

TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER

DEPARTMENT: PUBLIC WORKS

DATE: DECEMBER 14, 2009

CMR:456:09

REPORT TYPE: CONSENT

SUBJECT: Approval of an Extended Producer Responsibility Policy and Adoption of a Resolution Supporting State and National Extended Producer Responsibility Actions

EXECUTIVE SUMMARY

Staff recommends that Council approve an Extended Producer Responsibility Policy to create incentives for manufacturers and suppliers to reduce waste and pollutant releases in Palo Alto. Extended Producer Responsibility is the concept of having a product producer be responsible for the consequences of the product for the product's entire life cycle. Staff is also recommending adoption of a resolution supporting state and national efforts to implement the Extended Producer Responsibility concept on the widest geographic scale possible, where implementation will be most efficient.

RECOMMENDATION

Staff recommends that Council:

1. Approve an Extended Producer Responsibility Policy (Attachment A); and
2. Adopt an Extended Producer Responsibility Resolution supporting state and national producer responsibility actions (Attachment B).

BACKGROUND

Currently, manufacturers and suppliers have insufficient incentives to reduce waste and pollutant releases associated with products they make and sell. Many of the costs of that waste and pollutant production are shifted to consumers and the public at large as the products move into commerce. Local government is often expected to deal with the resultant disposal of waste and clean-up of pollutant releases. Economists refer to this phenomenon as the creation of "externalities" – the creation of a cost external to the commercial transaction. That is, the sale price of the product does not cover the full cost to society of the product. The environment is either degraded, or society (typically local government) is forced to step in and pay for waste management and pollutant clean-up costs.

A conceptual solution to the problem of "externalities" is referred to as Extended Producer Responsibility (EPR). The concept is that the producer of the product must retain financial and/or physical responsibility for the waste and pollutant releases associated with the product through out

the life cycle of the product. Examples moving toward this concept include the “bottle bill” which requires an advance deposit on drink containers to fund recycling; however, the manufacturers have no role in ensuring the packaging they created gets recycled. Advance deposits are not EPR and these types of efforts have fallen short of a fully effective system, as evidenced by the large number of drink containers which are still found in local creeks. However, such programs do demonstrate the need for moving toward fully effective producer responsibility.

DISCUSSION

Staff is now recommending that Council approve a framework Policy (Attachment A) to establish a program for Extended Producer Responsibility in Palo Alto. Palo Alto cannot achieve its Zero Waste Goal without EPR. Per the May 2006 Palo Alto Waste Composition Study, greater than 25% of the waste disposed by the community cannot be diverted from landfills due to its composition.

Specific products and packaging and implementation details would be added to the framework over time as they are developed. The first specific item being considered for inclusion (at a later date) is expanded plastic packaging. The most common expanded plastic is Styrofoam™. Expanded plastic packaging is used to protect many types of products as they are shipped in commerce. Expanded plastic can be formed into blocks or made into “peanuts”. When discarded carelessly and blown from trucks, expanded plastic litters creeks, San Francisco Bay and ultimately, the ocean. Expanded plastic breaks into small pieces making it extremely difficult to retrieve from natural ecosystems. Chemical breakdown occurs extremely slowly, if at all, in the marine environment. Researchers have found an alarming build up of plastic in the plankton zone of the oceans in recent years with ingestion by animals becoming increasingly common. Council has adopted an Ordinance eliminating expanded polystyrene food service containers at food service establishments which becomes effective on April 22, 2012. Styrofoam™ is one brand of expanded polystyrene.

Palo Alto had been one of the few cities attempting to recycle expanded plastic but had to discontinue the program early in 2009 due to the high costs of attempting to recycle the material. Even when the program was in place, expanded plastic was (and is) a common constituent found in Palo Alto’s creek clean-ups. Small pieces of plastic foam expanded plastic were (and are) building up in the natural vegetation in the creeks because they become virtually impossible to remove. . Other forms of packaging protection exist that are far more readily recycled and are not causing negative impacts in marine environments; paper-based ones being the most common. Paper products are fully recyclable, where expanded plastics are extremely difficult to recycle.

While the goal would be to discontinue the use of expanded plastic packaging, vendors could choose to arrange for take back because the packaging step had already occurred nationally or internationally. In those cases vendors could arrange to have take back occur in a variety of ways, including the collaboration with other manufacturers to establish an infrastructure to efficiently and inexpensively collect and recycle the packaging or utilizing their existing supply chains. A mail-back system is one specific method that has worked for certain office products.

