

Chapter 173-900-WAC

ELECTRONIC PRODUCT RECYCLING PROGRAM

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# PART I: GENERAL REQUIREMENTS

## WAC 173-900-010 Purpose.

Comment [Ecology 1]: Same as existing language

- (1) The Washington state legislature has required that a convenient, safe, and environmentally sound system for the collection, transportation, and recycling of covered electronic products (CEPs) be established throughout Washington state. The legislature determined that such a system must encourage the design of electronic products that are less toxic and more recyclable and that the responsibility for this system must be shared among all stakeholders, with manufacturers financing the collection, transportation, and recycling system.
- (2) This chapter implements the Electronic Product Recycling Act, chapter 70.95N RCW. This chapter:
  - (a) Defines the administrative and enforcement responsibilities delegated to the department of ecology; and
  - (b) Describes the processes and procedures that ecology will use to carry out those responsibilities.

[Statutory Authority: Chapter 70.95N RCW. 06-23-040 (Order 06-07), § 173-900-010, filed 11/7/06, effective 12/8/06.]

## WAC 173-900-020 Applicability.

Comment [Ecology 2]: Edits to existing language appear with underlines or strikeouts

This chapter applies to:

- (1) Any manufacturer, as defined in this chapter.
- (2) The authority or authorized party for a covered electronic product (CEP) recycling plan.
- (3) Any person who collects ~~covered electronic products (CEPs)~~ in Washington state for a CEP recycling plan approved under this chapter.
- (4) Any person who transports covered electronic products (CEP) in Washington state for a CEP recycling plan approved under this chapter.
- (5) Any person who directly processes covered electronic products (CEP) for a CEP recycling plan approved under this chapter.
- (6) Any retailer that offers for sale or sells electronic products and covered electronic products (CEPs) in or into Washington state.
- (7) Any local government where covered electronic product (CEP) recycling services are provided.
- (8) Any nonprofit charitable organization that collects covered electronic products in Washington state.
- (9) Any household, charity, school district, small business, or small government (covered entities) that wants to recycle unwanted CEPs.

Deleted: or transports

Deleted: covered electronic product (CEP)

Comment [Ecology 3]: Edits to existing language appear with underlines or strikeouts

4 **WAC 173-900-030 Definitions.**

5 **"Authority"** means the Washington materials management and  
6 financing authority.

7 **"Authorized party"** means a manufacturer who submits an  
8 individual independent plan or the entity authorized to submit  
9 an independent plan for more than one manufacturer.

10 **"Board"** means the board of directors of the Washington materials  
11 management and financing authority.

12 **"Brand"** means a name used to identify an electronic product in  
13 the consumer marketplace which attributes the electronic product  
14 to the owner of the name as the manufacturer.

15 **"Brand label"** typically includes but is not limited to name,  
16 logos, trademarks, and other visual elements including fonts,  
17 color schemes, shapes, symbols, and icons, which, when set in a  
18 special typeface or arranged in a particular way, differentiate  
19 electronic products by their manufacturers and brand owners.

20 **"Cathode ray tube" or "CRT"** means a vacuum tube, composed  
21 primarily of glass, which is the visual or video display  
22 component of an electronic device. A used, intact CRT means a  
23 CRT whose vacuum has not been released. A used, broken CRT means  
24 glass removed from its housing or casing whose vacuum has been  
25 released.

26 **"Certified"** means certified by signature on a form or other  
27 "hard copy," or by electronic signature or certification by a  
28 means implemented and approved by ecology, to be sent by mail or  
29 faxed or otherwise submitted to ecology.

30 **"Collection Services"** include drop-off collection sites  
31 or alternative collection services such as residential at-home  
32 pick-up services, curbside collection, or services provided  
33 when performing system up-grades at small businesses.

34 **"Collector"** means an entity that is licensed to do business in  
35 Washington state and that gathers unwanted covered electronic  
36 products from households, small businesses, school districts,  
37 small governments, and charities for the purpose of recycling,  
38 meets the registration requirements and collector standards in  
39 Part IV of this chapter.

40 **"Computer"** means a machine, used by one user at a time,  
41 designed for manipulating data according to a list of  
42 instructions known as a program, and are generally known as  
43 desktops, laptops, and portable computers. **"Computer"** does not  
44 include any of the following:

- 45 (a) A machine capable of supporting two or more work stations  
46 simultaneously for computing;
- 47 (b) Computer servers marketed to professional users; or
- 48 (c) Retail store terminals or cash registers, used at customer  
49 checkout in the retail industry.

