



February 26, 2008

BY E-MAIL

Office of Federal Procurement Policy
Office of Management and Budget
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Washington, DC 20503
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Re: Comments on Proposed OFPP Policy Letter

To Whom It May Concern:

The Resilient Floor Covering Institute (RFCI) submits these comments on the Office of Federal Procurement Policy's (OFPP) proposed policy letter on the acquisition of green products and services, which would supersede OFPP Policy Letter 92-4. 72 Fed. Reg. 73,904 (Dec. 28, 2007).

RFCI is a trade association of resilient floor covering producers in North America who manufacture resilient tile, sheet vinyl, rubber tile, and linoleum products for residential and commercial flooring installations. RFCI includes, as associate members, companies that supply raw materials used in the production of resilient flooring, companies that manufacture and supply products used in the installation and maintenance of resilient flooring, and foreign manufacturers of resilient flooring outside of North America. A list of RFCI members is attached as Appendix A.

RFCI supports the development of a clearly defined and scientifically sound Federal green procurement policy. To that end, RFCI explains how the FloorScore program, which certifies resilient flooring products complying with California VOC requirements, meets the important indoor environmental quality criteria for federal high performance and sustainable buildings. We further recommend several changes to the proposed policy letter that would provide a better-defined, open, and public decision-making process for designating green products which would result in a stronger scientific foundation for those decisions.

Adoption of these measures would help all federal agencies develop affirmative procurement programs (APP) that are based on sound decision-making and science and avoid inconsistent green product decisions among agencies. These measures also would assist in ensuring that the federal government does not make mistaken green product decisions that,

through its vast purchasing power, could have significant adverse environmental and economic repercussions for the government, product manufacturers, and the public.

A. The FloorScore Program Supports the Indoor Environmental Quality Principle of the Federal High Performance and Sustainable Buildings MOU and Should Be Recognized in the Policy Letter and Federal Agency APPs

Section 8.F(1)(a) of the proposed policy letter provides that executive agencies acquiring leased space or constructing buildings shall implement the five "Guiding Principles" for high performance and sustainable buildings in the Federal Leadership in High Performance and Sustainable Buildings Memorandum of Understanding's (Federal MOU). One of these principles is to "enhance indoor environmental quality." The FloorScore program described below furthers this important goal and should be recognized in the policy and included in the APP of each executive agency.

In May 2005, RFCI, in conjunction with Scientific Certification Systems (SCS), introduced the FloorScore Certification program. The FloorScore program tests and certifies hard surface flooring products, including vinyl, rubber, linoleum, cork, laminate, wood, and ceramic flooring material, for compliance with indoor air quality emission requirements for low emitting building products. In particular, resilient flooring products that bear the FloorScore seal are certified by SCS to comply with the volatile organic compound (VOC) emissions criteria of the California Section 01350 Indoor Air Quality (IAQ) program. SCS provides independent third party certification for the FloorScore program based on reviewing test data and conducting company audits. Over 200 flooring products have received FloorScore certification. Overall, this program offers a voluntary certification program that allows specifiers, government agencies, and building owners to select hard surfaces flooring materials that meet specific emissions criteria.

The low VOC emissions achieved by FloorScore approved products substantially enhance indoor environmental quality as defined in the Federal MOU. In fact, the Technical Guidance for the Federal MOU directly refers users to the SCS IAQ Product Certification Programs website where FloorScore is described. *See* Appendix B. Moreover, the FloorScore program has already been incorporated into many environmentally preferable product (EPP) and green building programs, including the U.S. Green Building Council's LEED rating system, the Green Building Initiative's Green Globes rating system, the Collaborative for High Performance Schools (CHPS), the Green Guide for Health Care, and EPA's Tools for Schools program.

Given that FloorScore directly supports a key principle in the Federal MOU, RFCI believes that it would be beneficial for the FloorScore Program to be specifically mentioned in the policy letter and/or in the Federal Register notice announcing the final policy letter as an example of a program that complies with Section 8.F(1)(a). Likewise, it should be included in the APP of each executive agency.

