection agency under its Design for the Environment
24 Program that are in effect on the effective date of this subdivision [LRB inserts
25 date].

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Insert 5-1

① 3. Standards for laundry care products based on the standards of the federal
2 environmental protection agency under its Design for the Environment Program
3 that are in effect on the effective date of this subdivision [LRB inserts date].

4 4. Standards for toilet paper based on the standards of Green Seal, Inc., that
⑤ are in effect on the effective date of this subdivision ... [LRB inserts date]. *Insert 5-5*

6 5. Standards for paper towels and paper napkins based on the standards of
7 Green Seal, Inc., that are in effect on the effective date of this subdivision [LRB
⑧ inserts date]. *Insert 5-8*

9 6. Standards for vacuum cleaners that are based on the standards of the Carpet
10 and Rug Institute under its Green Label Program that are in effect on the effective
11 date of this subdivision [LRB inserts date].

12 (c) The department, in consultation with the council, may promulgate rules
13 that modify the initial rules promulgated under par. (b).

14 (d) The department, in consultation with the council, may promulgate rules
⑮ specifying standards for a ^{type of} product for janitorial or sanitation use, in addition to the

⑯ ^{types of} products covered in par. (b), if Green Seal, Inc., ^{Insert 5-16} has adopted a standard for the

⑰ ^{type of} product or if the federal environmental protection agency has adopted a voluntary

⑱ standard for the ^{type of} product. The department is not required to base a rule under this

⑲ paragraph on the standard adopted by Green Seal, Inc., ^{Insert 5-19} or the federal environmental

⑳ protection agency for a ^{type of} product, but may base a rule on a standard for the ^{type of} product

21 adopted by another entity if the department determines that the other entity's

22 standard is practical and better promotes healthy and environmentally sensitive

⑳ cleaning. The department may request Green Seal, Inc., ^{Insert 5-23} or the federal
⑳ environmental ^{protection} agency to adopt a standard for a ^{type of} product for janitorial or sanitation

25 use for which a standard has not been adopted.

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1 (e) The department, in consultation with the council, may promulgate rules
2 specifying standards for a janitorial or sanitation process, which may include
3 requirements for items used to perform the janitorial or sanitation process, if
4 Greenguard Environmental Institute has adopted or certified a standard for the
5 process. The department is not required to base a rule under this paragraph on the
6 standard adopted or certified by Greenguard Environmental Institute for the
7 process, but may base a rule on a standard for the process adopted ^{or certified} by another entity
8 if the department determines that the other entity's standard is practical and better
9 promotes healthy and environmentally sensitive cleaning. The department may
10 request Greenguard Environmental Institute to adopt ^{or certify} a standard or certified for a
11 janitorial or sanitation process for which a standard has not been adopted or
12 certified.

13 (f) When the department considers 2 or more standards on which to base a rule
14 under this subsection, the department shall give a preference to standards that are
15 more protective of human health and preventive of the spread of infection and
16 disease.

17 (g) The department shall provide information about the rules under this
18 subsection, including revisions to the rules, to each school board, to the governing
19 body of each charter school, and to the governing body of each private school with 50
20 or more students.

21 **(3) REQUIREMENT.** (a) Except as provided in pars. (b) to (d), beginning on the
22 first day of the 12th month beginning after the effective date of this paragraph ...
23 [LRB inserts date], each responsible person shall ensure that the rules promulgated
24 under sub. (2) are complied with in a building for which the responsible person is
25 responsible.

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1 (b) Except as provided in par. (c), the rules promulgated under sub. (2) (b) do
2 not apply to the use of products purchased before the first day of the 12th month
3 beginning after the effective date of this paragraph [LRB inserts date].

4 (c) A rule promulgated under sub. (2) relating to a kind of machine does not
5 apply to the use of a machine of that type purchased before the effective date of the
6 rule.

