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NANCY J. NADEL
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AGENDA REPORT

TO: Public Works Committee Members and Director Godinez
FROM: Councilmember Nancy Nadel
DATE: January 23, 2007
RE: **Resolution Authorizing the City of Oakland to Pursue and Support Statewide and Local Legislative and Other Initiatives to Hold Producers Responsible for Product Waste, Starting with Products Defined as Universal Waste**

The attached Resolution (Resolution) authorizes the City to pursue state and local legislative and other initiatives that support Extended Producer Responsibility (EPR). EPR is an environmental policy approach in which producers assume financial responsibility for the management of post-consumer products, so that those who produce and use products bear the costs of re-use, recycling and proper disposal.

In March 2006, Washington became the first state in the U.S. to pass EPR legislation, mandating that companies that manufacture or sell electronics products in the state develop and implement a plan to take back their products at the end of their useful life. Most provinces in Canada and many countries in Europe have had operational EPR programs for several years.

FISCAL IMPACT

Approval of the proposed resolution will have no immediate fiscal impacts. If statewide and local EPR policies are adopted, the City and ratepayers may save money on disposal and recycling costs for existing and future product waste.

BACKGROUND

In February 2006, the California Universal Waste (UW) Disposal Ban went into effect making it illegal for households and small businesses to put certain commonly used products in the trash including batteries, fluorescent lights, and many electronic products. These products, known as universal waste, contain toxic material that pollute the environment if disposed of in landfills that are not designed or permitted to accept hazardous waste.

Local governments in California are now expected to pay for the special handling that these products require when disposed as hazardous wastes in specially-designed landfills, and also for enforcing the ban on placing these materials in the trash. No funding for these programs accompanied the State mandate.

Aside from the challenge to local governments of notifying consumers about the new disposal restrictions, the volume of UW generated by households and small business in California is projected to far exceed the capabilities of local governments' Household Hazardous Waste (HHW) programs. Well under 10% of households in California use local HHW programs currently. Even with this low rate of participation, it is anticipated that HHW program costs will increase by over 100% to accommodate the additional materials that will be brought to HHW sites as a result of the UW ban. And even if those additional resources are dedicated to HHW programs, only a fraction of the total waste generated will be collected. It is evident that compliance under existing infrastructure and funding cannot be achieved.

Increasingly, local officials are realizing that municipalities simply do not have the capacity or funding to manage hazardous product wastes from households and small businesses. The practice of local governments' providing waste management services at no cost to product makers is a public subsidy that encourages continued production and over-consumption of disposable products with excessive packaging and toxic components, because manufacturers know that whatever they produce, the bill for recycling or disposal will be paid for by local government.

The Canadian province of British Columbia (BC) has the most advanced EPR policies in North American. In late 2004, BC updated its EPR programs for paint, solvents, pesticides, residual fuel, pharmaceuticals, automotive oil products and beverage containers by rolling them into a framework Recycling Regulation that establishes procedures for adding new product categories. These products no longer burden municipal recycling programs. Electronic discards were added to the regulation in 2004.

In March 2006, Washington Governor Christine Gregoire signed into law the first EPR law in the U.S. This law (*Electronic Waste Recycling bill -- ESSB 6428*) applies to TVs and computers and requires that by January 2009, product brand owners must submit plans to the State of Washington detailing how they will recover and recycle their products at no cost to local governments. State government is responsible for approving plans and for ensuring transparency and accountability.

Following implementation of the California Universal Waste Disposal Ban in February 2006, the City of San Francisco passed a resolution calling for statewide EPR policies for a range of products starting with universal waste products. The resolution, which acknowledges that City funded waste services are a "subsidy" to the producers of toxic products, has created considerable interest among other local governments, both in California and beyond. In addition to supporting statewide EPR legislation, the resolution directs City staff to develop "take-back" specifications for City equipment purchases. Since San Francisco adopted this EPR resolution, several other communities in California have adopted or introduced similar legislation including the City of Santa Cruz, Marin County JPA, Santa Clara County and San Luis Obispo County.

Local governments in both Washington State and BC were the critical factors in passage of state and provincial legislation. The Universal Waste Ban in California is providing the "perfect storm" for local governments to band together to seek a statewide EPR solution to banned hazardous products. The attached resolution would authorize Oakland to join a growing number of communities in supporting a comprehensive solution to product waste through statewide EPR policies.

KEY ISSUES AND IMPACTS

Over the past 100 years, many other now standard costs of doing business have been shifted from the public's shoulders to business' bottom line, such as health and safety costs, pollution prevention, and consumer safety costs.

Extending producer responsibility to waste management is a similar public-to-private shift that has been implemented in Europe and parts of Asia, and is now being adopted by a growing number of jurisdictions in North America. Known as Extended Producer Responsibility (EPR), the policy requires brand owners or first importers who sell hazardous products to implement a program for recovering and responsibly recycling their products at no cost to taxpayer or local government. Because the cost is borne by producers and consumers directly, EPR policies are market-based incentives to address the problem at the source, rewarding improved product design.

