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THE COUNCIL

Report of the Governmental Affairs Division
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COMMITTEE ON CONTRACTS

ROBERT JACKSON, CHAIR

December 20, 2005

Proposed Int. No. 552-A: By Council Members Moskowitz, The Speaker (Council Member Miller), Gennaro, Quinn, Baez, Brewer, Comrie, Fidler, Gentile, Gerson, Koppell, Liu, Martinez, Nelson, Recchia Jr., Reed, Sears, Stewart, Weprin, DeBlasio, James, Barron, Perkins, McMahon, Reyna, Monserrate, Vallone Jr., Yassky, Gioia, Sanders Jr., Katz, Lopez and Palma

Title: A Local Law to amend the administrative code of the city of New York, in relation to the purchase of green cleaning and other custodial products.

I. Introduction

On December 20, 2005, the Committee on Contracts, chaired by Council Member Robert Jackson, will vote on Proposed Int. No. 552-A, a bill that would amend the administrative code in relation to the purchase of green cleaning and other custodial products. The Committee held a hearing on a previous version of the legislation on September 26, 2005.

II. Health and Environmental Impacts of Traditional Cleaning Products

One out of three commercial cleaning chemical products contains ingredients that are harmful to human health or the environment.^[1] Such ingredients may result in eye, skin or respiratory irritation, or may be carcinogens, reproductive toxins or other hazardous substances. In California, it was estimated that cleaning products contribute approximately 8% of total non-vehicular emissions of volatile organic compounds – which contribute to smog formation and respiratory problems.^[2] Certain products may also contain ingredients, such as phosphorus and heavy metals, which are toxic to aquatic life.

The quality of our indoor air is extremely important since most people spend about ninety percent of their time indoors.^[3] In fact, the U.S. Environmental Protection Agency (EPA) has found that indoor air pollutant levels can be 2 to 5 and occasionally more than one hundred times greater than outdoors.^[4] The agency and its Science Advisory Board have “consistently ranked indoor air pollution among the top five environmental health risks to the public.”^[5] There are environmentally preferable alternatives, however, to standard cleaning products, which can result in improved indoor air quality and enhanced environmental health.

III. Experience in Other Jurisdictions

A number of jurisdictions have already taken steps to use environmentally preferable cleaning

products, including the cities of Santa Monica,^[6] Seattle, San Francisco and Austin, the states of Vermont, Massachusetts and Minnesota and the federal government. In addition, the Governor of New York recently issued Executive Order No. 134, which requires State agencies to use cleaning products that minimize potential human health and environmental impacts.^[7] Although the Executive Order does not apply to City agencies, it encourages local governments and school districts to “review their purchasing and use of cleaning products” and similarly to select products having less harmful properties. The Order directs the New York State Office of General Services to offer assistance to local governments and school districts to achieve these goals. New York State also recently adopted legislation that requires the use of environmentally sensitive cleaning and maintenance products for use in elementary and secondary school facilities.

IV. Cost and Availability of Green Cleaning Products

It appears that the switch to “green” cleaning products typically does not result in greater expense. In fact, Santa Monica experienced a five percent reduction in cost after its transition.^[8] “Other public purchasers, including the U.S. Department of the Interior (including several National Parks);^[9] the Chicago Public School System; Seattle . . . the States of Illinois, Massachusetts, Minnesota, Missouri, Pennsylvania and Vermont; as well as Sarasota County, FL and Alameda County, CA, also report that safer cleaners are cost competitive.”^[10] In addition, government analyses suggest that improving buildings and indoor environments, including using safer cleaning products and better ventilation, could reduce health-care costs and sick leave and increase worker productivity by 0.5 – 5%.^[11]

In addition, many green cleaning products appear to be readily available, as there are a number of companies that manufacture them. These companies have responded to greater consumer demand for these products, resulting from the emergence of information regarding the risks posed by some

cleaning products.^[12]

V. Analysis of Proposed Int. No. 552-A and Comparison to the Bill Heard by the Committee on September 26, 2005

Proposed Int. No. 552-A (the “Bill”) that is currently before the Committee differs from the previous version of the legislation that was heard on September 26, 2005 (the “September 26, 2005 Bill”), in that it incorporates a pilot program for the testing and evaluation of green cleaning products, pursuant to which the City will determine the feasibility of using such products in City facilities, prior to its purchase and use of such products citywide.