7 (d) A responsible person is exempt for one year from a requirement in the rules
8 promulgated under sub. (2) relating to the use of a product if the responsible person
9 ^{provides} ~~demonstrates~~ ^{documentation demonstrating} to the department that complying with the requirement would
10 increase the responsible person's cleaning costs for the year.

11 (4) COUNCIL. (a) The council shall advise the department on the program under
12 this section. The council shall review the rules under sub. (2) at least every 3 years
13 and provide recommendations on changes to the rules. The council shall review
14 changes to a standard on which a rule under sub. (2) is based and advise the
15 department on whether to modify the rule to reflect the changes in the standard, to
16 modify the rule so that it is based on a different standard, or to make no changes to
17 the rule.

18 (b) The department shall review and provide a written response to any advice
19 that it receives from the council concerning the program under this section.

SECTION 3. Nonstatutory provisions.**(1) RULE MAKING.**

22 (a) The department of health services shall submit in proposed form the rules
23 required under section 254.565 (2) (b) of the statutes, as created by this act, to the
24 legislative council staff under section 227.15 (1) of the statutes no later than the first
25 day of the 7th month beginning after the effective date of this subsection.

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1 (b) Using the procedure under section 227.24 of the statutes, the department
2 of health services may promulgate the rules required under section 254.565 (2) (b)
3 of the statutes, as created by this act, for the period before the effective date of the
4 rules submitted under paragraph (a), but not to exceed the period authorized under
5 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),
6 (2) (b), and (3) of the statutes, the department is not required to provide evidence that
7 promulgating a rule under this paragraph as an emergency rule is necessary for the
8 preservation of the public peace, health, safety, or welfare and is not required to
9 provide a finding of emergency for a rule promulgated under this paragraph.

10 (2) INITIAL TERMS OF MEMBERS OF COUNCIL. Notwithstanding the length of terms
11 specified under section 15.197 (5) (c) of the statutes, as created by this act, the
12 secretary of health services shall appoint initial members of the council on healthy
13 and environmentally sensitive cleaning as follows:

14 (a) The members under section 15.197 (5) (b) 3. and 9. of the statutes, as created
15 by this act, and one of the members appointed under section 15.197 (5) (b) 6. of the
16 statutes, as created by this act, for terms expiring on July 1, 2012.

17 (b) The members under section 15.197 (5) (b) 4., 7., and 10. of the statutes, as
18 created by this act, for terms expiring on July 1, 2013.

19 (c) The members under section 15.197 (5) (b) 5., 8., and 11. of the statutes, as
20 created by this act, and one of the members appointed under section 15.197 (5) (b)
21 6. of the statutes, as created by this act, for terms expiring on July 1, 2014.

22 (END)

DMJ

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0136/5ins
RCT:.....

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Insert A

or TerraChoice Environmental Marketing (which operates the EcoLogo certification program)

Insert 4-22

on the EcoLogo standards of TerraChoice Environmental Marketing, Inc., that are in effect on the effective date of this subdivision ... [LRB inserts date],

Insert 5-1

on the EcoLogo standards of TerraChoice Environmental Marketing, Inc., that are in effect on the effective date of this subdivision ... [LRB inserts date], or

Insert 5-5

, or on the EcoLogo standards of TerraChoice Environmental Marketing, Inc., that are in effect on the effective date of this subdivision ... [LRB inserts date]

Insert 5-8

, or on the EcoLogo standards of TerraChoice Environmental Marketing, Inc., that are in effect on the effective date of this subdivision ... [LRB inserts date]

Insert 5-16

or TerraChoice Environmental Marketing, Inc.,

Insert 5-19

, TerraChoice Environmental Marketing, Inc.,

Insert 5-23

, TerraChoice Environmental Marketing, Inc.,

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0136/5dn

RCT: kjf

Date

Shelle Michalak:

This is a redraft of the bill based on the mark-up that you sent on September 22, at 9:58 a.m.

The mark-up was on the /3 version of the draft, not the latest version (the /4). As we discussed, I did not add the language about a representative of the Parent Teacher's Organization or similar organization because two parents were added to the council in the /4 version.