B. Several Green Product Categories Are Vaguely Defined, and Green Product Selection Should Utilize an Open and Public Decision-Making Process

The proposed policy letter requires executive agencies to give preference to the acquisition of "green products and services" and identifies several categories of green products. Some of these categories are clearly defined (*e.g.* biobased products, recycled content products) because they cover specified products which have been selected through an open and public regulatory decision-making process, pursuant to statutory criteria. For example, the biobased product category, Section 8.A.(1)(b), refers to products designated by the US Department of Agriculture (USDA), pursuant to criteria specified in the Farm Security and Rural Investment Act of 2002, after USDA conducts a rulemaking process that is open to public comment and agency review. Likewise, EPA designates recycled content products pursuant to criteria in the Resource Conservation and Recovery Act, after notice and comment rulemaking where comments from end users, manufacturers, distributors, and the general public are considered by EPA. These types of public participation processes are designed to lead to more credible and sound "green" product designations.¹

Other green product categories in the proposed policy letter are extremely vague and do not involve product selection pursuant to notice and comment rulemaking or other open, formal, and consensus-based decision-making. For example, "environmentally-preferable" products are defined in the policy letter as those 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 definition leaves a number of questions unanswered. Does the definition focus on long or short term health and environmental effects? What if a product has a reduced effect on health, but an increased effect on the environment? What life-cycle assessment model is to be used to compare competing products and how are different attributes to be weighed?

Likewise, the category of "low or no toxic or hazardous chemicals or materials or products containing lesser or no toxic or hazardous constituents" is even less well defined and raises similar kinds of questions. What substances qualify as "toxic or hazardous?" What concentrations of such materials qualify as "low?"

Further, the procurement requirements of the proposed policy are not limited to just the green product categories specifically named in the policy letter (*i.e.* green products and services "include[e] but [are] not limited to" the specified product categories). Section 8.A(1).

¹ Regarding certain other product categories in the proposed policy letter, EPA must use notice and comment rulemaking to impose any use restrictions on non-ozone depleting substances listed under its Significant New Alternatives Program (SNAP). See 65 Fed. Reg. 24,387, 24,388-89 (Apr. 26, 2000). "Water efficient" products selected through EPA's "Watersense" program are chosen with the help of independent third-party certifying organizations. The selection of "alternative fuels and alternative fuel vehicles" is based on criteria specified in the Energy Policy Acts of 1992 and 2005 and subsequent notice and comment rulemaking by the Department of Energy. Thus, the decision-making for selecting products in these categories provide the opportunity for significant public participation and input through rulemaking, the legislative process, and interested organization participation.

Thus, the vaguest categories of eligible products are those that are not even identified in the proposed policy and may be specified later pursuant to unknown criteria.

Moreover, these very vague categories are not selected through formal notice and comment rulemaking procedures or other transparent decision-making procedures which involve public participation of interested parties. Section 8.D.2(c) requires USDA, EPA, or DOE to issue a Federal Register notice when it designates new products for its green product list. However, this notice requirement apparently applies only after the agency has made a final decision to designate a new green product. It does not require notice and comment about the proposed decision and thus, precludes public participation in this critical agency decision making. Furthermore, it's unclear whether this notice of decision-making is even required for newly designated products in categories such as "environmentally-preferable" and "low or no toxic or hazardous constituents."²

Without a more precise definition of what constitutes certain "green products," and without procedures in place to ensure that designations are adequately vetted through the regulatory, scientific, and industrial communities, the procurement practices established within each agency's affirmative procurement program (APP) are likely to vary widely. Even more troublesome, the green product decisions may be based on unsound scientific evidence which will have adverse environmental and economic consequences for the government, product manufacturers, and the public.

Particularly with respect to designating "green" products based on the vague categories of "environmentally preferable" and "low or no toxic or hazardous chemicals or materials," the policy should require federal agencies either to: 1) utilize notice and comment rulemaking for selecting products in these categories, or 2) rely on and justify their decisions based on using voluntary environmentally preferable product (EPP) or sustainability standards developed through a third party, consensus-based certification program. Indeed, the proposed policy in Section 8.A(5) encourages the use of voluntary green standards by providing that executive agencies shall:

"Work with private standard setting organizations and participate . . . in the development of voluntary standards and specifications defining green products, practices and services."

To ensure that these private green standards are based on due process and openness and use sound scientific information, the private standard setting organization should be certified by the American National Standards Institute (ANSI) and the green standards should

² Section 8.D.(2)(c) refers to a notice issued "by the manager of a green product program" at USDA, EPA, or DOE. Logically, the term "green product programs" refers to the programs already identified in the policy letter, namely, the biobased products, Energy Star, SNAP, recycled content, and water efficient products programs. There is no discussion or evidence of additional programs to designate "environmentally preferable" or "low or no toxic or hazardous constituents" products by these agencies.

be developed using ANSI procedures and receive ANSI certification.³ ANSI accreditation signifies that an official standards developing organization incorporates procedures that meet the requirements of openness, balance, consensus, and due process. Specifically, in order for an ANS to be approved, several hallmarks must be achieved, including: 1) consensus must be reached by representatives from materially affected and interested parties; 2) standards must undergo public review; 3) comments from the public must be responded to in good faith; and 4) an appeal process must be included. *See* www.ansi.org.