1 **"Contract for services"** means an instrument executed by the  
2 authority and one or more persons or entities that delineates  
3 collection, transportation, and recycling services, in whole or  
4 in part, that will be provided to the citizens of Washington  
5 state within service areas as described in the approved standard  
6 plan.

7 **"Covered electronic product"** or **"CEP"** includes any one of the  
8 following four types of products that has been used in  
9 Washington state by any covered entity, regardless of original  
10 point of purchase:

- 11 (a) Any monitor having a viewable area greater than four  
12 inches when measured diagonally;
- 13 (b) A desktop computer;
- 14 (c) A laptop or a portable computer; or
- 15 (d) Any video display device having a viewable area greater  
16 than four inches when measured diagonally.

17 **"Covered electronic product"** does not include:

- 18 (a) A motor vehicle or replacement parts for use in motor  
19 vehicles or aircraft, or any computer, computer monitor, or  
20 television that is contained within, and is not separate  
21 from, the motor vehicle or aircraft;
- 22 (b) Monitoring and control instruments or systems;
- 23 (c) Medical devices;
- 24 (d) Products including materials intended for use as  
25 ingredients in those products as defined in the federal  
26 Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.)  
27 or the Virus-Serum-Toxin Act of 1913 (21 U.S.C. Sec. 151 et  
28 seq.), and regulations issued under those acts;
- 29 (e) Equipment used in the delivery of patient care in a health  
30 care setting;
- 31 (f) A computer, computer monitor, or television that is  
32 contained within a clothes washer, clothes dryer,  
33 refrigerator, refrigerator and freezer, microwave oven,  
34 conventional oven or range, dishwasher, room air  
35 conditioner, dehumidifier, or air purifier; automatic  
36 teller machines, vending machines or similar business  
37 transaction machines; or
- 38 (g) Hand-held portable voice or data devices used for  
39 commercial mobile services as defined in 47 U.S.C. Sec. 332  
40 (d)(1).

41 **"CRT glass manufacturer"** means an operation or part of an  
42 operation that uses a furnace to manufacture CRT glass.

43 **"CRT processing"** means conducting all of the following  
44 activities:

- 45 • Receiving broken or intact CRTs; and
- 46 • Intentionally breaking intact CRTs or further breaking or  
47 separating broken CRTs; and
- 48 • Sorting or otherwise managing glass removed from CRT  
49 monitors.

50 **"Covered entity"** means any household, charity, school district,

1 small business, or small government located in Washington state.  
2 **"Curbside service"** means a collection service providing  
3 regularly scheduled pickup of covered electronic products from  
4 households or other covered entities in quantities generated  
5 from households.

6 **"Desktop"** is a computer designed for nonportable use.

7 **"Ecology"** means the department of ecology.

8 **"Electronic product"** includes any monitor having a viewable area  
9 greater than four inches when measured diagonally; a desktop  
10 computer; a laptop or portable computer; or any video display  
11 device having a viewable area greater than four inches when  
12 measured diagonally.

13 **"Equivalent share"** means the weight in pounds of covered  
14 electronic products identified for an individual manufacturer as  
15 described in this chapter.

16 **"Existing manufacturers"** are those entities whose covered  
17 electronic products are offered for sale or sold in or into  
18 Washington state, through any sales method, as of the effective  
19 date of this chapter.

20 **"Household"** means a single detached dwelling unit or a single  
21 unit of a multiple dwelling unit and appurtenant structures.

22 **"Implement" or "Plan implementation" means that collection,**  
23 **transportation, and processing services and other plan**  
24 **requirements are fully operational as described in the approved**  
25 **CEP recycling plan".**

26 **"Independent Plan"** means a plan for the collection,  
27 transportation, and recycling of unwanted covered electronic  
28 products that is developed, implemented, and financed by an  
29 individual manufacturer or by an authorized party.

30 **"Laptop"** is a computer.

31 **"Manufacturer"** means the person who:

32 (a) Has legal ownership of the brand, brand-name or cobrand of  
33 electronic products sold in or into Washington state;

34 (b) Imports, or sells at retail, electronic products and meets  
35 (a) of this subsection; or

36 (c) Imports an electronic product branded by a manufacturer  
37 that has no physical presence in the United States of  
38 America.