September 26, 2005 Bill

The September 26, 2005 Bill set forth requirements for the purchase by a City agency or contractor of general purpose cleaners, bathroom cleaners, glass cleaners, carpet cleaners, disinfectants or sanitizers, floor finishes and floor strippers. These requirements included the meeting of Green Seal^[13] standards and were primarily based upon an approach developed by a group of state and local government purchasers organized by the Center for a New American Dream.^[14] The September 26, 2005 Bill contained certain exemptions for products used in a food preparation area or medical facility and would have required that City agencies and contractors make best efforts to purchase degreasers, graffiti removers, furniture polishes and metal cleaners that met as many of the requirements set forth in Green Seal standard GS-37 as possible.^[15] In addition, the legislation would have required that agencies and contractors make best efforts to purchase products with certain other desirable characteristics, such as the absence of any known respiratory irritants or mutagens.

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The Bill Currently Before the Committee

Sections one and two of the Bill respectively contain the Statement of Findings and Purpose and the title of the local law. Section three of the Bill establishes the green cleaning pilot program, which the Director of Environmental Purchasing (the "Director") shall administer, and sets forth the framework for such program. The Director shall develop a list of all cleaning products currently used in large quantities by City agencies and select product categories for inclusion in the pilot program. In addition, the Director must establish health and environmental criteria for selecting products to be tested and evaluated pursuant to the program. The Director must then select environmentally preferable cleaning products for inclusion in the program that meet the established health and environmental criteria, in addition to a representative sample of facilities owned by the City within which to implement the program. Where the Director selects a product for testing and evaluation in a product category for which an applicable Green Seal standard exists, the Director shall, to the extent practicable, direct that the product, at a minimum, meet such Green Seal standard, with the exception of product packaging and concentrate requirements.

No later than one year after the date of enactment of the Bill, the Director must develop and publish a pilot program plan for the testing and evaluation of environmentally preferable cleaning products, which shall be immediately distributed to all agencies participating in the pilot program, in addition to the Mayor and the Speaker of the Council. Any update or modification to such plan shall immediately be distributed as described above.

The testing and evaluation process of the pilot program shall assess products based on effectiveness, health and safety, costs and savings. No later than three years after the enactment of the Bill, the Director shall submit a report to the Mayor and the Speaker of the Council, which details the results of the pilot program and shall include, among other things, a determination as to the feasibility of using environmentally preferable cleaning products in each of the product categories included in the pilot program citywide in facilities, or portions thereof, owned and/or leased by the City. For any

facility type or specific application for which the Director determines that the use of such products in a specific product category is not feasible, a description of the reasons for such lack of feasibility and all efforts made to successfully use such products in such facility type or application shall be included in the report. The Bill also provides that the Director may, on an ongoing basis, test and evaluate environmentally preferable cleaning products to determine the feasibility of using such products by the City.

Section four of the Bill establishes a green cleaning technical advisory committee, which shall provide advice and recommendations to the Director for the duration of its term on the green cleaning product pilot program. Such committee shall be comprised of seven members, two of whom shall be appointed by the Speaker of the Council and five by the Mayor. The members, who shall have technical, scientific or other relevant experience regarding the procurement or use of green cleaning products, shall be appointed no later than March 3, 2006 and shall continue to exist until three years after the enactment of the Bill.