POLICY DESCRIPTION

Adoption of this Resolution authorizes the City Council to:

- 1) Urge our representatives in Sacramento to pursue statewide EPR legislation targeted initially at universal waste that will give incentives for the redesign of products to make them less toxic, and shift the cost for recycling and proper disposal of products from local governments to the producer and distributor of the product.
- 2) Support EPR for waste other than universal waste including bulky packaging, plastics and multi-material products that are difficult to recycle.
- 3) Support citywide EPR legislation which provides companies that manufacture and sell their products in the City with incentives and/or mandates to redesign their products to make them less toxic, and to develop plans and implement programs to take back their products at the end of their useful life

The resolution also directs the Public Works Agency, in collaboration with the Mayor's Office of Sustainability, to develop Environmentally Preferable Purchasing policies that give preference to City vendors who employ environmentally responsible practices such as leasing products rather than purchasing them, offering less toxic alternatives, and who take responsibility for collecting and recycling their products at the end of their useful life.

SUSTAINABLE OPPORTUNITIES

Economic: By diverting waste from municipal waste streams, Oakland can save millions of dollars. The City of San Francisco anticipates that its additional costs will exceed \$5 million per year to safely dispose of items now subject to the disposal ban; San Luis Obispo County calculated that their current annual budget of \$300,000 for Household Hazardous Waste would have to increase to \$4 million to accommodate the ban.

Environmental: A single computer contains hundreds of chemicals including lead, mercury, cadmium, brominated flame retardants, and polyvinyl chloride. Many of these chemicals are known to cause cancer, respiratory illness, and reproductive problems. They are especially dangerous because of their ability to travel long distances through air and water and accumulate in the environment and our bodies.

Social Equity: Exposure to toxic materials is most severe for workers and residents of communities whose air and water is directly contaminated by electronic manufacturing facilities. Most often, these workers and residents are low income people of color, prisoners, or living in impoverished areas of developing countries. When brand owners are responsible for ensuring their products are re-used or 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

DISABILITY AND SENIOR CITIZEN ACCESS

The adoption of this Resolution will have no direct effect on accessibility for senior citizens or disabled persons.

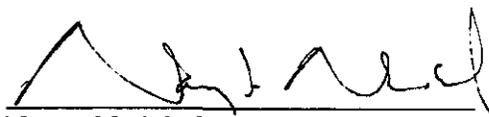
RECOMMENDATION(S) AND RATIONALE

Staff recommends that this Resolution be adopted as a way to signal the City's support for Extended Producer Responsibility of product waste.

ACTION REQUESTED OF THE CITY COUNCIL

Adopt the Extended Producer Responsibility Resolution.

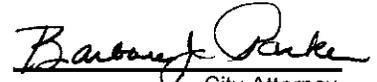
Respectfully submitted,



Nancy Nadel, Council Member
District 3

Prepared by:
Carol Misseldine, Sustainability Director

OAKLAND CITY COUNCIL


City Attorney

05 03 12 11:23
RESOLUTION NO. _____ C.M.S.

Introduced by Councilmember Nancy J. Nadel

RESOLUTION AUTHORIZING THE CITY OF OAKLAND TO PURSUE AND SUPPORT STATEWIDE AND LOCAL LEGISLATIVE AND OTHER INITIATIVES TO HOLD PRODUCERS RESPONSIBLE FOR PRODUCT WASTE, STARTING WITH PRODUCTS DEFINED AS UNIVERSAL WASTE

WHEREAS, manufactured goods and packaging constitute about 75% of the materials managed by City of Oakland and sent to landfill, costing residents and businesses about \$70 million each year in refuse rates, plus millions more in taxes; and

WHEREAS, on February 8, 2006, a state law took effect making it illegal to throw in the garbage items defined as “universal waste,” including household batteries, fluorescent bulbs or tubes, thermostats, other items that contain mercury, as well as electronic devices including VCRs, microwaves, cellular phones, cordless phones, printers, and radios; and

WHEREAS, assuming a 50% recovery rate, collecting and disposing of these products now banned from the landfill will cost an estimated additional \$3 million each year; and

WHEREAS, when additional products are declared as hazardous by the State the burden to manage these items will fall to local jurisdictions; and

WHEREAS, the municipal waste management system was established a century ago to manage far simpler and more homogeneous wastes like ashes, food scraps and horse manure, rather than manufactured goods and packaging which dominate today’s municipal waste; 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, the practice of local governments’ providing waste management services at no cost to product makers is a perverse subsidy that encourages continued production and over-consumption of disposable products with excessive packaging and toxic components because manufacturers know that whatever they produce the local government will foot the bill for recycling or disposal; and

WHEREAS, in 2002 the City Council joined numerous other cities and counties in California, the U.S. and throughout the world by adopting Resolution #77500 C.M.S. which established the goal of 75% reduction of waste disposed in landfills by 2010 for the City of Oakland in alliance with the countywide 75% waste reduction requirement; 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 re-used or 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

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 be it

RESOLVED: That Oakland's City 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 for recycling and proper disposal of products from local governments to the producer and distributor of the product; and, be it

FURTHER RESOLVED: That the City of Oakland 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; and, be it

FURTHER RESOLVED: That the City will support citywide extended producer responsibility legislation that provides companies that manufacture and sell their products in the City with incentives and/or mandates to redesign their products to make them less toxic, and to develop plans and implement programs to take back their products at the end of their useful life; and, be it

FURTHER RESOLVED: That the Public Works Agency in collaboration with the Mayor's Office of Sustainability develop Environmentally Preferable Purchasing policies that gives preference to City vendors who employ environmentally responsible practices such as leasing products rather than purchasing them, offering less toxic alternatives, and who take responsibility for collecting and recycling their products at the end of their useful life.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2007

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California