Research on the Internet showed that the EcoLogo program is operated by TerraChoice Environmental Marketing, Inc., so this version of the draft refers to that entity.

Proposed s. 254.565 (2) (b) requires the Department of Health Services (DHS) to promulgate rules for specified types of products based on third party standards that are in place when the bill is enacted. I checked each of the private standards organizations to ensure that for each type of product listed in that provision, the draft only lists private entities that currently have a standard for the product. As best I can tell, Green Seal, Inc., is working on standards for laundry care products, but does not yet have them so I did not add Green Seal, Inc., to proposed s. 254.565 (2) (b) 3.

The mark-up of the draft indicated that another provision should be added to s. 254.565 (2) (b) to require DHS to promulgate rules for standards for janitorial processes "that are certified by the Greenguard Environmental Institute to its Children and Schools Standard" that is in place when the bill is enacted. I am unable to find any indication that Greenguard Environmental Institute has certified any janitorial processes to its Children and Schools Standard (or even that it has a process for doing so). Therefore, I have not included that language in this redraft. Please note that the draft authorizes DHS to promulgate rules specifying standards for a janitorial or sanitation process if Greenguard Environmental Institute does adopt or certify a standard for the process.

Please let me know if you have any questions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0136/5dn
RCT:kjf:md

September 22, 2009

Shelle Michalak:

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Please let me know if you have any questions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

Tradewell, Becky

From: Michalak, Michelle

Sent: Tuesday, September 29, 2009 4:10 PM

To: Tradewell, Becky

Subject: Drafting suggestions - additions to Green Cleaning for a Healthier Wisconsin

Hi Becky,

Here is the attached document for your review.

Feel free to let me know if you have any questions or concerns.

Also -- let me know if you would like to schedule a meeting with Rep. Mason and I to go over any of the attached details.

Thanks again,

Shelle

The Wisconsin green cleaning legislation should not only focus on the health and environmental impacts of products, but it should also require that the janitorial or sanitation process used be sensitive to human health and the environment. One can use green certified products and still have adverse health effects if they are not used with the proper procedures and tools or equipment. A janitorial or sanitation process is a cleaning system that includes products, procedures, training to teach the cleaning staff how to use the procedures, and tools or equipment used to clean a facility.

At this point in time, GREENGUARD is the one organization that we know of that has a scientifically based, rigorous certification process that evaluates cleaning systems for their impact on indoor air quality. The legislation should require at the outset that a janitorial or sanitation process be certified by GREENGUARD to its Children and Schools Standard. If the council subsequently determines that there are other, preferable, 3rd party certifications that are more protective of human health and preventative of the spread of infection and disease, then they can recommend a change to other alternative. If the council subsequently determines that there are additional 3rd party certifications that cover areas other than indoor air quality that are also protective of human health and preventative of the spread of infection and disease, then they can recommend additional standards. The department is not now, and very probably will not be at any time in the foreseeable future, in a position to conduct an evaluation on its own whether a janitorial or sanitation process would be able to be certified by Greenguard to the Children and Schools standard. Therefore we want to require at the outset that the janitorial or sanitation process in fact be certified by Greenguard to the Children and Schools standard.

We recognize that implementing this change in janitorial or sanitation process statewide may take some time, so we will give schools, colleges and universities 2 years from the effective date of the legislation to adopt and implement a janitorial or sanitation process that has been certified to the Greenguard Children and Schools standard. We will give all other entities covered by the legislation 3 years from the effective date of the legislation to adopt and implement a janitorial or sanitation process that has been certified to the Greenguard Children and Schools standard.

Additional suggested changes to be made in the bill draft include:

- Add website page that shows the school districts, colleges and municipalities that have complied with the Green Cleaning for a Healthier Wisconsin bill
- Allow the committee to give an award every year to:
 - o A school district covered by the bill
 - o An institution of higher education covered by the bill
 - o A municipality covered by the bill

Tradewell, Becky

From: Gage, Leslie [LGage@greenguard.org]
Sent: Wednesday, September 30, 2009 12:22 PM
To: Tradewell, Becky
Subject: Re: Green Cleaning Legislation

I think I can answer these best via phone. Would you be available today? If so, when would be a good time?