Section five of the Bill adds a new subchapter six to chapter 3 of title 6 of the Administrative Code of the City of New York, which would consist of Section 6-316. Section 6-316 requires, beginning June 1, 2009, the City to purchase and use green cleaning products to the extent and in the manner that such use is determined to be feasible through the pilot program or through any other testing and evaluation conducted by the Director. Such green cleaning products shall meet the health and environmental criteria for the relevant product category as established by the Director under the pilot program or any such criteria as updated or revised by the Director.

In addition, no later than June 1, 2009, the Director shall publish a list of green cleaning products that may be purchased by the City to comply with section 6-316, which, at least once annually, shall be reviewed and revised, if necessary.

The Bill would become effective immediately, except for section five, which would take effect June 1, 2009. However, the local law will only go into effect if four other environmental purchasing bills

also take effect. These bills create a Director of Citywide Environmental Purchasing (Proposed Int. 534-A), and set standards for goods purchased by the City relating to hazardous content (Proposed Int. 544-A), recycled content (Proposed Int. 545-A) and energy efficiency (Proposed Int. 536-A).

Proposed Int. No. 552-A

By Council Members Moskowitz, The Speaker (Council Member Miller), Gennaro, Quinn, Baez, Brewer, Comrie, Fidler, Gentile, Gerson, Koppell, Liu, Martinez, Nelson, Recchia Jr., Reed, Sears, Stewart, Weprin, DeBlasio, James, Barron, Perkins, McMahan, Reyna, Monserrate, Vallone Jr., Yassky, Gioia, Sanders Jr., Katz, Lopez and Palma

A Local Law

To amend the administrative code of the city of New York, in relation to the purchase of green cleaning and other custodial products.

Be it enacted by the Council as follows:

Section 1. Statement of findings and purpose. The Council finds that there are environmentally preferable alternatives to the products that we commonly use for routine tasks, such as cleaning and maintaining interior building finishes. Such alternatives are most beneficial to those who apply them and those who occupy buildings where such products are used. In addition to the federal government, a number of state and local jurisdictions have taken steps to purchase environmentally preferable or “green” cleaning products.

The Council finds that the purchase and use of many such environmentally preferable cleaning alternatives will result in improved indoor air quality and enhanced environmental health.

§2. This law shall be known and may be cited as the “Greening Our Cleaning Act”.

§3. Green cleaning product pilot program. a. For the purpose of this section and section four of this local law, the following terms shall have the following meanings:

(1) “Air freshener” means any product including, but not limited to, sprays, wicks, powders, blocks, gels and crystals, designed for the purpose of masking odors, or freshening, cleaning,

scents or deodorizing the air. This term shall not include products that are used on the human body, products that function primarily as cleaning products or disinfectant products claiming to deodorize by killing germs on surfaces.

(2) “Bathroom cleaner” means any product used to clean hard surfaces in a bathroom, such as counters, walls, floors, fixtures, basins, tubs and tile. This term may include products that are required to be registered under the federal insecticide, fungicide, and rodenticide act, such as disinfectants and sanitizers, but shall not include products specifically intended to clean toilet bowls.

(3) “Carpet cleaner” means any product used for the routine cleaning of carpets and rugs. This term shall include, but not be limited to, products used in cleaning by means of extraction, shampooing, dry foam, bonnet or absorbent compound, but shall not include products intended primarily for spot removal or any products required to be registered under the federal insecticide, fungicide, and rodenticide act, such as those making claims as sterilizers, disinfectants or sanitizers.

(4) “Degreaser” means any product designed to remove or dissolve grease, grime, oil and other oil-based contaminants from interior or exterior building surfaces.

(5) “Director” means the director of citywide environmental purchasing.

(6) “Disinfectant” means any United States environmental protection agency-registered agent that is used to destroy or irreversibly inactivate infectious fungi, viruses and bacteria, but not necessarily their spores.

(7) “Floor finish” means any product designed to polish, protect or enhance floor surfaces by leaving a protective wax, polymer or resin coating that is designed to be periodically removed and reapplied.