This policy will internalize the “externalities” described above and move manufacturers toward substitute packaging products. EPR, while placing the responsibility on the producers of those products, also places the burden of any increased cost only on those who use those products, rather than on the entire community subsidizing the cost through increased waste management rates with the creation and maintenance of expensive collection programs. When brand owners are responsible

for ensuring their products are recycled responsibly, and when health and environmental costs are included in the product price, there is a strong incentive to design and purchase goods that are more durable, easier to recycle, and less toxic.

Staff is also recommending that Council adopt a Resolution (Attachment B) which supports state and national efforts to create geographically broad Extended Producer Responsibility Programs which will ultimately be more efficient than Palo Alto acting alone. To date, at least 25 County Boards of Supervisors or Agencies and 53 City and Town Councils in California have adopted EPR resolutions or signed pledges of support for the California Product Stewardship Council. The California Product Stewardship Council is a non-profit corporation whose mission is to shift California's product waste management system from one focused on government funded and ratepayer financed waste diversion to one that relies on producer responsibility in order to reduce public costs and drive improvements in product design that promote environmental sustainability.

NEXT STEPS

Following approval of the Extended Producer Responsibility Policy, staff will consider adding specific products and packaging to the Procedures Section. The first item targeted for consideration is expanded plastic packaging.

RESOURCE IMPACT

Adoption of the attached Policy will not consume significant staff resources. As specific products and packaging are added to the Procedures Section, the resource impacts of each addition will be evaluated. Adoption of the attached Resolution will not consume any City resources.

POLICY IMPLICATIONS

The attached Policy and Resolution are consistent with City's Zero Waste Operational Plan and its Clean Bay Plan.

ENVIRONMENTAL REVIEW

Neither the attached Policy nor the Resolution meet the definition of a "project" pursuant to CEQA guidelines Section 15378(b)(2) (general policy and procedure making.)

ATTACHMENTS

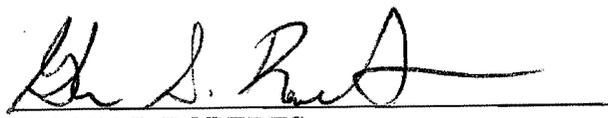
Attachment A: EPR Framework Policy for City Purchased Products and Packaging

Attachment B: Resolution Supporting Extended Producer Responsibility

PREPARED BY:

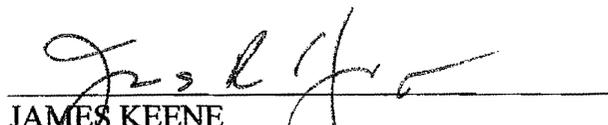
Rene Eyerly, Solid Waste Manager
Phil Bobel, Manager Environmental Compliance

DEPARTMENT HEAD:



GLENN S. ROBERTS
Director of Public Works

CITY MANAGER APPROVAL:



JAMES KEENE
City Manager

**CITY OF PALO ALTO
EXTENDED PRODUCER RESPONSIBILITY POLICY**

ATTACHMENT A

POLICY STATEMENT

The City recognizes that it cannot achieve Zero Waste without Extended Producer Responsibility (EPR) and that many products and packaging received from vendors have substantial negative environmental and economic impacts at the end of their useful lives. EPR, or Product Stewardship, means whoever designs, produces, sells or uses a product takes responsibility, both financial and physical, for minimizing its environmental impact through all stages of the product's life cycle. The producer, having the greatest ability to minimize impacts, has the most responsibility. This policy requires producers, or their agents (i.e., vendors) doing business with the City of Palo Alto, to practice EPR for certain products and packaging, from design through the end of product life. Therefore, effective April 22, 2010, it shall be the Policy of the City of Palo Alto to require vendors of designated products and packaging to take the following actions with respect to covered packaging and products:

1. **PACKAGING:** Minimize and reduce packaging and require convenient, responsible, timely vendor take-back of designated packaging at the point of delivery at nominal additional cost to the City of Palo Alto.
2. **PRODUCTS:** Require convenient, responsible, timely vendor take-back (for reuse, recycling or responsible disposal) of designated products at the point of delivery at nominal additional cost to the City of Palo Alto.

This policy shall be implemented to the extent feasible by the management of City contracts, purchase orders and agreements. Designated packaging and products, once identified for inclusion in the Policy, will be listed in the "Procedures" section below. Packaging and products will be added as practical alternatives and options are identified. Identified packaging and products will typically be those that are toxic, costly to manage, contribute to litter or marine debris, lack a convenient infrastructure to recycle and those that are banned from landfills (e.g., electronics, batteries, mercury-containing devices).