Thanks_ldg

From: Tradewell, Becky <Becky.Tradewell@legis.wisconsin.gov>
To: Gage, Leslie
Sent: Wed Sep 30 13:10:37 2009
Subject: RE: Green Cleaning Legislation

Ms. Gage,

I apologize for troubling you again, but it would be helpful to have a more complete understanding of Greenguard certification of cleaning systems. I would greatly appreciate it if you or someone else there could help with this.

It appears that the JohnsonDiversey Healthy High Performance Cleaning System (HHPC), certified by Greenguard, includes several cleaning chemicals. When a cleaning system is tested for certification, is each cleaning chemical (with its associated application materials, and so forth) tested separately or is there some other approach? Might a window cleaner, for example, be tested at the same time as a floor cleaner? *Yes*

Would it be possible to have a certified cleaning system that includes only one cleaning chemical? The website shows that Greenguard has certified the Bona Stone, Tile & Laminate Floor Care System, but I am unsure whether this (or either Bona floor care kit) is considered a cleaning system. *yes*

If it is not possible to have a certified cleaning system that includes only one chemical, how inclusive must a system be? It is difficult to be sure, but it looks as though the HHPC, for example, does not include every kind of cleaning chemical that might be needed in a building.

If a company that made a cleaning chemical did not also make application materials or equipment, would it be possible for the company to receive certification of a cleaning system? Perhaps a system that called for using a generic application material (that might include specifications such as being made using a particular method)? Or a specific application material produced by another manufacturer? *No answer*

Finally (at least for now), would it be possible for a company that does not manufacture cleaning chemicals to receive certification of a cleaning system? *No answer*

Thank you for your assistance,
 Becky Tradewell
 (608) 266-7290

From: Gage, Leslie [mailto:LGage@greenguard.org]
Sent: Friday, September 25, 2009 2:57 PM
To: Tradewell, Becky
Cc: Jeff Neubauer; Michalak, Michelle
Subject: RE: Green Cleaning Legislation

09/30/2009

Hi Ms. Tradewell,

Below are the two links with information you requested. The first is a link to one of the certificates for a certified cleaning process, the second is a link to our criteria for High Performance Cleaning Systems. Because we feel very strongly that no product should emit chemicals above our written criteria, we do not lower expectations for a product category (i.e. cleaning products and systems) just because it proves more difficult to meet the criteria.

When certifying their Cleaning System, we ask the manufacturer to provide us with their recommended method of cleaning (how they expect the product to be used), to include four particular items: tools, products, process, and instructional information. Our labs then use this exact method in a chamber test and measure the level of emissions. If they meet our criteria (detailed in the previous document I sent out yesterday), GREENGUARD certifies their system as the method through which the consumer can expect to have an emissions level meeting that of GREENGUARD Children & Schools Certified Products. So yes, the physical source of potential emissions comes from a product, however that rate and amount of emissions can be strongly affected by how a product is applied—in this case, a cleaning system. Hence our need to implement and certify the system for the product.

Again, please contact me with any questions you may have. I fly out for DC tomorrow and will not return to the office until Wednesday of next week, however I will have access to email and my cell 678.923.8043.

<http://greenguard.org/Default.aspx?tabid=12>

<http://greenguard.org/uploads/EmissionsCriteria/UpdatedLogos/GGPS.EC.022EmissionCriteriaCleanersandCleaningSystems.pdf>

Regards,

Leslie Gage, LEED ap

From: Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]
Sent: Friday, September 25, 2009 11:25 AM
To: Gage, Leslie
Cc: Jeff Neubauer; Michalak, Michelle
Subject: RE: Green Cleaning Legislation

Ms. Gage,

Thank you for sending this information.