(8) “Floor stripper” means any product designed to remove floor finish through breakdown of the finish polymers, or by dissolving or emulsifying the finish, polish or wax. This term shall not include general-purpose cleaners that can be used to clean floors, floor sealers, spray buffing products or products or equipment designed to remove floor wax solely through abrasion.

(9) “General-purpose cleaner” means any product used for routine cleaning of hard surfaces, including impervious flooring, such as concrete or tile. This term shall not include any cleaner intended primarily for the removal of rust, mineral deposits or odors; any product intended primarily to strip, polish or wax floors; any cleaner intended primarily for cleaning toilet bowls, dishes, laundry, glass, carpets, upholstery, wood or polished surfaces; or any product required to be registered under the federal insecticide, fungicide, and rodenticide act, such as those making claims as sterilizers, disinfectants or sanitizers.

(10) “Glass cleaner” means any product used to clean windows, glass and polished surfaces. This term shall not include any product required to be registered under the federal insecticide, fungicide, and rodenticide act, such as those making claims as sterilizers, disinfectants or sanitizers.

(11) “Green Seal” means the independent, non-profit organization that sets standards for environmentally responsible products.

(12) “Metal cleaner” means any product designed primarily to improve, by physical or chemical action, the appearance of finished metal, metallic, or metallized furniture or interior or exterior building surfaces, including, but not limited to fittings and decorative ornamentation. This term shall not include any product designed primarily to remove grease, grime and oil.

(13) “Sanitizer” means any United States environmental protection agency-registered agent that is used to reduce, but not necessarily eliminate microorganisms to levels considered safe by public health codes or regulations.

b. A pilot program, which the director shall administer, is hereby established to study the feasibility of using green cleaning products in city facilities.

c. The director shall develop a list of cleaning products currently used in large quantities by agencies and shall select cleaning product categories currently used by agencies that are suitable for inclusion in the pilot program. At a minimum, general-purpose cleaners, bathroom cleaners, glass cleaners, carpet cleaners, floor finishes, floor strippers and air fresheners shall be included in the pilot program if used by the city and disinfectants, sanitizers, graffiti removers, metal cleaners, furniture polishes and degreasers shall be considered for inclusion in such program.

d. For each product category included in the pilot program, the director shall establish health and environmental criteria for selecting products to be tested and evaluated in the pilot program. The following may be considered in establishing such criteria:

(1) any available scientific evidence;

(2) any specifications, guidelines or rules of other governmental agencies or jurisdictions, or organizations supporting the establishment of environmental purchasing standards;

(3) whether such products contain any known respiratory irritants, mutagens or petrochemical-based fragrances, are produced from bio-based materials, or are sold in containers that reduce worker exposure to the chemicals contained therein; and

(4) any other matter determined by the director to be relevant to determining such health and environmental criteria.

e. The director shall select environmentally preferable cleaning products in each product category for inclusion in the pilot program that meet the criteria established pursuant to subdivision d of this section. Where the director selects a product for testing and evaluation in a product category for which an applicable Green Seal standard exists, the director shall, to the extent practicable, direct that the product, at a minimum, meet such Green Seal standard, with the exception of product packaging and concentrate requirements.

f. The director shall select an appropriate, representative sample of facilities,

or portions

thereof, owned by the city within which to implement the pilot program.

g. No later than one year after the date of enactment of this local law, the director shall develop and publish a pilot program plan for the testing and evaluation of environmentally preferable cleaning products, which shall include: the list of products in each category to be tested and evaluated in the pilot program; testing and evaluation guidelines for such products; the facilities, or portions thereof, designated for inclusion in such pilot program; and any other information relating to the pilot program that the director deems appropriate. Immediately upon its publication, such plan shall be distributed to all agencies participating in the pilot program, in addition to the mayor and the speaker of the council. Any update or modification to such plan shall immediately be distributed as described above.

h. The testing and evaluation process of the pilot program shall assess products selected for the program based upon effectiveness, health and safety, costs and savings.

