



SF Environment

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A Department of the City and County of San Francisco

Edwin M. Lee
Mayor

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Director

March 6, 2015

Members, San Francisco Board of Supervisors
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

RE: The San Francisco Safe Drug Disposal Ordinance

Dear President London Breed and Members of the San Francisco Board of Supervisors:

The Department of the Environment supports the San Francisco Safe Drug Disposal Stewardship Ordinance, which seeks to provide residents with a permanent, safe, and convenient way to dispose of unwanted and expired medicines.

A similar ordinance was proposed four years ago, but the City decided to postpone legislative action and instead partner with the pharmaceutical industry to prove that residents and retail pharmacies could work together to create a solution. We took that challenge and developed a pilot program using industry seed money. The pilot has now collected over 23.5 tons – that's 47,000 pounds of medicine from San Francisco homes kept out of the environment and secure from accidental poisoning and abuse.

Precautionary Principle

The ordinance before you was designed within the framework of the Precautionary Principle – the first chapter of San Francisco's Environment Code and the basis for all toxics management and reduction work. The Precautionary Principle asks three questions: 1) Is there evidence of harm to people or the environment? 2) Is there a cost effective remedy? And 3) Do we have the tools to take action now? I believe the answer to all three questions is a resounding yes.

1. There is clear evidence of harm to both people and the environment. Pharmaceuticals and their metabolites affect aquatic ecosystems. Many pharmaceuticals have endocrine disrupting effects which can impact aquatic species and are increasingly suspected to affect human health, even at very low concentrations. Further, public safety is the most compelling and immediate reason for safe and secure medicine disposal. The San Francisco Police Department recognizes this threat, as well as in the federal government's National Drug Control Strategy which lists safe and convenient disposal of medicines as one of four key elements of national efforts to address the prescription drug abuse epidemic.

2. There is a cost effective remedy. San Francisco has demonstrated through the department's pilot program that San Franciscans will make the extra effort to safely dispose of their unwanted medicines and that pharmacies can provide drop-off locations without difficulty. And the cost is not high. Based on an estimate of \$630 million for 2013 prescription drug and over the counter (OTC) drug retail sales in San Francisco, the cost to medicine producers of providing the permanent program envisioned in this ordinance would be less than 1/10th of 1 percent (0.1%) of their annual San Francisco retail sales.

3. We have the tools to act now. The Ninth District Court of Appeals has affirmed local government's ability to require pharmaceutical manufacturers to pay for and operate medicine collection programs under a producer responsibility model. The Federal Drug Enforcement Agency has expanded the options for pharmacy collection of home-generated medicine. The pharmaceutical industry has already established two functioning product stewardship organizations that have submitted Stewardship Plans in Alameda County and King County, Washington. The pharmaceutical industry can also utilize their own experience in operating similar programs in Canada, Mexico, and the European Union. Everything is in place to make this a successful ordinance that will result in safe medicine disposal for San Francisco residents.

Industry Arguments Against the Ordinance

Pharmacy Participation – We have heard from those in opposition to this ordinance that pharmacies won't volunteer to collect medicines. Our Pilot Program demonstrates that this is not true, as does the interest of 86 pharmacies that have already made a firm commitment to participate in King County, Washington's program plus the additional 174 retail pharmacies who are still considering participation. The California Retailer's Association has expressed their support for this ordinance in a letter to you. They are confident that many San Francisco pharmacies, large and small, are eager for the chance to help their customers and the community by volunteering.

Implementation Timeline – Some concern has been expressed about the implementation timeline in the proposed ordinance. The timeline is based on the experiences of Alameda County and King County, Washington. Both allowed producers one full year to design a collection and disposal program for medicines and describe it in a written plan ("Product Stewardship Plan"). Both received two plans within their deadline. Call2Recycle, one of the two product stewardship organizations to submit a written plan to King County, Washington has stated that they did not make the decision to participate until mid-November of 2014 and were able to develop their program on behalf of eight producers within three months. Call2Recycle was also able to contact each of the 405 pharmacies and law enforcement offices identified as potential take-back sites in King County within one week. To date they have obtained firm commitments from 86 pharmacies and 18 law enforcement agencies, and are still in discussion with another 174.