The first packaging being considered for designation is expanded plastic packaging. Expanded plastics include, but are not limited to, foam or cushion blocks, trays, and packing "peanuts". Expanded plastics also include those made from polystyrene (aka StyrofoamTM), polyethylene, polypropylene and polyurethane. Expanded plastics are found in creeks, San Francisco Bay, and the oceans of the world. Small pieces of plastic are building up in the plankton zone in oceans where they are ingested by marine animals. Expanded plastics are lightweight, break into small pieces, are extremely difficult to recycle, are of low value, and local recycling markets do not exist.

APPLICABILITY OF THIS POLICY

This policy shall apply to all City operations. This Policy will also be included in the Environmentally Preferable Purchasing Chapter of the Palo Alto Purchasing Manual and the City's Policies and Procedures Manual and shall be implemented, to the extent feasible, via contracts, purchase orders and agreements.

PROCEDURES

City staff and lessees will all be responsible for adherence to the Policy. Purchasing staff shall assist in assuring that purchasing documents contain the requirement for EPR. Changes to this Policy must be coordinated through the City Managers Office. Questions and/or clarifications of this Policy should be directed to the Public Works Department.

NOT YET APPROVED

Resolution No. _____

**Resolution of the Council of the City of Palo Alto Supporting State
and National Extended Producer Responsibility Actions**

WHEREAS, manufactured goods and packaging constitute about 75 percent of the materials managed by the City of Palo Alto's garbage and recycling program, costing Palo Alto residents and businesses about \$30 million a year in refuse rates and millions more in taxes to manage; and

WHEREAS, on February 8, 2006 California's Universal Waste Rule (CCR, Title 22, Division 4.5, Chapter 23) became effective that makes it illegal to throw in the garbage items defined as "universal waste," which includes household batteries, fluorescent bulbs or tubes, thermostats, other items that contain mercury, as well as electronic devices including VCRs, microwaves, cellular phones, printers, and radios; and

WHEREAS, state policies currently make local governments responsible for achieving waste diversion goals and enforcing product disposal bans, both of which are unfunded mandates; and

WHEREAS, Universal Waste management costs are currently paid by taxpayers and rate payers and are expected to increase substantially in the short term unless policy changes are made; and

WHEREAS, local governments do not have the resources to adequately address the rising volume of discarded products; and

WHEREAS, costs paid by local governments to manage products are in effect subsidies to the producers of hazardous products and products designed for disposal; and

WHEREAS, there are significant environmental and human health impacts associated with household products that contain toxic ingredients, including mercury, lead cadmium, and other toxic chemicals that when disposed of improperly can contaminate water supplies; and

WHEREAS, Extended Producer Responsibility is an environmental policy approach in which producers assume responsibility – financial and/or physical – for the management of post-consumer products, so that those who produce and use products bear the costs of recycling and proper disposal; and

WHEREAS, when brand owners are responsible for ensuring their products are recycled responsibly, and when health and environmental costs are included in the product price, there is a strong incentive to design and purchase goods that are more durable, easier to recycle, and less toxic; and

NOT YET APPROVED

WHEREAS, it is timely to develop and support extended producer responsibility legislation to address the universal waste sector of the waste stream in response to the state ban on universal waste from household disposal;

NOW, THEREFORE, the City Council of the City of Palo Alto does hereby RESOLVE as follows:

SECTION 1. The Council urges our representatives in Sacramento to pursue statewide extended producer responsibility legislation targeted at universal waste that will give incentives for the redesign of products to make them less toxic, and shift the cost of recycling and proper disposal of products from the local government to the producer and distributor of the product.

SECTION 2. The City of Palo Alto will continue to support extended producer responsibility initiatives and statewide legislation beyond universal waste to cover areas including other hazardous products, bulky packaging, and items like plastics and multi-material products that are difficult to recycle.

SECTION 3. The City will continue to develop Environmentally Preferable Purchasing policies that give preference to City vendors who employ environmentally responsible practices such as leasing products, offering less toxic alternatives, and who take responsibility for collecting and recycling their products at the end of their useful life.

SECTION 4. If the state does not pass effective legislation within the next 18 months, or if industry does not implement a comprehensive effective take-back system within the next 18 months, the City of Palo Alto will consider adopting and implementing a model mandatory take-back ordinance requiring local retailers, who sell products that become universal waste, to have in place a system for the convenient acceptance and collection of used universal waste for recycling or proper disposal.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

APPROVED:

City Clerk

Mayor

APPROVED AS TO FORM:

Deputy City Attorney

City Manager