i. No later than three years after the enactment of this local law, the director shall submit a report to the mayor and the speaker of the council, which shall detail the results of the pilot program. Such report shall include, but not be limited to, the following:

(1) a list of the products that were tested and evaluated in each product category;

(2) a description of the pilot program process and how each product category and product was selected for inclusion in the program and tested and evaluated, as applicable;

(3) the health and environmental criteria established for each product category and, where the director has not directed that tested and evaluated products, at a minimum, meet the applicable Green Seal standard for the relevant product category where such a standard exists, with the exception of product packaging and concentrate requirements, an explanation as to why the director has not done so;

(4) the facilities, or portions thereof, in which the pilot program was implemented;

(5) the agencies whose facilities or employees were included in the pilot program;

(6) the list of cleaning products developed pursuant to subdivision c of this section, the

amount of each such product purchased during the fiscal year beginning July 1, 2007, and whether or not these products meet the health and environmental criteria established by the director pursuant to the pilot program;

(7) an analysis and conclusion regarding the testing and evaluation of each product with respect to effectiveness, health and safety, and anticipated costs or savings and how such results compare to an assessment of such characteristics for the standard cleaning product used for the same purpose; and

(8) a determination as to the feasibility of using environmentally preferable cleaning products in each of the product categories included in the pilot program citywide in facilities, or portions thereof, owned and/or leased by the city, based upon effectiveness, health and safety, costs and savings of the products in such category. For any facility type or specific application for which the director determines that the use of such products in a specific product category is not feasible, the reasons for such lack of feasibility and all efforts made to successfully use such products in such facility type or application shall be described.

j. The director may, on an ongoing basis, test and evaluate environmentally preferable cleaning products, not limited to the product categories included in the pilot program, to determine the feasibility of using such products by the city.

§4. Green cleaning technical advisory committee. a. A green cleaning technical advisory

committee shall be established, which shall provide advice and recommendations to the director for the duration of its term on the green cleaning product pilot program established pursuant to section three of this local law, regarding:

(1) the scope and implementation of the pilot program, including the product categories,

products, facilities, or portions thereof, and agencies included in the program;

(2) for each program category, the health and environmental criteria that products shall meet;

(3) the testing and evaluation of products;

(4) a determination as to the feasibility of using environmentally preferable cleaning products citywide in facilities, or portions thereof, owned and/or leased by the city; and

(5) any other recommendations to improve upon or make the pilot program more effective, including regarding end-user outreach and training and the experience of other jurisdictions.

b. Such advisory committee shall be comprised of seven members, two of whom shall be appointed by the speaker of the council and five by the mayor. The members, who shall serve without compensation, shall have technical, scientific or other relevant experience regarding the procurement or use of green cleaning products and shall be appointed no later than March 3, 2006.

A chairperson shall be elected from amongst the members. Members shall serve at the pleasure of the appointing official and any vacancy shall be filled in the same manner as the original appointment. The director may provide staff to assist the advisory committee.

c. The advisory committee shall continue to exist until three years after the enactment of this local law, after which time the committee shall cease to exist.

§5. The administrative code of the city of New York is amended by adding a new subchapter 6 to chapter 3 of title 6 to read as follows:

SUBCHAPTER 6

CLEANING PRODUCTS

§6-316 Green cleaning products.

§6-316 **Green cleaning products.** a. Beginning June 1, 2009, the city shall purchase and use green cleaning products to the extent and in the manner that such use is determined to be feasible through the pilot program established pursuant to the local law that added subchapter 6 of this chapter or through any other testing and evaluation conducted by the director. Such green cleaning products

shall meet the health and environmental criteria for the relevant product category as established by the director under the pilot program or any such criteria as updated or revised by the director.

b. No later than June 1, 2009, the director shall publish a list of green cleaning products that may be purchased by the city to comply with this section. At least once annually, such list shall be reviewed and revised, if necessary.