39 (d) Sells at retail a covered electronic product acquired from  
40 an importer that is the manufacturer as described in (a) of  
41 this subsection, and elects to register in lieu of the  
42 importer as the manufacturer for those products.

43 **"Manufacturers whose CEPs are not directly sold in or into**  
44 **Washington state"** are those entities who have never sold or

45 offered for sale covered electronic products in or into

46 Washington state and whose CEP brand names are identified on the return  
47 share list or their CEPs are returned for recycling by a covered entity. **"Manufacturers**

48 **who previously manufactured"** are those entities that previously  
49 manufactured covered electronic products but no longer do so and  
50 whose brand names of CEPs are identified on the return share

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Deleted: represented in the Washington state return share list or their CEPs are returned for recycling by a covered entity.¶

1 list or their CEPs are returned for recycling by a covered  
2 entity.

3 **"Monitor"** is a video display device without a tuner that can  
4 display pictures and sound and is used with a computer.

5 **"New entrant"** means:

- 6 (a) A manufacturer of televisions that have been sold in
- 7 Washington state for less than ten consecutive years; or
- 8 (b) A manufacturer of desktop computers, laptop and portable
- 9 computers, or computer monitors that have been sold in
- 10 Washington state for less than five consecutive years;
- 11 (c) However, a manufacturer of both televisions and computers
- 12 or a manufacturer of both televisions and computer monitors
- 13 that is deemed a new entrant under either only (a) or (b)
- 14 is considered an existing manufacturer and not a new
- 15 entrant for purposes of this chapter.

16 **"New manufacturers to Washington state"** are those entities whose  
17 covered electronic products are offered for sale or sold in or  
18 into Washington state for the first time after the effective  
19 date of this chapter. These manufacturers become existing  
20 manufacturers for all program years after participation the  
21 first year.

22 **"Offering for sale"** means providing electronic products for  
23 purchase, in or into Washington state, regardless of sales  
24 method.

25 **"Orphan product"** means a covered electronic product that lacks a  
26 manufacturer's brand, or for which the manufacturer is no longer  
27 in business and has no successor in interest, or is a brand for  
28 which ecology can not identify an owner.

29 **"Person"** means any individual, business, manufacturer,  
30 transporter, collector, processor, retailer, charity, nonprofit  
31 organization, or government agency.

32 **"Plan" means a CEP Recycling Plan.**

33 **"Plan's equivalent share"** means the weight in pounds of covered  
34 electronic products for which a plan is responsible. A plan's  
35 equivalent share is equal to the sum of the equivalent shares of  
36 each manufacturer participating in that plan.

37 **"Plan's return share"** means the sum of the return shares of each  
38 manufacturer participating in that plan.

39 **"Portable computer"** is a computer.

40 **"Premium service"** means services such as at-location system  
41 upgrade services provided to covered entities and at-home pickup  
42 services offered to households or any handling requirements  
43 imposed by the CEP owner or collector in excess of those  
44 required in this chapter. **"Premium service"** does not include  
45 curbside service.

46 **"Processing facility" means a facility where the processing of**  
47 **CEPs for a plan is conducted by a processor.**

48 **"Processing services" means disassembling, dismantling, or**  
49 **shredding electronic products to recover materials contained in**  
50 **the CEPs received from registered collectors or transporters and**

Deleted: represented in the Washington state return share list or their CEPs are returned for recycling by a covered entity.

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1 prepare those materials for reclaiming, reuse, or refurbishment  
2 in accordance with processing standards established by this  
3 chapter.

4 **"Processor"** means an entity:

- 5 • Engaged in disassembling, dismantling, or shredding  
6 electronic products to recover materials contained in the  
7 electronic products and prepare those materials for  
8 reclaiming, reuse, or refurbishment in new products in  
9 accordance with processing standards established by this  
10 chapter;
- 11 • Prepares materials originating from CEPs for market as a  
12 commodity; and
- 13 • May salvage components to be used in new or refurbished  
14 products.

15 **"Product type"** means one of the following categories: Computer  
16 monitors; desktop computers; laptop and portable computers; and  
17 televisions.

18 **"Program"** means the collection, transportation, and recycling  
19 activities conducted to implement an independent plan or the  
20 standard plan. Programs can vary for different areas of the  
21 state.

22 **"Program year"** means each full calendar year after the program  
23 has been initiated.

