

San Francisco Department of the Environment Regulation #SFE 05-02-PPO
Regulation Establishing Public Participation Guidelines for Implementation of the
Precautionary Purchasing Ordinance (Ord. No. 115-05)
Effective September 20, 2005

A. Authorization.

The Board of Supervisors and Mayor enacted the Precautionary Purchasing Ordinance, effective July 18, 2005 (the "Ordinance"). The Ordinance is codified as Chapter 2 of the Environment Code. The Ordinance creates a comprehensive new system for the City to identify, purchase and use environmentally preferable products based on goals and criteria established by the Ordinance. Section 203(a) requires SFE to adopt, after a public hearing, Public Participation Guidelines for use in making certain decisions under the Ordinance.

B. Findings.

The adoption of these Public Participation Guidelines is required by and in compliance with the directives of the Ordinance. The Director held a public hearing on the draft Guidelines on September 13, 2005.

C. Scope and Requirements.

The attached Guidelines do not duplicate the Ordinance, and must be read together with the Ordinance. These Guidelines apply only to certain decisions made in the implementation of the Precautionary Purchasing Ordinance. They are not intended as broad guidelines for public participation for any other purposes or under other ordinances.

As directed by the Ordinance, the Guidelines will be used in making the following decisions under the Ordinance: developing recommendations for Targeted Product Categories ((§203(b)(i)); developing a set of criteria by which to evaluate products in a Targeted Product Category (§203(c)(i)); and regularly reviewing and revising the criteria (§203(c)(i)). Unless otherwise defined in these Guidelines, the words used shall have the same meanings as those words in Chapter 21 of the Administrative Code and Chapter 2 of the Environment Code.

The Director of the Department of the Environment hereby adopts these Guidelines, effective as of September 20, 2005.

Jared Blumenfeld
Director Department of the Environment

Approved:

Date:

San Francisco Department of the Environment Regulation #SFE-05-02-PPO:
Regulation Establishing Public Participation Guidelines for Implementation of the
Precautionary Purchasing Ordinance (Ord. No. 115-05)
Effective September 20, 2005

1. Definitions

- a. "Approved Alternatives List" or "List" shall mean the list of alternatives to a product within a Targeted Product Category identified, evaluated and approved by the Director. Products on an Approved Alternatives List will have a lesser impact on human health and the environment compared to other similar products, consistent with the Precautionary Principle as defined in Chapter 1 of the Environment Code. The term will be used for products that meet or exceed the City's Product Criteria. The List should embody considerations of environmental and health impact, product performance, and cost.
- b. "COE" shall mean the Commission on the Environment for the City and County of San Francisco.
- c. "Department" or "SFE" shall mean the Department of the Environment for the City and County of San Francisco.
- d. "Director" shall mean the Director of the Department of the Environment.
- e. "EPP" shall mean environmentally preferable purchasing.
- f. "OCA" shall mean the Office of Contract Administration for the City and County of San Francisco.
- g. "Prioritizing Criteria" shall mean criteria for prioritizing the importance of product categories and identifying Targeted Product Categories. The criteria will be based on expected or potential environmental and health impacts, availability of safer alternatives, anticipated staff time required to develop purchasing specifications, or other factors as deemed appropriate by SFE after input from the public. The Prioritizing Criteria will be used by SFE to address the goals set forth in the ordinance (Env. Code §201).
- h. "Product Criteria" shall mean criteria used for selecting specific products that qualify for the City's Approved Alternatives list within a given Targeted Product Category. For example, Product Criteria for janitorial cleaners may include a criterion prohibiting greater than 1% by volume content of a Proposition 65-listed reproductive toxin or carcinogen.
- i. "Targeted Product Category" shall mean a broad category of products routinely purchased by the City that have been identified by the Commission as having potentially undesirable environmental health impacts, and for which alternative products should be identified and substituted.

2. Goals

- a. In implementing the Precautionary Purchasing Ordinance, the Department aims to institute a decision-making process that is transparent, participatory, and informed by

the best available science and other relevant information, in keeping with the Precautionary Principle Ordinance (Env. Code §101).

- b. The Department aims to institute a decision-making process that affords all affected individuals and groups within the community the opportunity for meaningful participation. Staff will develop a notification list of all stakeholders and interested parties and shall use the broadest means of communication including electronic, postal, community newsletters, and postings in City Hall.
- c. Meaningful participation in this context means participation that is both timely and informed. Supporting and facilitating robust public participation is a key part of San Francisco's commitment to purchasing healthy products.
- d. By creating meaningful participation in the decisionmaking process, SFE hopes to continue building trust between the community and the public agencies involved.
- e. In implementing these Guidelines, SFE staff will comply with Chapter 2, "Conflict of Interest and Other Prohibited Activities" of the San Francisco Campaign and Government Conduct Code. SFE staff will also observe the Institute for Supply Management's "Principles and Standards of Ethical Supply Management Conduct."

