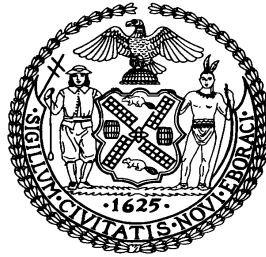


Russell Unger
Legislative Counsel



THE COUNCIL

Report of the Governmental Affairs Division
Marcel Van Ooyen, Legislative Director

COMMITTEE ON CONTRACTS

HON. ROBERT JACKSON, CHAIR

December 21, 2005

INT. NO. 544-A:

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

TITLE:

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.

I. INTRODUCTION

On December 20, 2005, the Committee on Contracts, chaired by Council Member Jackson, held a hearing on Int. No. 544-A, a local law that would amend the administrative code of the city of New York, in relation to the reduction of hazardous substances in products purchased by the city. The Committee held a hearing on a previous version of the legislation on September 26, 2005 and on February 15, 2005, the Committee on Environmental Protection held a hearing on another earlier version of this bill. Int. No. 544-A was passed by a vote of 5 in the affirmative and no votes in the negative.

II. HAZARDOUS MATERIALS

While chemicals naturally occur throughout the environment, an estimated 65,000 synthetic chemicals have been manufactured for commercial use in industrialized countries.¹ Many synthetic chemicals are beneficial, but some have negative effects on human health and the environment.

The chemicals of greatest health and environmental concern are those that are persistent, bioaccumulative, and toxic (PBTs), meaning they are highly toxic, long-lasting substances that can build up in the food chain to harmful levels.² According to the United States Environmental Protection Agency (“EPA”), such chemicals “are associated with a range of adverse human health effects, including effects on the nervous system,

¹ D.L. Eaton & E.P. Gallagher, E.P. *Introduction to the principles of toxicology*, in COMPREHENSIVE TOXICOLOGY: GENERAL PRINCIPLES (VOL. 1) (I.G. Snipes et al. eds., 1997).

² U.S. ENVIRONMENTAL PROTECTION AGENCY, FACT SHEET, MULTIMEDIA STRATEGY FOR PRIORITY PERSISTENT, BIOACCUMULATIVE, AND TOXIC (PBT) CHEMICALS, at <http://www.epa.gov/opptintr/pbt/fact.htm>.

reproductive and developmental problems, cancer, and genetic impacts.”³ The most significant concerns about PBTs are “their ability to travel long distances, to transfer rather easily among air, water, and land, and to linger for generations in people and the environment,” including in sediments and the fat reserves of living organisms.⁴

The populations at risk, especially to PBTs such as mercury, dioxins, and polychlorinated biphenyls (PCBs), are children and the developing fetus. These toxins are increasingly present in fish, and the total number of fish advisories in the United States increased by 80% from 1993 to 1997 and the number of waterbodies under advisory increased from 1,278 to 2,299 during the same period. The EPA advises that pregnant women and children not to eat any quantities of certain fish due to high levels of mercury, and to only eat limited quantities of many other fish.

A surprising number of common consumer products contain hazardous materials. When these products are used or improperly stored and disposed of they can release hazardous substances, which contaminate the soil, groundwater and air. If such a product winds up in a municipal landfill, the chemicals can leach out of the product into the liquid at the bottom of the landfill and potentially be released to ground water or surface water. If the discarded product is incinerated, an amount of the chemical can be emitted as an air pollutant and deposited wherever the wind carries it.

III. E-WASTE AND E-CYCLING

Society’s growing use of electronics products has given rise to a new environmental problem: electronic waste. In 2005, it is estimated that in the United

³ *Id.*

⁴ *Id.*

States 60 million computers and 130 million mobile phones will be discarded.⁵ Accumulated obsolete PCs from 1997 to 2007 will total approximately 500 million.⁶ According to the EPA, in 2000, about 2,124,400 tons of electronic waste was generated, and only about 9% of electronic waste was recovered for reuse or recycling.⁷ Most obsolete electronic goods are stored in warehouses, basements, or closets or are disposed of in municipal landfills, which eventually leak, or incinerators, which release toxins into the atmosphere.⁸