24 **"Recycling"** means transforming or remanufacturing unwanted  
25 electronic products, components, and by-products into usable or  
26 marketable materials for use other than landfill disposal or  
27 incineration. **"Recycling"** does not include energy recovery or  
28 energy generation by means of combusting unwanted electronic  
29 products, components, and by-products with or without other  
30 waste. Smelting of electronic materials to recover metals for  
31 reuse in conformance with all applicable laws and regulations is  
32 not considered disposal or energy recovery.

33 **"Refurbish"** means to repair a used CEP in order to restore or  
34 improve it so that it may be used for the same purpose for which  
35 it was originally designed.

36 **"Residual"** means materials that are sent by a processor to a  
37 disposal facility.

38 **"Retailer"** means a person who offers covered electronic products  
39 for sale at retail through any means including, but not limited  
40 to, remote offerings such as sales outlets, catalogs, or the  
41 internet, but does not include a sale that is either reused  
42 products or a wholesale transaction with a distributor or a  
43 retailer.

44 **"Return share"** means the percentage of covered electronic  
45 products by weight identified for an individual manufacturer, as  
46 determined by ecology.

47 **"Reuse"** means any operation by which an electronic product or a  
48 component of a covered electronic product changes ownership and  
49 is used, as is, for the same purpose for which it was originally  
50 purchased.

1 **"Sell"** or **"sold"** means an electronic product is purchased  
2 regardless of sales method.  
3 **"Small business"** means a business employing less than fifty  
4 people.  
5 **"Small government"** means a city in Washington state with a  
6 population less than fifty thousand, a county in Washington  
7 state with a population less than one hundred twenty-five  
8 thousand, and special purpose districts in Washington state.  
9 **"Standard plan"** means the plan for the collection,  
10 transportation, and recycling of unwanted covered electronic  
11 products developed, implemented, and financed by the authority  
12 on behalf of manufacturers participating in the authority.  
13 **"Television"** is an enclosed video display device with a tuner  
14 able to receive and output frequency waves or digital signals to  
15 display pictures and sounds.  
16 **"Transporter"** means an entity that transports covered electronic  
17 products from collection sites or services to processors or  
18 other locations for the purpose of recycling, but does not  
19 include any entity or person that hauls their own unwanted  
20 electronic products.  
21 **"Unwanted electronic product"** means a covered electronic product  
22 that has been discarded or is intended to be discarded by its  
23 owner.  
24 **"White box manufacturer"** means a person who manufactured  
25 unbranded covered electronic products offered for sale in  
26 Washington state within ten consecutive years prior to a program  
27 year for televisions or within five consecutive years prior to a  
28 program year for desktop computers, laptop or portable  
29 computers, or computer monitors.  
30 **"Video display devices"** include units capable of presenting  
31 images electronically on a screen, with a viewable area greater  
32 than four inches when measured diagonally, viewed by the user  
33 and may include cathode ray tubes, flat panel computer monitors,  
34 plasma displays, liquid crystal displays, rear and front  
35 enclosed projection devices, and other similar displays that  
36 exist or may be developed. Televisions and monitors are video  
37 display devices.  
38  
39 [Statutory Authority: Chapter 70.95N RCW. 06-23-040 (Order 06-  
40 07), § 173-900-030, filed 11/7/06, effective 12/8/06.]  
41

## 42 **PART II MANUFACTURER REQUIREMENTS**

43  
44 **New section.**

45 **WAC 173-900-200 Manufacturers who must register under this**  
46 **chapter.**

47  
**Comment [Ecology 4]:** This replaces language in existing WAC 173-900-200

1 (1) The following manufacturers must register with ecology and  
 2 participate in a CEP recycling plan:  
 3

Type of Manufacturer		Initial Registration Due Date
<b>Existing manufacturers</b>	Those entities whose CEPs are offered for sale or sold in or into Washington state, as of the effective date of this chapter.	On or before January 1, 2007.
<b>New manufacturers to Washington state</b>	Those entities whose CEPs are offered for sale or sold in or into Washington state for the first time after the effective date of this chapter.	Prior to the offering for sale of their CEPs for sale in or into WA.
<b>Manufacturers whose CEPs are not directly sold in or into Washington state</b>	If a CEP brand is identified in the Washington state return share list or are returned for recycling by a covered entity, a manufacturer must register even if that manufacturer has never sold or offered for sale the identified brands in or into Washington state.	Within sixty (60) days of ecology sending notice to the manufacturer that the manufacturer must register.
<b>Manufacturers who previously manufactured</b>	Those entities that previously manufactured CEPs but no longer do so and whose brand names of CEPs are represented in the Washington state return share list or their CEPs are returned for recycling by a covered entity.	Within sixty (60) days of ecology sending notice that the manufacturer must register.