A number of EPP and sustainability standards are being developed or have been developed through ANSI certified organizations and procedures. For example, NSF International – an ANSI certified standard-setting organization – is developing the Standard Practice for the Assessment of Product Sustainability for Resilient Floor Coverings. Upon completion, this standard will be a fully certified ANS. Similarly, NSF International has teamed with the Carpet & Rug Institute to define sustainable carpet products through NSF/ANSI Standard 140-2007, the Sustainable Carpet Assessment Standard.

The use of notice and comment rulemaking or required reliance on ANSI-certified EPP or sustainability standards is the best way to achieve openness, fairness, balanced participation of interested parties, and sound decision-making based on credible scientific evidence. In contrast, a federal agency should not use green product lists generated by interested parties who do not utilize these procedures or a third-party certification process (e.g. Environmental Building News "Green Product Guide") because the reliability, bias, and scientific soundness of the lists have not been adequately tested through open and public decision-making or independent certification.

C. Purchasing Requirement Exemptions Should Apply Equally to All Green Product Categories

As currently drafted, the exemptions from the purchasing requirements of the policy letter in Section 8.G only apply to EPA-designated recycled content products, USDA-designated biobased items, and Energy Star or FEMP designated energy efficient products. While the exemptions that relate to the energy efficient items are rather specific, the exemptions regarding the recycled content and biobased products are general and should apply to the rest of the green products and services identified in Section 8.A. These exemptions are for products that: 1) are not reasonably available; 2) fail to meet performance standards; 3) are only available at an unreasonable price; or 4) are not available from a sufficient number of sources to maintain a satisfactory level of competition.

Federal agencies seeking to purchase products falling into the other green product categories, including environmentally-preferable, low or no toxic or hazardous constituents, alternative fuels, non-ozone depleting, and water efficient, are likely to face performance, price,

³ANSI has overseen the development of private voluntary standardization systems for 90 years. Approximately 200 individual organizations have received accreditation from ANSI as official standards developing organizations and approximately 10,000 American National Standards (ANSs) have been developed with oversight from ANSI.

and availability problems in certain situations which would require the use of the exemptions listed in Section 8.G(1). For instance, certain cleaning products that are considered "environmentally-preferable" may not have the performance capability to clean laboratories or other areas at various agencies that must remain highly sterile. Under the policy letter, as currently drafted, the agency would not be able to obtain a performance failure exemption in this situation.

Because the exemptions listed in Section 8.G(1) are universal in nature, they should apply to all of the remaining categories of green products. Therefore, Section 8.G(1) should be amended so that it reads:

"A decision not to procure ~~EPA-designated recycled content products or USDA-designated biobased items~~ green products directly or through a service contract requires written justification by the agency that a determination was made that such items:"

* * * * *

Thank you for considering RFCI's comments. If you have any questions about these comments or would like additional information, please contact me.

Sincerely,



C. Dean Thompson
President

Attachment

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The Gateway to Up-To-Date Information
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Appendix B

Enhance Indoor Environmental Quality (IEQ)

by the WBDG Sustainable Committee

Last updated: 06-11-2007

Overview

In the struggle to build cost-effective buildings, it is easy to forget that the ultimate success or failure of a project rests on its indoor environmental quality (IEQ). Healthy, comfortable employees are invariably more satisfied and productive. Unfortunately, this simple, compelling truth is often lost, for it is simpler to focus on the first-cost of a project than it is to determine the value of increased user productivity and health. Federal facilities should be constructed with an appreciation of the importance of providing high-quality, interior environments for all users.



The Thoreau Institute of Sustainability at the Presidio—San Francisco, California

During the facility design and development process, federal projects must have a comprehensive, integrated perspective that seeks to:

- Facilitate quality IEQ through good design, construction, and operating and maintenance practices;
- Value aesthetic decisions, such as the importance of views and the integration of natural and man-made elements;
- Provide thermal comfort with a maximum degree of personal control over temperature and airflow;
- Supply adequate levels of ventilation and outside air to ensure indoor air quality;
- Prevent airborne bacteria, mold, and other fungi through heating, ventilating, air-conditioning (HVAC) system designs that are effective at controlling indoor humidity, and building envelope design that prevents the intrusion of moisture;
- Avoid the use of materials high in pollutants, such as volatile organic compounds (VOCs) or toxins;
- Assure acoustic privacy and comfort through the use of sound absorbing material and equipment isolation;
- Control disturbing odors through contaminant isolation and careful selection of cleaning products;
- Create a high performance luminous environment through the careful integration of natural and artificial light sources; and
- Provide quality water.