Electronic waste is less a concern for its volume than for its toxicity. Lead, mercury, cadmium, brominated flame retardants and other hazardous substances can be found in cathode ray tubes, circuit boards, batteries, and other electronic components. Computer monitors and older TV picture tubes, for example, contain an average of four pounds of lead.⁹ The 500 million obsolete computers generated between 1997 and 2007 translates into enormous quantities of toxic materials: 1.58 billion pounds of lead; 3 million pounds of cadmium; 1.9 million pounds of chromium; and 632,000 million pounds of mercury.¹⁰ Many major original equipment manufacturers—including Compaq, Dell, Gateway, HP, IBM, and Micron—offer leasing and take back services.¹¹ According to the EPA, the development of these services is driven by demand from large

⁵ NATIONAL SAFETY COUNCIL, ELECTRONIC PRODUCT RECOVERY AND RECYCLING BASELINE REPORT: RECYCLING OF SELECTED ELECTRONIC PRODUCTS IN THE UNITED STATES, 1999.

⁶ *Id.*

⁷ U.S. ENVIRONMENTAL PROTECTION AGENCY, ELECTRONICS, *at* <http://www.epa.gov/epaoswer/osw/consERVE/clusters/ecycle.htm>.

⁸ THE BASEL ACTION NETWORK & SILICON VALLEY TOXICS COALITION, EXPORTING HARM: THE HIGH-TECH TRASHING OF ASIA 6-7 (Feb. 2002).

⁹ U.S. ENVIRONMENTAL PROTECTION AGENCY, ECYCLING, *at* <http://www.epa.gov/epaoswer/hazwaste/recycle/ecycling/index.htm>

¹⁰ EXPORTING HARM, *supra* note 8, at 6.

¹¹ U.S. ENVIRONMENTAL PROTECTION AGENCY, MARKET TRENDS, *at* <http://www.epa.gov/epaoswer/hazwaste/recycle/ecycling/trends.htm>.

corporate customers.¹² Recycling of electronic waste is anticipated to grow 18 percent annually between 1998 and 2007.¹³

Most recycling of American electronic waste occurs in developing countries, with 80% estimated to be exported to Asia.¹⁴ An investigation into the practices at electronic waste processing centers in China, Pakistan, and India revealed strikingly unhealthy work conditions and environmental contamination.¹⁵ Observed practices included de-soldering using blow torches or acid without any ventilation, open burning of circuit boards and wires, dumping of lead-laden monitor glass on open land or rivers, and the employment of children and pregnant woman in the industry.¹⁶

Electronic waste from the United States could not be shipped to these countries if the United States was a party to the Basel Convention on the Control of the Transboundary Movement of Hazardous Wastes and Their Disposal (“the Convention”) and the Basel Ban Amendment. The Convention was adopted in 1989 to prevent the dumping of hazardous waste from rich to poor countries and calls for national self-sufficiency in the management of hazardous waste. Under the Basel Ban Amendment to the Convention, members of the Organization for Economic Co-operation and Development (“OECD”) are prohibited from exporting hazardous waste to non-OECD countries.¹⁷ While the Amendment has not yet come into force it is being honored by all member states of the European Union, Norway, Liechtenstein, Monaco, and Iceland.¹⁸ Of the OECD countries, the United States is the only country to have not ratified the

¹² *Id.*

¹³ *Id.*

¹⁴ EXPORTING HARM, *supra* note 8, at 7, 11.

¹⁵ EXPORTING HARM, *supra* note 8, at 15-26.

¹⁶ *Id.*

¹⁷ *Id.* at 33.

¹⁸ *Id.*

Convention, and other countries, including Canada, Australia, Japan, and South Korea, while parties to the Convention, oppose the Basel Ban Amendment.