- 4  
 5 (2) A manufacturer is registered under this chapter when:  
 6 (a) Ecology has determined the manufacturer's registration  
 7 form is complete and accurate; and  
 8 (b) The manufacturer has paid the required administrative  
 9 fee (see [WAC 173-900-280](#)).
- 10 (3) Registration under this chapter is only for purposes of  
 11 administering the electronic product recycling program, and  
 12 does not constitute endorsement by ecology of a particular  
 13 registrant.
- 14 (4) A manufacturer must participate in either the standard  
 15 plan or, if approved, an independent plan.
- 16 (5) In the event that the plan fails to meet the  
 17 manufacturers' obligations under this chapter, each  
 18 manufacturer participating in the plan retains  
 19 responsibility and liability, including financial  
 20 liability, for the collection, transportation and recycling  
 21 of the manufacturer's equivalent share of CEPs as described  
 22 in this chapter.

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New section.

**WAC 173-900-205 Manufacturer's brands of CEPs that can be offered for sale or sold in or into Washington state.**

Comment [Ecology 5]: This replaces language in existing WAC 173-900-050

- (1) In order for a manufacturer's brands of CEPs to be offered for sale or sold in or into Washington state the manufacturer's name and brand names need to be on the "Manufacturer Registration List" as "in compliance" status. To be in "in compliance" status a manufacturer must:
  - (a) Register annually with ecology;
  - (b) Update registration information if it changes;
  - (c) Label the CEPs with the manufacturer's brand name(s) included in the manufacturer's registration information; and
  - (d) Participate in a CEP recycling plan approved under this chapter.

Manufacturer Status	Can the manufacturer's brands of CEPs be offered for sale or sold in or into Washington state?	Explanation
Pending	Yes	"Pending" means ecology has received the manufacturer's registration form and administrative fee and ecology is reviewing the form.
In compliance	Yes	"In compliance" means ecology has approved the manufacturer's registration, the manufacturer is participating in a plan, and is complying with the requirements in this chapter.
In violation	No	"In violation" means the manufacturer is in violation of the requirements in this chapter.
Manufacturer's brand name is not on the "Manufacturer Registration List"	No	If a manufacturers brand name is not on the "Manufacturer Registration List" that brand must not be offered for sale or sold in or into Washington state.
<b>Manufacturer's</b>	No	If a manufacturer's name is not

<p>name is not on the "Manufacturer Registration List"</p>		<p>on the "Manufacturer Registration List", none of the manufacturer's brands of CEPs can be offered for sale or sold in or into Washington.</p>
--	--	--

1  
2

New section.

3 **WAC 173-900-210 Required brand labeling for manufacturers.**

Comment [Ecology 6]: This replaces language in existing WAC 173-900-040

- 4 (1) Beginning January 1, 2007, no person may sell or offer for  
5 sale an electronic product to any person in or into  
6 Washington state unless the electronic product is labeled  
7 with the manufacturer's brand.  
8 (2) The label must be permanently affixed and readily visible.  
9 (3) In-state retailers in possession of unlabeled, or white  
10 box, electronic products on January 1, 2007, may exhaust  
11 their stock through sales to the public.

12  
13

New section.

14 **WAC 173-900-215 Initial CEP manufacturer registration.**

Comment [Ecology 7]: This replaces language in existing WAC 173-900-200

15 **Step 1: Complete the manufacturer registration form.**

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- (1) CEP manufacturers must use the online or paper manufacturer registration form provided by ecology.  
 (2) A manufacturer must provide all of the following information to ecology:  
 (a) The name, contact, and billing information of the manufacturer;  
 (b) The manufacturer's brand names of CEPs, including:  
 (i) All brand names sold in Washington state in the past, including the years each brand was sold;  
 (ii) All brand names currently being sold in Washington state, including the year the manufacturer started using the brand name;  
 (c) All brand names of electronic products for which the registrant assembles but does not have legal ownership of the brand name placed on the product;  
 (d) When a word or phrase is used as the label, the manufacturer must include that word or phrase and a general description of the ways in which it may appear on the manufacturer's electronic products;  
 (e) When a logo, mark, or image is used as a label, the manufacturer must include either a graphic representation of the logo, mark, or image and a general description of the logo, mark or image as it appears on the manufacturer's electronic products;

- 1 (f) The method or methods of sale used in or into  
2 Washington state; and  
3 (g) Recycling plan participation information.