I am aware that Greenguard Environmental Institute has certified a large number of products as meeting its standards. The specific information that I need at this time is whether Greenguard Environmental Institute has to date **certified** "janitorial or sanitation processes" (including "cleaning products, tools, and training") to its Children and Schools Standard and, if so, what processes have been certified. It would also be helpful to have a reference to a Web site or other documentation of the certifications.

Thanks you again for you assistance,
 Becky Tradewell
 Managing Attorney
 Wisconsin Legislative Reference Bureau
 608-266-7290

From: Gage, Leslie [mailto:LGage@greenguard.org]
Sent: Thursday, September 24, 2009 4:48 PM
To: Tradewell, Becky
Cc: Jeff Neubauer
Subject: Green Cleaning Legislation

Good afternoon Ms. Tradewell,

It is my understanding that there have been some questions regarding the criteria of testing for GREENGUARD Environmental

09/30/2009

Institute's Children & Schools for High Performance Cleaning Systems. I would like to provide you with this link from our website for reference purposes.

A rather lengthy document, this work provides a transparent explanation of our Children & Schools criteria and the acceptable chemical emission levels; an explanation of the testing process; and an explanation of the use of a manufacturer's cleaning system provided to us by which our laboratories follow step-by-step instructions from tools, processes, and products to test the net chemical emissions.

I would be happy to answer any further questions you may have on our testing procedures or certification restrictions. I am always available at my direct line: 678.444.4046 or on my cell at: 678.923.8043.

<http://greenguard.org/uploads/TechDocs/GGTM.P057.pdf>

Best_l dg

Leslie Gage, LEED ap
Market Segment Manager
GREENGUARD Environmental Institute
2211 Newmarket Parkway, #110
Marietta, GA 30067
(678) 444-4046
lgage@greenguard.org

Get the latest IAQ information
from the industry experts by signing
up for our newsletter and view
GREENGUARD Certified Products
at www.greenguard.org.

Tradewell, Becky

From: Michalak, Michelle
Sent: Friday, October 02, 2009 2:58 PM
To: Tradewell, Becky; Rep.Mason
Subject: RE: Drafting suggestions - additions to Green Cleaning for a Healthier Wisconsin

Good Afternoon Becky,

Thank you for your recent email message. I am writing to follow up to your questions.

1. Yes.
2. During the first year the use of products should be certified by the Rules that DHS creates. The second year schools and universities should be using Green Guard certified cleaning systems. And by year three the rest of the public buildings should ALL be using chemical products that are apart of the Green Guard system.
3. Green Guard standards do not include machines. Green Guard standards do cover "tools" such as a microfiber cloth. Just to be clear, if an entity purchases a vacuum cleaner for example that is not "green" certified prior to the bill being signed into law they can continue using the instrument. However, if a vacuum cleaner is purchased after the bill has engrossed we would want to require it to be certified.
4. Yes, cleaning chemicals should be approved by US EPA, Green Seal and Ecologo – initial school issue before council weighs in – should be one of the three listed. Any other third party standards should be reviewed by the Council and the Department. Also, as a side note Green Seal and Ecologo are the only two that have certified measures for toilet paper.

Please do not hesitate to contact me if anything is unclear or if you have further questions.

Best,

Shelle Michalak

Office of State Representative Cory Mason

Room 321 East, State Capitol

PO Box 8953

Madison, WI 53708

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Phone: (608) 266-0634 Toll free: (888) 534-0062

Fax: (608) 282-3662

Email: Michelle.Michalak@legis.wisconsin.gov

E-mail correspondence to and from this address may be subject open records law and may be disclosed to outside parties.

*Note that per Leslie Gage,
 a certified system could
 include a machine. I
 notified Michelle on 10/5/09.*

Ret

From: Tradewell, Becky
Sent: Thursday, October 01, 2009 2:32 PM
To: Rep.Mason; Michalak, Michelle
Subject: RE: Drafting suggestions - additions to Green Cleaning for a Healthier Wisconsin

Since receiving the new drafting instructions, I have been doing research and thinking about how to change the draft. I am afraid that changing the draft in response to the new instructions is not an uncomplicated matter. Here is some background that I hope will be helpful in dealing with some issues related to the instructions, followed by a description of the issues. I

10/02/2009

apologize if this repeats things that you already know.