In February 2003, the European Union adopted Directive 2002/95/EC, which mandates the phase-out of certain hazardous materials from any electronic device sold in the European Union. Under the directive, by July 1, 2006, no new electronic equipment may contain lead, mercury, cadmium, hexavalent chromium, or the flame retardants polybrominated biphenyls and polybrominated diphenyl ethers. The directive provides exceptions for some uses, such as mercury in fluorescent bulbs, and lead in glass for cathode ray tubes and in solder for computer network infrastructure. Since major electronic manufacturers normally make design changes to all their products, rather than tailor the products to specific markets, most electronic products sold in the United States after July 1, 2006 will meet European Union standards.¹⁹ Most major electronic manufactures have set their own targets to implement the standards ahead of the directive's effective date.²⁰ Some manufactures, however, that have separate product lines for the United States, or which only sell products in the United States, may not meet the EU standards. California recently prohibited the sale of any new computer monitor or TV in the state that is prohibited from being sold in the European Union under Directive 2002/95/EC, and limited the export of electronic waste to only countries with environmentally responsible recycling operations.²¹

¹⁹ INFORM, INC., *IMPACT OF THE ROHS DIRECTIVE ON ELECTRONIC PRODUCTS SOLD IN THE UNITED STATES* (Sept. 2003).

²⁰ *Id.*

²¹ Electronic Waste Recycling Act of 2003, CAL. PUB. RES. CODE § 42460 *et seq.* (Deering 2004).

VI. VOLATILE ORGANIC COMPOUNDS

Volatile organic compounds (VOCs) are gases that are emitted from a wide array of products commonly found inside buildings.²² Such products include paints and lacquers, paint strippers, cleaning supplies, pesticides, building materials and furnishings, office equipment such as copiers and printers, correction fluids and carbonless copy paper, graphics and craft materials including glues and adhesives, permanent markers, and photographic solutions. In combination with oxides of nitrogen, VOCs are responsible for ground level ozone and smog. Exposure to VOCs can cause eye, nose, and throat irritation, headaches, loss of coordination, nausea, and damage to the liver, kidney, and central nervous system. Some VOCs can cause cancer in animals and are suspected or known human carcinogens. Indoor levels of several VOCs “average 2 to 5 times higher than outside levels. During and for several hours immediately after certain activities, such as paint stripping, levels may be 1,000 times background outdoor levels.”²³

States such as California have enacted laws limiting the VOC content of paints and coatings, and New York, New Jersey, Texas and Arizona have passed similar laws. The South Coast Air Quality Management District has adopted rules to limit the VOC content of architectural coatings in California.²⁴ Section 01350 of the Reference Specifications for Energy and Resource of the California Energy Commission sets VOC limits for a wide range of interior building materials and is a requirement for all major construction by the State of California. In addition, the Carpet and Rug Institute – the

²² U.S. ENVIRONMENTAL PROTECTION AGENCY, SOURCES OF INDOOR AIR POLLUTION - ORGANIC GASES (VOLATILE ORGANIC COMPOUNDS - VOCs), at <http://www.epa.gov/iaq/voc.html>.

²³ *Id.*

²⁴ South Coast Air Quality Management District, Rule 113, Architectural Coatings.

trade association for carpet and rug manufacturers – has established recommendations on the maximum VOC emissions allowed for carpeting products through its Green Label testing program.

V. MERCURY-ADDED LAMPS

Fluorescent light bulbs typically use 75% less energy than incandescent bulbs and last substantially longer.²⁵ However, fluorescent light bulbs have a notable drawback: they contain a small amount of mercury, about 4 mg for compact fluorescent lamps (CFLs).²⁶ Fluorescent light is produced by sending a current through mercury vapor to produce ultraviolet energy, which excites a phosphor coating on the inside of the glass tube, producing visible light. Mercury is a neurotoxin that can damage the developing brain of the fetus and small children, and can also cause substantial medical problems in adults, including vision problems and damage to organs.²⁷

Using fluorescent light bulbs, nonetheless, results in a net reduction in the amount of mercury released into the environment.²⁸ The largest source of mercury in the atmosphere is power plants that burn of fossil fuels, especially coal, and since fluorescent light bulbs reduce the need for electricity, they reduce mercury pollution. According to the EPA, a “power plant will emit 10 mg of mercury to produce the electricity to run an incandescent bulb compared to only 2.4 mg of mercury to run a CFL for the same

²⁵ U.S. ENVIRONMENTAL PROTECTION AGENCY, FACT SHEET: MERCURY IN COMPACT FLUORESCENT LAMPS (CFLS).