Note: IEQ encompasses indoor air quality (IAQ), which focuses on airborne contaminants, as well as other health, safety, and comfort issues such as aesthetics, potable water surveillance, ergonomics, acoustics, lighting, and electromagnetic frequency levels.

Attacks by Department of Health and Human Services. May 2002.

- *Guidance for Filtration and Air-Cleaning Systems to Protect Building Environments from Airborne Chemical, Biological, or Radiological Attacks* by National Institute for Occupational Safety and Health. April 2003.
- *The Inside Story: A Guide to Indoor Air Quality* by EPA Office of Radiation and Indoor Air (6604J) and United States Consumer Product Safety Commission.
- NAVFAC White Paper on Carbon Monoxide
- UFC 4-010-01, DoD Minimum Anti-Terrorism Standards for Buildings

Prevent Airborne Bacteria, Mold, and Fungi

- Air Force: *Air Force Engineering Technical Letter ETL 04-3 Design Criteria for Prevention of Mold in Air Force Facilities*.
- Indoor Environmental Standards Organization (IESO)—IESO is a non-profit organization that provides a national forum for the development and publication of voluntary consensus standards for the assessment of indoor environments. IESO also offers certification programs to promote awareness and compliance to the established standards. The *IESO Standards of Practice, Volume 1* for the assessment of indoor air quality includes seven standards on two topics: Mold Sampling and Assessment of Mold Contamination.
- OSHA, Molds & Fungi website

Limit Spread of Pathogens

- WBDG: Health Care Facilities

Avoid the Use of Materials High in Pollutants

- Cleaning Products Pilot Project (CPPP), EPA
- Environmentally Preferable Purchasing, EPA
- Greenguard Environmental Institute Certified Products
- GreenSeal Product Recommendations
- Scientific Certification Systems (SCS) IAQ Product Certification Program

Assure Acoustic Privacy and Comfort

- WBDG: Productive—Provide Comfortable Environments
- Architectural Graphic Standards, 10th Edition

Create a High—Performance Luminous Environment

- WBDG: Productive—Promote Health and Well-Being, Productive—Provide Comfortable Environments
- IESNA RP-5 Recommended Practice of Daylighting
- Windows and Daylighting Group, Lawrence Berkeley National Laboratory

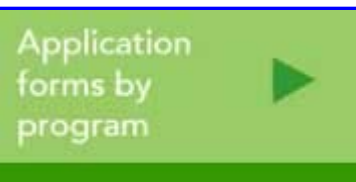
Provide Quality Water

- EPA Safe Drinking Water Act (SDWA)

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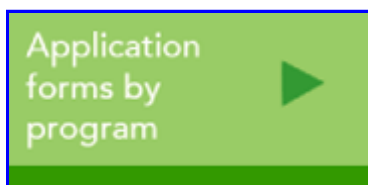
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FloorScore

FloorScore, developed by the Resilient Floor Covering Institute (RFCI) in conjunction with Scientific Certification Systems (SCS), tests and certifies hard surface flooring and flooring adhesive products for compliance with rigorous



indoor air quality emissions requirements. Individual volatile organic compounds (VOCs) are evaluated using health-based specifications. Flooring and adhesives that earn FloorScore certification earn a legitimately enhanced market position, distinguished by the FloorScore certification label.

Products bearing the FloorScore label meet the indoor air emissions criteria of:

- Collaborative for High Performance Schools (CHPS)
- LEED® Green Building Rating Systems
- Green Guide for Health Care.

The U.S. Green Building Council approved FloorScore-certified products as an alternative compliance path to LEED credit EQ 4.3 Low-Emitting Materials: Carpet Systems in October, 2006.

FloorScore tests to the CA Section 01350 Specification, which includes the Chronic Reference Exposure Levels (CRELs) concentrations established by the California Office of Environmental Health Hazard Assessment and procedures developed by the US EPA. Assuming that other products in an office or classroom may be sources of VOCs, FloorScore certifies hard flooring products that do not exceed one-half the allowable concentration limits.

Under the FloorScore program, manufacturers must submit a written quality control plan, which includes strict requirements for supply chain management. This process strongly encourages the identification of chemical sources, helping manufacturers to develop materials specifications. By purchasing input materials with low concentrations of the target VOCs, manufacturers gain increasing confidence that their products will meet criteria for certification.

[Program Documents/Downloads](#)

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