3. Process for Selecting Targeted Product Categories

- a. SFE staff, in consultation with OCA, will review the list of commodities contracts to determine types of items being purchased, dollar amounts and duration of individual contracts.
- b. SFE staff will seek advice from stakeholders listed below to develop Prioritizing Criteria, which will be used to screen categories of products commonly purchased by the City for inclusion as a Targeted Product Category. These Criteria may include factors such as environmental concerns, health hazards, or availability of safer alternatives. SFE staff will seek input on the Prioritizing Criteria from:
 - 1) The Department of Public Health and the Office of Contract Administration
 - 2) Interested staff from other City departments, the San Francisco Housing Authority, the San Francisco Unified School District, and other governmental entities as appropriate.
 - 3) Environmental scientists with expertise in alternative products.
 - 4) Community representatives with demonstrated expertise in environmental quality, public health, and/or environmental justice.
 - 5) Product manufacturers.
 - 6) Other interested parties from the community with an interest in the program's goals, such as representatives from labor, business, or nonprofit groups.
- c. The process of defining Prioritizing Criteria will be iterative. Stakeholders and SFE staff will discuss and develop Prioritizing Criteria together by convening meetings and utilizing electronic mail resources. SFE staff will incorporate changes to the draft Prioritizing Criteria, as appropriate, based on views expressed at the meeting. SFE staff will use electronic mail and/or web postings to notify stakeholders of these changes, and additional comments will be sought before the next meeting.
- d. Staff will apply the Prioritizing Criteria to the list of citywide contracts, and from this develop a draft list of Targeted Product Categories for the COE.
- e. SFE will hold at least one public meeting to discuss the draft Targeted Product Categories. This meeting will take place before the Targeted Product Categories

have been finalized for presentation to the COE. SFE will provide advance notice of the meeting to the public and to all persons on the notification list. Notice of the meetings will include relevant documents, including the draft Targeted Product Categories and the draft Prioritizing Criteria. Notice of the meetings will include language that is inclusive and makes clear that no particular expertise is needed to participate in the recommendation process. Additionally, recommendations will be accepted in written or electronic form to accommodate stakeholders who cannot attend scheduled meetings. SFE will incorporate changes to the draft Targeted Product Categories document as appropriate, and present the final document to the COE for approval at a public meeting.

- f. SFE will repeat this process of developing Prioritizing Criteria and selecting Targeted Product Categories at least every three years or as the need arises.

4. Process for Selecting Environmentally Preferable Products

- a. After a list of Targeted Product Categories has been adopted, SFE will use its best efforts to gather complete ingredient data (including ingredients that qualify as trade secrets) and/or relevant certifications on specific products in the Targeted Product Categories. Suppliers that do not submit complete product information to SFE will be considered unresponsive bidders.
- b. SFE staff, with advice from various stakeholders, will examine the potential environmental and health impacts of each Targeted Product Category, review existing certifications, labels, or criteria, and select appropriate evaluation criteria (“Product Criteria”). If data are available, these Product Criteria may also address product performance issues. SFE staff will seek input on the Product Criteria from:
 - 1) The Department of Public Health and the Office of Contract Administration
 - 2) End users from other City departments with knowledge of the targeted product category, from the San Francisco Housing Authority, the San Francisco Unified School District, and other governmental entities as appropriate.
 - 3) Environmental scientists with expertise in the specific product category.
 - 4) Community representatives with demonstrated expertise in environmental health, public health, and/or environmental justice
 - 5) Product manufacturers
 - 6) Other institutional purchasers with experience in screening the specific product category.
- c. Since the work environment of end users is most directly affected by the City’s purchasing decisions, their opinions will be given special consideration. SFE staff will assemble end-user groups composed of affected City staff and seek their comments on the draft Product Criteria. These end-user groups will also serve as points of contact for SFE and OCA regarding product performance issues.
- d. SFE will hold at least one public meeting to discuss the final Product Criteria. SFE will provide advance notice of the meeting to the public and to all persons on the notification list. This meeting will take place before the Director adopts the Product Criteria for each Targeted Product Category.
- e. The Director will adopt Product Criteria for each Targeted Product Category.
- f. Product Criteria will be posted on the Department web site and distributed to interested parties.

- g. SFE staff may determine that only a subset of products within a specific Targeted Product Category are suitable for application of the Product Criteria. For example, within the Targeted Product Category of “janitorial cleaners,” SFE may conclude that Product Criteria should not be applied to metal polishes and hard floor cleaners, due to a paucity of effective, qualifying products.
- h. SFE staff will regularly review and revise the Product Criteria to reflect the current state of scientific knowledge regarding potential health and environmental effects, or to reflect changes in the affected markets.
- i. The Director will adopt revised Product Criteria as needed.

5. Creation of Approved Alternatives List.

- a. After a list of Targeted Product Categories has been adopted, SFE will send out announcements to suppliers of products that fall within these product categories. These announcements may include a posting on the SFE website and/or direct electronic mail solicitations.
- b. Products that meet or exceed the Product Criteria will become the “Approved Alternatives List.” In some cases the Approved Alternatives List may apply only to a subset of the Targeted Product Category.
- c. SFE staff will collect feedback on product performance from affected City staff, for use in refining the Approved Alternatives List in future contract processes.

6. OCA Completes the Bid Process Using the Approved Alternatives List