Background

When I received proposed language on September 22 to change the draft to require the use of certified janitorial or sanitation processes, I looked for information on the Greenguard Environmental Institute (GEI) web site concerning such certification. This was unsuccessful in part because of differing terminology. GEI certifies "cleaning systems." GEI defines "cleaning system" as "any products, application materials, and defined equipment specified for a particular cleaning use with application rates, usage instructions or protocol." It defines "cleaning product" as "any liquid, solid, or vapor used to remove inert or biological soils from surfaces or materials." To minimize confusion, I think that the draft should define and use the term "cleaning system," which is both consistent with the GEI terminology and more descriptive of what GEI does certify. Please note that it does not appear that GEI requires a certified cleaning system to include training (unless one considers written instructions to be "training"), so it would be problematic for the draft to require a cleaning system to include training.

When I drafted the language about cleaning processes that is in the current draft (proposed s. 254.565 (e) in LRB-0136/5), I thought that "janitorial and sanitation process" was intended to mean the way that cleaning chemicals are used, including the kinds of things (such as cloths and mops) used in applying and removing the chemicals, but not the chemicals themselves. My thinking was that a standard for a "janitorial and sanitation process" was a set of instructions. An example might be, for cleaning windows, to require use of a particular type of sprayer (at no more than a specified distance from the window, say) to apply a set amount of glass cleaner and to require the removal of the glass cleaner using a specified type of cloth (e.g., microfiber) and perhaps to do this at least a specified number of hours before students would be present in the room. I thought that a person would be able to use any glass cleaner that met the standard created by DHS under proposed s. 254.565 (2) (b) 2., based on the Green Seal, Ecologo, or Design for the Environment standards.

My thinking was not consistent with the GEI certification of cleaning systems. For example, GEI has certified the Bona Stone, Tile & Laminate Floor Care System, consisting of a microfiber mophead with a 3-pc. pole, microfiber pad, Swedish Formula® Hard Surface Floor Cleaner, and a maintenance guide. To use the certified cleaning system, one must buy the system (what could be called a kit) from Bona or someone who sells Bona products and use the floor cleaner, mophead, and instructions provided by Bona (not someone else's microfiber mop, for example).

I have also learned that a cleaning system may include one cleaning chemical or a number of chemicals (for one or a number of purposes). For example, GEI has also certified the JohnsonDiversy Healthy High Performance Cleaning System (HHPC). It is difficult for me to tell exactly what HHPC includes, but the GEI website description is:

"Cleaning process as defined in Johnson Diversey's HHPC Guide which include cleaning processes, chemicals, tools and equipment, and user training. Only chemicals as listed in the GREENGUARD Product Guide are approved for use."

The chemicals listed in the online Greenguard Product Guide are: **Butcher's #2 Look NA Glass & Multi-Purpose Cleaner, Butcher's #5 Raindance Low-foam Neutral Floor**

Cleaner, Butcher's #71 G-Force® Washroom Cleaner, Butcher's #72 G-Force® H202 Multi-Purpose Cleaner, JohnsonWax Professional Alpha-HP Multi-Surface Cleaner, JohnsonWax Professional Crew Bathroom Cleaner & Scale Remover, JohnsonWax Professional Glance Non-Ammoniated Glass Cleaner, and JohnsonWax Professional Stride Citrus Neutral Cleaner. These chemicals would be used for many, but I do not think all possible, cleaning purposes in a school or government building. According to the JohnsonDiversey website, HHPC includes their PACE microfiber floor-care system and MicroQuick microfiber cloths.