²⁶ *Id.*

²⁷ INFORM, INC., SHEDDING LIGHT ON MERCURY IN FLUORESCENTS 1.

²⁸ FACT SHEET: MERCURY, *supra* note 25.

time.”²⁹ As a result, fluorescent light bulbs typically result in, approximately, a 35% reduction in mercury pollution over incandescent bulbs.

While all fluorescent bulbs contain mercury, there is a significant range in the amount of mercury in lamps of different types and from different manufacturers. For example, small T5 linear fluorescents may contain as little as 1.4 mg of mercury, and no major manufacturer makes a T5 with more than 5 mg of mercury.³⁰ In contrast, other lamps that can be used in the same fixtures as T5 lamps can contain as much as 15 mg of mercury.³¹ Similarly the amount of mercury in CFLs ranges from 2 to 15 mg.³²

VI. ROAD DE-ICING PRODUCTS

In Fiscal Year 2004, the Department of Sanitation used over 350,00 tons of road salt, which is mixed with liquid calcium chloride for de-icing during colder spells.³³ This salt and calcium chloride eventually find their way into the City’s storm sewers, and into New York harbor during combined sewage overflow, where it can adversely affect water quality and damage wetlands.³⁴ Corrosion by these products can damage road infrastructure, bridges, and underground infrastructure, such as electrical cables.³⁵ Moreover, salt leaches water and nutrients from the soil and can damage the City’s vegetation and parks.³⁶

²⁹ *Id.*

³⁰ SHEDDING LIGHT, *supra* note 27, at 2.

³¹ *Id.*

³² *Id.*

³³ MAYOR MICHAEL BLOOMBERG, MAYOR’S MANAGEMENT REPORT FISCAL 2004 132 (Sept. 2004).

³⁴ U.S. ENVIRONMENTAL PROTECTION AGENCY, NATIONAL MANAGEMENT MEASURES TO CONTROL NONPOINT SOURCE POLLUTION FROM URBAN AREAS 193 (July 2002 Draft).

³⁵ *Id.*; also Al Guart, *Manhole Shocker: More Dangers Are Surfacing*, N.Y. POST (Jan. 25, 2004) (describing the electrocution death of a Manhattan woman due to corroded electrical wiring).

³⁶ *E.g. Dispute Renewed Over Use Of Rock Salt On Ice*, N.Y. TIMES (Feb. 7, 1982).

The City's use of calcium chloride reduces the volume of salt applied to roads, since calcium chloride is a more effective de-icing product than road salt at lower temperatures.³⁷ On the other hand, calcium chloride, like salt, is still corrosive. Other de-icing products, such as liquid calcium magnesium acetate ("CMA") are considered much less harmful to the environment, but can be dramatically more expensive than salt.³⁸ Some researchers have suggested that reductions in damage to infrastructure and vegetation, and in the quantity of material required, may offset the higher cost of CMA.³⁹

VII. DIOXIN AND POLYVINYL CHLORIDE

Dioxins are among the most toxic chemicals known to exist – dioxin was the primary toxin in Agent Orange and was found at infamous Love Canal, New York. The term dioxin is a general term for a group of several hundred chemicals, the most toxic of which is 2,3,7,8-tetrachlorodibenzo-*p*-dioxin or TCDD.⁴⁰ The toxicity of other forms of dioxin and similar chemicals, like PCBs, are measured in relation to TCDD. According to the International Agency for Research on Cancer, which is part of the World Health Organization, TCDD is one of very few acknowledged "known human carcinogens."⁴¹

³⁷ NATIONAL MANAGEMENT MEASURES, *supra* note 34, at 194.

³⁸ *Id.*

³⁹ U.S. Environmental Protection Agency, Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters (Jan. 1993).

⁴⁰ *See generally*, E.P.A., Exposure and Human Health Reassessment of 2,3,7,8-Tetrachlorodibenzo-*p*-Dioxin (TCDD) and Related Compounds (National Academy Sciences Review Draft), Part I: Estimating Exposure to Dioxin-Like Compounds, Volume 1: Sources of Dioxin-Like Compounds in the United States, Background and Summary, Dec. 2003.