Water Quality – Opponents to this ordinance have claimed that medicine take-back programs do not improve water quality. But it is common sense that re-directing the hundreds of tons of medicines that will be collected over time away from flushing and trashing will reduce the amount of pharmaceutical compounds in the environment even though it will not completely eliminate them.

Manufacturer or Producer Participation – Opponents also claim that product stewardship programs are cumbersome for private entities to implement. Yet many industries have taken responsibility for proper management of their products. Legislated programs include architectural paint recycling in eight states, including California, electronic waste recycling in Washington, Oregon, Maine, and Minnesota, mercury thermostat stewardship programs in California and Maine, and the Medications Return Programs in British Columbia and Manitoba. In addition, there are several established product stewardship organizations formed by manufacturers including the Thermostat Recycling Corporation for Mercury Thermostats, the Agricultural Pesticide Container Recycling program, and the Rechargeable Battery Recycling Corporation for rechargeable batteries.

We believe that product stewardship is the **best** way to solve the problem of safe and secure medicine disposal. Unlike local government, producers know their product and industry, and can design and operate programs which are more efficient and effective. They have established relationships and infrastructure since they must already be prepared for medicine recalls and returns.

Shared Responsibility – Opponents have commented on an inequity of responsibility in the proposed ordinance. Safe and secure disposal of unwanted and expired medicines ought to be a shared responsibility. Retailers who host collection bins contribute floor space and staff time to manage the collected medicines. All retailers contribute staff time to answer consumer questions on medicine disposal. Consumers contribute their time to properly dispose of their medicines and will inevitably pay for costs of improper disposal. Local government contributes time and resources to educate and inform consumers on proper disposal.

In fact, it is manufacturers, who profit directly from the sale of over-the-counter and prescription medicines, are the only entities which currently make no sustained contribution to safe and secure disposal. The proposed ordinance requires manufacturers to cover the financial costs of disposal of unwanted and expired medicines as a cost of doing business.

Measuring Success and Accountability – Opponents further complain that the proposed ordinance provides no accountability and no methods to determine the success of the stewardship programs to be established in San Francisco. This is mystifying since the proposed ordinance clearly requires annual reporting on a number of criteria, including weights collected, convenience, public education efforts, and total expenditures of each program. This information is required to be made public and the Department is also required to report biennially to the Board of Supervisors concerning the status of all Stewardship Plans.

Coffee Grounds – Finally, opponents suggest that producers should only be responsible for educating consumers about safe drug disposal and that such education should be limited to instructions on safe storage and trash disposal. “Trashing” – mixing medicines with unpalatable substances like coffee grounds or kitty litter – is only recommended by Federal agencies when a take-back program is not available. This ordinance will provide San Francisco with a permanent and sustainable take-back program and eliminate the need for flushing or trashing.

Zero Waste and Worker Safety

In addition, as we work towards our goal of “Zero Waste to Landfill” by 2020, there simply will be no wastes going directly to landfill. Everything discarded will be sorted to remove recoverable material. Disposal of medicine in a black bin will expose recycling workers to potentially dangerous chemicals in

discarded medicines and increase opportunities for theft of addictive pharmaceuticals. Unwanted and expired medicines require separate secure handling for both worker and public safety.

The broad spectrum of individuals, public safety advocates, environmentalists, the medical community and city departments who have joined Supervisors Breed, Mar and Yee in support this ordinance is indicative that the time is now to move forward in establishing a permanent and sustainable safe medicine disposal program.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Deborah O. Raphael". The signature is written in a cursive, flowing style.

Deborah O. Raphael