Requiring the use of certified cleaning systems in LRB-0136

1. There are currently products that meet each of the third party standards identified in the draft in proposed s. 254.565 (2) (b) 1. to 6. Therefore, there are products available that will allow schools (and so forth) to comply with the rules that the draft requires DHS to promulgate. By contrast, it is possible that there will not be GEI certified cleaning systems for cleaning every kind of surface or material or for every cleaning task. The draft will have to be worded in such a way as to allow for that possibility. To put it another way, the draft should only require the use of a certified cleaning system for a cleaning task if there is a certified cleaning system that covers that task. Please let me know if any of this is unclear or seems incorrect.
2. The draft requires DHS to set standards for various cleaning products based on current third party standards for those products. For example, DHS could choose to use the EPA Design for the Environment (DFE) standards as the basis for the standards for glass cleaners. Some glass cleaners that meet the EPA Design for the Environment standards might not be part of a GEI certified cleaning system and a glass cleaner that is part of a GEI certified cleaning system might not meet the EPA Design for the Environment standards. There could be a conflict between the requirement currently in the draft and the new requirement for GEI certification. Therefore, it will be necessary to clarify the draft. It could provide that once the use of certified cleaning systems is required, the standards that DHS sets under s. 254.565 (2) do not apply with respect to kinds of products that are part of GEI certified cleaning systems. There might be alternative approaches, such as simply eliminating some kinds of products from the list in s. 254.565 (2) (b) because there are already certified cleaning systems that include those kinds of products and, perhaps, prohibiting DHS from adopting standards that are not met by products in a GEI certified cleaning system. Or perhaps the draft could say that if there is a product that both is part of a certified cleaning system and meets the standard selected by DHS, schools must use that product and not a product that is part of a certified cleaning system but that does not meet the DHS-selected standard. How do you want the draft to deal with this? Please let me know if I have not made this issue clear.
3. The draft currently provides that a rule under s. 254.565 (2) relating to a kind of machine does not apply to the use of a machine purchased before the rule takes effect. It seems as though a cleaning system could include a machine. If a certified cleaning system included a kind of machine (such as a floor stripping machine or carpet extractor, perhaps), should the requirement to use the certified cleaning system apply to schools and so forth that have a machine of that kind that was purchased before the requirement to use a certified cleaning system takes effect?
4. The instruction to require the use of cleaning systems that are actually certified by GEI, raises the question of whether you want to switch to that approach for requirements currently

in the draft. That is, do you want to require products listed in s. 254.565 (2) (b) to be certified by one of the specified third parties (rather than requiring them to meet standards based on the third party's standards)?

Please let me know if you would like to meet to discuss these issues or any other matters related to this draft.

Thank you,

Becky Tradewell

From: Michalak, Michelle

Sent: Tuesday, September 29, 2009 4:10 PM

To: Tradewell, Becky

Subject: Drafting suggestions - additions to Green Cleaning for a Healthier Wisconsin

Hi Becky,

Here is the attached document for your review.

Feel free to let me know if you have any questions or concerns.

Also – let me know if you would like to schedule a meeting with Rep. Mason and I to go over any of the attached details.

Thanks again,

Shelle

Sent Saturday
10/3/2009

Michelle,

I am sorry, but I am still not certain that I understand exactly what is wanted for the redraft.

In order to try to get as close as possible to what is wanted on the next version of the draft, I will describe how I am proceeding. Please let me know if I am on the wrong track about any of this:

1. No change in proposed s. 254.565 (2) (a), requiring DHS, in consultation with the council, to promulgate rules requiring healthy and environmentally sensitive cleaning in all of the listed types of buildings. [For the rest of this message, I will refer to the parts of proposed s. 254.565 just by the subsection and paragraph designations.]

2. In proposed sub. (2) (b), for the first rules promulgated by DHS, the draft currently requires DHS to include standards for the things listed in 1. to 6. based on whichever of the identified third party standards DHS selects. The redraft would instead require DHS to include in the first rules requirements that responsible persons use things listed in 1. to 6. that are actually approved (certified or whatever term the third party uses) by one of the third parties. For those kinds of things that have more than one third party listed in the current draft, DHS would pick one of the third parties. The requirement to use products approved by the third party identified by DHS would take effect 12 months after the bill becomes law (see page 7, line 8, of LRB-0136/5).