⁴¹ International Agency For Research On Cancer, IARC Monographs on the Evaluation of Carcinogenic Risks to Humans, Vol. 69, Polychlorinated Dibenzo-*para*-Dioxins and Polychlorinated Dibenzofurans, at <http://www-cie.iarc.fr/htdocs/indexes/vol69index.html>.

Likewise, a draft report of the EPA on dioxin states that TCDD is “carcinogenic to humans”⁴² and other dioxin-like compounds are “likely to be carcinogenic to humans.”⁴³

Dioxins and furans are formed when chlorine or bromine-containing compounds (such as polyvinyl chloride) are exposed to high heat or catalysts in the presence of organic material.⁴⁴ Activities that produce dioxin in quantities that can be estimated include waste incineration and industrial processes.⁴⁵ While harder to quantify, backyard burning and structural fires are also a source of dioxin.⁴⁶ In a draft report on dioxin in the New York Harbor, the New York Academy of Sciences (NYAS) concludes that previous estimates on the amount of dioxin released during structural fires may understate the extent of the releases because they are based on levels of polyvinyl chloride (PVC) used in buildings ten years ago, or assume that emissions from poorly controlled wood burning are representative of most structural fires.⁴⁷

In its draft report, the EPA emphasizes the contribution of PVC to dioxin formation in structural fires, noting, “[p]olyvinyl chloride (PVC) building materials and furnishings, chloroparaffin-containing textiles and paints, and other chlorinated organic compound-containing materials appear to be the primary sources of the chlorine in

⁴² E.P.A., Exposure and Human Health Reassessment of 2,3,7,8-Tetrachlorodibenzo-*p*-Dioxin (TCDD) and Related Compounds (National Academy Sciences Review Draft), Part III, Integrated Summary and Risk Characterization for 2,3,7,8-Tetrachlorodibenzo-*p*-Dioxin (TCDD) and Related Compounds 6-7, Dec. 2003.

⁴³ *Id.* at 6-8.

⁴⁴ *See generally*, E.P.A., Exposure and Human Health Reassessment of 2,3,7,8-Tetrachlorodibenzo-*p*-Dioxin (TCDD) and Related Compounds (National Academy Sciences Review Draft), Part I: Estimating Exposure to Dioxin-Like Compounds, Volume 1: Sources of Dioxin-Like Compounds in the United States, Dec. 2003.

⁴⁵ *See* EPA, Dioxin, Summary, *supra* note 40.

⁴⁶ In its draft report on dioxin, EPA determined that there is insufficient data on structural fires to generate numerical estimates on the creation of dioxin from this source. *See* E.P.A., *supra* note 1, at 6-6 (“The limited data available on structural fires were judged inadequate for developing national emission estimates that could be included in the national inventory.”).

⁴⁷ New York Academy Of Science, Pollution Prevention And Management Strategies For Dioxins In The New York/New Jersey Harbor 58-61, Working Paper, Nov. 2005.

accidental fires.”⁴⁸ In addition to its contribution to dioxin formation, a recent affidavit by the senior public health scientist from the New York Attorney General’s office cites numerous serious environmental problems associated with PVC production, additives, use, waste disposal, incineration, as well as the risks posed to firefighters by PVCs in accidental fires.⁴⁹

VIII. ANALYSIS OF THE VERSION OF INT. NO. 544-A HEARD BY THE COMMITTEE ON SEPTEMBER 26, 2005

The version of Int. No. 545-A heard by the Committee on September 26, 2005 would add a new subchapter 5 to chapter 3 of title 6 of the Administrative Code to govern the City’s use of materials that contain hazardous substances.

The bill would require that City agencies return any covered electronic device to the original device manufacturer or a third party for reuse or recycling, at no cost to the agency, and receive documentation of the device’s disposition. Int. No. 544-A would further prohibit any processing, refurbishment or recycling of such products from occurring at any federal prison or in any country that is not a member of the OECD.