§6. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

§7. This local law shall take effect immediately, except that section five of this local law shall take effect June 1, 2009. Provided, however, that this local law shall take effect only in the event that: Int. No. 534-A, a proposed local law to amend the administrative code of the city of New York, in relation to environmental purchasing and the establishment of a director of environmental purchasing, takes effect; Int. No. 536-A, a proposed local law to amend the administrative code of the city of New York, in relation to the purchase of energy efficient products, and to repeal subdivision a, c, d, e and f of section 6-127 of such code, takes effect; Int. No. 544-A, a proposed local law to amend the administrative code of the city of New York, in relation to the reduction of hazardous substances in products purchased by the city, takes effect; and Int. No. 545-A, a proposed local law to amend the administrative code of the city of New York, in relation to the purchase of products with recycled content, and to repeal section 6-122 and subchapter 5 of chapter 3 of title 16 of such code, takes effect.

DD LS # 1486

12-13-2005

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- [1] Case, Scot, A Clean Sweep, Government Procurement, October 2004, at 12; Janitorial Products Pollution Prevention Project, What Cleaners Have the Most Risk? at <http://www.wrppn.org/Janitorial/jp4.cfm>.
- [2] U.S. Environmental Protection Agency (EPA), Greening Your Purchase of Cleaning Products, Draft 3/4, A Guide for Federal Purchasers at <http://www.epa.gov/opptintr/epp/documents/clean/cleaning.htm>; Green Seal, Choose Green Report, General Purpose Cleaners, March 1998, at 3.
- [3] Green Seal, Choose Green Report, Floor-Care Products, June 2004, at 1.
- [4] EPA, Indoor Air: IAQ Tools for Schools, IAQ Tools for Schools Kit – IAQ Backgrounder at <http://www.epa.gov/iaq/schools/tfs/iaqback.html>.
- [5] *Id.*
- [6] Santa Monica eliminated 3,200 pounds of hazardous materials by replacing traditional cleaning products with less toxic ones. EPA, Environmentally Preferable Purchasing Program, The City of Santa Monica’s Environmental Purchasing, A Case Study, EPA742-R-98-001, March 1998, at 14.
- [7] Executive Order 134, Directing State Agencies to Reduce the Environmental Impact of Cleaning of State Facilities, January 5, 2005 at http://www.gorr.state.ny.us/gorr/EO134_fulltext.htm.
- [8] The City of Santa Monica’s Environmental Purchasing at 14.
- [9] The bid that was awarded the U.S. Department of the Interior’s custodial contract in August 1999 “had the lowest price of those under consideration.” EPA, Department of Interior Focuses on Cleaning Products at <http://epa.gov/opptintr/epp/ppg/case/doicase.htm>.
- [10] *A Clean Sweep* at 14.
- [11] Improved Productivity and Health from Better Indoor Environments, CBS Newsletter, Summer 1997, at 5 at http://eetd.lbl.gov/newsletter/cbs_nl/nl15/productivity.html.
- [12] EPA, Environmentally Preferable Purchasing Guide, Greening Your Purchase of Cleaning Products, EPA742-B-01-002, December 2001, at 3.
- [13] “Green Seal is an independent, non-profit organization that strives to achieve a healthier and cleaner environment by identifying and promoting products and services that cause less toxic pollution and waste, conserve resources and habitats, and minimize global warming and ozone depletion.” Green Seal, About Green Seal, Who We Are and What We Do at <http://www.greenseal.org/about.htm>.
- [14] The Center for a New American Dream, Cleaning Products Work Group, September 2003 UPDATE at <http://www.newdream.org/procure/products/cleaners.php>; The Center for a New American Dream is a not-for-profit organization that “helps Americans consume responsibly to protect the environment, enhance quality of life, and promote social justice.” The Center for a New American Dream, The New American Dream at <http://www.newdream.org/about/>.
- [15] Green Seal, Industrial and Institutional Cleaners (GS-37), October 19, 2000 at <http://www.greenseal.org/standards/>

[industrialcleaners.htm.](#)