4 **Step 2: Submit the manufacturer registration form.**

- 5  
6 (3) The individual responsible for implementing the  
7 manufacturer's requirements under this chapter must sign  
8 the form. The signature means the manufacturer has  
9 provided accurate and complete information on the form and  
10 reviewed their responsibilities under the electronic  
11 product recycling program.  
12 (4) The manufacturer must submit the form using one of the  
13 three (3) options below:  
14 (a) The online registration form;  
15 (b) The original paper version through the U.S. Postal  
16 Service:  
17  
18 Department of Ecology  
19 Electronic Product Recycling  
20 Solid Waste and Financial Assistance Program  
21 P.O. Box 47600  
22 Olympia, WA 98504-7600  
23  
24 (c) The original paper version through a courier:  
25  
26 Department of Ecology  
27 Electronic Product Recycling  
28 Solid Waste and Financial Assistance Program  
29 300 Desmond Drive  
30 Lacey, WA 98503

31 **Step 3: Pay the administrative fee.**

- 32  
33 (5) The following manufacturers must pay an annual  
34 administrative fee to ecology (see [WAC 173-900-280](#) and  
35 ecology's web site for administrative fee schedule):  
36 (a) Existing manufacturers  
37 (b) New manufacturers  
38 (6) Starting in 2007, ecology will send out billing statements  
39 by November 1 of each year to all registered manufacturers.  
40 The billing statement will include the amount of the  
41 administrative fee owed by the manufacturer.  
42 (7) **New manufacturers** must send ecology the required  
43 administrative fee so that ecology receives the fee within  
44 sixty (60) days of the date on the billing statement.  
45 (8) **Existing manufacturers** must send ecology the appropriate  
46 administrative fee so that ecology receives it no later  
47 than January 1 of each calendar year.  
48 (9) The manufacturer must send payment to one of the following  
49 addresses:

1 For U.S. Postal Service:  
2

3  
4 Department of Ecology  
5 Electronic Product Recycling Program  
6 P.O. Box 5128  
7 Lacey, WA 98509-5128  
8

9 For Courier to:

10  
11 Department of Ecology  
12 Attn: Fiscal Cashiering  
13 300 Desmond Drive  
14 Lacey, WA 98503  
15

16 **New section.**

17 **WAC 173-900-220 How manufacturers know if they are registered.**

**Comment [Ecology 8]:** This replaces language in existing WAC 173-900-200

18 **Step 1: Ecology review of the manufacturer registration form.**

- 19  
20 (1) Within five (5) business days of ecology receiving a  
21 manufacturer registration form and the required  
22 administrative fee (see [WAC 173-900-280](#)), ecology will:  
23 (a) Place the manufacturer in "pending" status on the  
24 "Manufacturer Registration List"; and  
25 (b) Place the manufacturer's "currently owned and  
26 manufactured" brand names included on the form on the list.  
27 (2) The manufacturer's brands of CEPs included in the form and  
28 placed on the "Manufacturer Registration List" can be sold  
29 or offered for sale in or into Washington state.  
30 (3) Ecology will review the form to decide if the form is  
31 complete and accurate.  
32 (4) If the form is not complete and accurate, or the  
33 manufacturer has not paid the required administrative fee,  
34 ecology will contact the manufacturer to request one or  
35 both of the following:  
36 (a) A revised form that contains the complete and missing  
37 information  
38 (b) The unpaid administrative fee  
39 (5) The manufacturer must submit the administrative fee and  
40 all requested information within thirty (30) days from the  
41 day ecology contacted the manufacturer.

42 **Step 2: Approval or denial of manufacturer registration.**

- 43  
44 (6) **Approval.**  
45 (a) Approval means that ecology has received the  
46 manufacturer's administrative fee and has decided the  
47 registration form is complete and accurate.  
48 (b) If ecology approves the manufacturer's registration,

- 1 (i) Ecology will change the manufacturer's status from  
2 "pending" to "in compliance" on the "Manufacturer  
3 Registration List"; and  
4 (ii)The manufacturer's registered brands of CEPs can be  
5 offered for sale or sold in or into Washington state.