Any covered electronic device would, under the bill, be required to comply with European Union Directive 2002/95/EC.⁵⁰ This provision would apply to any devices purchased after January 1, 2007, or on or after the date on which directive 2002/95/EC takes effect, whichever date is later.

⁴⁸ E.P.A., Dioxin, Sources *supra* note 44, at 6-2 (*citing* Rotard, W. (1993) Fires. In: Current views on the impact of dioxins and furans on human health and the environment. Washington, D.C.: Toxicology Forum, Inc.).

⁴⁹ See Affidavit of Judith Schreiber, Ph.D., Senior Public Health Scientist with the New York State Department of Law, New York State Office of the Attorney General, *In re Resilient Floor Covering Institute, and Tarkett, Inc., v. New York State Department Of Environmental Conservation*.

⁵⁰ See page 6, *supra*.

The bill would require that carpets, carpet cushions or carpet adhesives not contain certain VOCs above concentrations detailed in the bill. Architectural coatings would be required, under the bill, to meet the VOC requirements set by Rule 113 of the South Coast Air Quality Management District. The Director of Environmental Purchasing (which would be established pursuant to Int. 534-A), in consultation with the Mayor's Office of Environmental Coordination, would be required to establish standards for chemical emissions from other products that are consistent with Section 01350 of the Reference Specifications for Energy and Resource Efficiency of the California Energy Commission.

City agencies, whenever purchasing mercury-added lamps, would be required to use the most energy-efficient lamp with the lowest amount of mercury, provided such lamp meets all other performance specifications. Manufacturers bidding for City solicitations would be required to provide mercury and performance information regarding their lamps.

The bill would require the Director of Environmental Purchasing, in consultation with the Mayor's Office of Environmental Coordination, to develop regulations to phase out the City's purchase of polyvinyl chloride, and to investigate and report to the Council and Mayor on the potential for reducing the use of road de-icing products that contain high levels of chlorides and urea.

The bill would take effect on January 1, 2006. However, the local law would only go into effect if four other environmental purchasing bills also take effect. These bills would create a Director of Citywide Environmental Purchasing (Int. 534-A), and set

standards for goods purchased by the City relating to recycled content (Int. 545-A), energy efficiency (Int. 536-A) and cleaning products (Int. 552-A).

IX. COMPARISON BETWEEN THE CURRENT VERSION OF INT. NO. 544-A AND THE VERSION HEARD BY THE COMMITTEE ON SEPTEMBER 26, 2005

As described in more detail below, the current version of Int. No. 544-A (the “current version”) before the Committee differs from the previous version of the legislation that was heard on September 26, 2005 (the “previous version”), predominately in that in the current version: 1) the provision regarding recycling of the City’s electronic waste has become a more general requirement; 2) the City determines appropriate limits on the VOC content of carpeting materials and paints, rather than specifying these limits in the legislation; and 3) the effective date of the local law is extended by one year.

1) Recycling of Electronic Waste

The previous version of the bill required the City to recycled its electronic waste according to specific conditions. The present version of the bill reduces the level of detail and instead requires the City to develop a plan for the recycling of electronic waste by January 1, 2008.

2) VOC Limits

The previous version of the bill set specific limits on the VOC content of carpeting materials, required the City to meet the VOC standards for paint set by the South Coast Air Quality Management District (AQMD) and prohibited the purchase of composite wood or argrifiber products that contain added urea-formaldehyde resins. Under the present version of the bill, the City is directed to establish limits on the VOC levels in carpeting products and paints, taking into account standards set by the AQMD

for paints and industry standards for carpeting products. In addition, the City is required to study the health and environmental effects of composite wood or argrifiber products that contain added urea-formaldehyde resins and develop rules to reduce the purchase of these products.

3) Effective Date

Whereas the previous version of the bill would become effective January 1, 2006, the current version does not become effective until January 1, 2007. The effectiveness of this local law remains contingent on the effectiveness of the other environmental purchasing bills, except for Int. No. 552-A on green cleaning products.

Int. No. 544-A

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

A 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.