3. A new provision would be added requiring that in the first rules that DHS promulgates, it must require, 24 months after the bill becomes law for schools and 36 months after the bill becomes law for the other covered buildings, the use of cleaning systems certified by Greenguard for any cleaning process that is covered by a Greenguard certified cleaning system. Once this requirement applies, the requirement in the previous point (point 2. above) would not apply to any type of product that is included in a Greenguard certified cleaning system. So, if DHS had picked EcoLogo approval for glass cleaner under point 2., that requirement will cease to apply once the requirement to use a Greenguard cleaning system applies because there is at least one certified cleaning system that includes glass cleaner (which glass cleaner may or may not have EcoLogo approval).

Unless Greenguard changes its scope, there will never be a Greenguard cleaning system that includes some of the things listed in sub. (2) (b) 1. to 6. (such as hand cleaners and toilet paper and possibly vacuum cleaners). The requirements in point 2. will not cease to apply with respect to these things when the requirement to use Greenguard cleaning systems takes effect.

4. After making the first rules (described in points 2. and 3.), DHS may change the rules by requiring approval by a different third party, one of the other third parties mentioned in the current draft or third party that is not specifically mentioned in the draft. In the case of cleaning systems, a change from Greenguard could consider whether a different third party's standards for approval covered matters in addition to indoor air quality.

There may be constitutional concerns (over whether the legislature is delegating the power to make state law to an outside entity) with allowing a third party to decide which products for janitorial or sanitation use and for cleaning systems may be used in schools and the other covered buildings. These concerns would be especially strong if the proposal continued to require approval by a speci-

fied third party after that third party changed its standards for approval. Therefore, I propose that the draft require DHS, with the council, to review any changes to standards used by a third party whose approval is required under the rules and decide whether to continue to require approval by that third party. (It is possible that this will not fully resolve any constitutional concerns.)

5. The draft would allow the department to promulgate rules requiring the use of products approved by a specified third party for types of products for janitorial or sanitation use that are not listed in sub. (2) (b) 1. to 6. if Green Seal, TerraChoice (the EcoLogo people), or EPA has adopted a standard for that type of product and if the product is not included in an approved cleaning system. This would be similar to sub. (2) (d) in the current draft (p. 5, line 22, to p. 6, line 10). Again, my assumption is that cleaning system approval should trump product approval.

Thank you,
Becky

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0136/6dn

RCT...
gf

Date

This redraft makes extensive changes in the draft. Please review the entire draft carefully and contact me if any provision of the draft is unclear or if there are any other questions about the draft.

X The definition of "cleaning system" is based on the Greenguard Environmental Institute definition from its document that describes the standards and testing process for certifying cleaning products and cleaning systems. I have added a definition of "approval" and used that term rather than "certified" because it appears that EPA does not certify products under its Design for the Environment Program, but instead "recognizes" them. Also, other third-party product-approving entities (which could be selected by DHS in its rules after the initial rules) might use other terminology to describe their approvals.

✓ In looking at the Carpet and Rug Institute Internet site to see what its approval of vacuum cleaners is called, I learned that CRI is making a transition from the Green Label Program to a Seal of Approval/Green Label Program, which considers cleaning performance as well as air quality. The old program will end at the end of 2010. The new program has gold, silver, and bronze ratings. This draft does not specify which rating a vacuum cleaner must receive.

Under this version of the draft, whenever an entity whose approval is required changes its standards, DHS, in consultation with the council, is required to review the standards in order to decide whether to continue to require that entity's approval. This provision is intended partly to minimize any objection that the legislature would be delegating the power to make state law to an outside entity. It may be difficult, however, for DHS to know when standards are changed. It appears that currently some entities change their standards fairly frequently.

Please let me know if additional changes are needed.

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