Be it enacted by the Council as follows:

Section 1. Statement of findings and purpose. In almost every category of goods, there are some products that are environmentally preferable to others. In many instances, there is little or no additional cost associated with the environmentally preferable option. Many common consumer products contain hazardous materials. Some of these materials, like lead and mercury, which can be found in computers and other electronic goods, are persistent bioaccumulative toxins. When these products are improperly stored or disposed of they can contaminate the soil, groundwater and air. Likewise, many products used in office building improvements, including carpeting materials and paints, have environmentally preferable alternatives. In response to the damage posed by hazardous products, governments, industry, healthcare professionals and non-profit organizations have supported the establishment of environmental purchasing standards.

The Council finds that environmentally preferable products should be purchased by the City.

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

SUBCHAPTER 5

HAZARDOUS SUBSTANCES

§6-311 Reuse or recycling of electronic devices.

§6-312 Hazardous content of electronic devices.

§6-313 Volatile organic compounds and other airborne hazards.

§6-314 Mercury-added lamps.

§6-315 Miscellaneous.

§6-311 Reuse or recycling of electronic devices. By January 1, 2008, unless otherwise directed by a subsequent local law, the city shall develop a plan for the reuse or recycling of any covered electronic device purchased or leased by any agency.

§6-312 Hazardous content of electronic devices. a. No new covered electronic device purchased or leased by any agency shall contain lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls or polybrominated diphenyl ethers, except as provided by rules promulgated by the director.

b. No new covered electronic device purchased or leased by any agency shall contain any hazardous substance in any amount exceeding that proscribed by the director through rulemaking. In developing such rules, the director shall consider European Union directive 2002/95/EC and any subsequent material directive issued by the European Parliament and the Council of the European Union.

§6-313 Volatile organic compounds and other airborne hazards. a. (1) No carpet, carpet cushion or carpet adhesive purchased or leased by any agency shall contain the following volatile organic compounds in any concentration exceeding that specified by the director through rulemaking:

(i) for carpets, 4-Phenylcyclohexene, Formaldehyde or Styrene;

(ii) for carpet cushions, Butylated hydroxytoluene, Formaldehyde or 4-Phenylcyclohexene; and

(iii) for carpet adhesives, Formaldehyde or 2-Ethyl-1-hexanol.

(2) In developing such rules, the director shall consider any widely accepted industry recommendations for reduced volatile organic compounds in carpeting products.

b. No architectural coating purchased or leased by any agency shall contain any volatile organic compound in any concentration exceeding that specified by the director through rulemaking. In developing such rules, the director shall consider rule 1113 of the south coast air quality management district.

c. No construction or furnishing materials purchased or leased by any agency, other than any product covered by subdivisions a or b of this section, shall contain any chemical compound in any concentration exceeding that specified by the director through rulemaking. In developing such rules, the director shall consider section 01350 of the reference specifications for energy and resource efficiency of the California energy commission.

§6-314 **Mercury-added lamps.** Any mercury-added lamp purchased or leased by any agency shall achieve no less energy efficiency than the minimum required by the director through rulemaking and, among lamps meeting such energy efficiency requirements, shall contain the lowest amount of mercury per rated hour.

§6-315 **Miscellaneous.** a. By January 1, 2008, the director shall promulgate rules to reduce the city's purchase or lease of materials whose combustion may lead to the formation of dioxin or dioxin-like compounds.

b. The director shall investigate the environmental and health effects of composite wood or agrifiber products that contain added urea-formaldehyde resins and, by January 1,

2008, where practicable, shall promulgate rules to reduce the city's purchase or lease of such products.

§3. The director shall investigate and report to the speaker of the council and the mayor by October 1, 2007, on the environmental effect of the city's use of road de-icing products and the potential for reducing the use of such products that contain high levels of chlorides and urea.

§4. 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.

§5. This local law shall take effect January 1, 2007, except that the director of citywide environmental purchasing as appointed by the mayor shall take all actions necessary, including the promulgation of rules, to implement this local law on or before the date upon which it shall take effect. 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. 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; and 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 subdivisions a, c, d, e and f of section 6-127 of such code, takes effect.

RBU
LS#1486
12/13/2005