6 (7)Denial.

- 7 (a)Denial means that ecology has not received the  
8 administrative fee or ecology has decided the form is not  
9 complete and accurate or the manufacturer has not  
10 submitted the revised information as requested.  
11 (b) If ecology denies a manufacturer's registration,  
12 (ii) Ecology will either change the manufacturer's status  
13 from "pending" to "in violation" on the "Manufacturer  
14 Registration List" or remove the manufacturer's name  
15 from the list; and  
16 (ii) The manufacturer's brands of CEPs are not allowed to  
17 be offered for sale or sold in or into Washington  
18 state.

19  
20 **New section.**

21 **WAC 173-900-230 Annual manufacturer registration.**

Comment [Ecology 9]: This  
replaces language in  
existing WAC 173-900-200

- 22  
23 (1) After initial registration, to remain registered,  
24 manufacturers must submit a registration form and required  
25 administrative fee to ecology each year.  
26 (2) Annual registration is due no later than January 1 of each  
27 calendar year for the next program year.  
28 (3) The manufacturer must submit the annual registration form  
29 using one of the options below:  
30 (a) Reviewing, if necessary amending, and resubmitting The  
31 online registration form;  
32 (b) Submitting the original paper version through:  
33  
34 U.S. Postal Service  
35 Department of Ecology  
36 Electronic Product Recycling  
37 Solid Waste and Financial Assistance Program  
38 PO Box 47600  
39 Olympia, WA 98504-7600  
40  
41 Courier Service  
42 Department of Ecology  
43 Electronic Product Recycling  
44 Solid Waste and Financial Assistance Program  
45 300 Desmond Drive  
46 Lacey, WA 98503  
47 (4) Ecology will review manufacturer registration forms  
48 submitted for annual registration under the process  
49 described in [WAC 173-900-220](#).  
50

1 **New section.**

Comment [Ecology 10]: This replaces language in existing WAC 173-900-200

2 **WAC 173-900-240 Updates to manufacturer registration.**

- 3
- 4 (1) If there are any changes to the information on the  
5 manufacturer's registration approved by ecology, a  
6 registered manufacturer must submit an updated  
7 registration form within fourteen (14) days of when the  
8 change occurs.
- 9 (2) The manufacturer must submit updates using one of the  
10 options below:
- 11 (a) Updating the manufacturer's registration information  
12 using the online form;
- 13 (b) Submitting the original paper version of the form with  
14 updated information through:
- 15
- 16 U.S. Postal Service to:  
17 Department of Ecology  
18 Electronic Product Recycling  
19 Solid Waste and Financial Assistance Program  
20 PO Box 47600  
21 Olympia, WA 98504-7600
- 22
- 23 Courier service to:  
24 Department of Ecology  
25 Electronic Product Recycling  
26 Solid Waste and Financial Assistance Program  
27 300 Desmond Drive  
28 Lacey, WA 98503
- 29
- 30 (3) Ecology will review manufacturer's updated registration  
31 forms under the process described in WAC 173-900-220.
- 32

33 **New section.**

34 **WAC 173-900-250 Ecology determination of manufacturer compliance.**

- 35
- 36 (1) Beginning January 1, 2007, ecology may inspect any  
37 retailer's CEP inventory offered for sale in or into  
38 Washington state to determine if the requirements in this  
39 chapter are met. If ecology determines a violation has  
40 occurred, ecology will document each violation and follow  
41 the warning, violations, and penalties procedure in [Part II](#)  
42 of this chapter.
- 43 (2) Beginning January 1, 2007, ecology may check any  
44 retailer's CEP inventory offered for sale in or into  
45 Washington state to determine if brand labeling  
46 requirements in [WAC 173-900-210](#) have been met. If ecology  
47 determines a manufacturer violation has occurred, ecology  
48 will document each violation and follow the warning,

1 violations, and penalties procedure in [Part II](#) of this  
2 chapter.

3  
4 **New section.**

5 **WAC 173-900-255 Manufacturer violations.**

**Comment [Ecology 11]:** This replaces language in existing WAC 173-900-200 and 173-900-600

- 6 (1) A manufacturer is in violation of this chapter when there  
7 is a:  
8 (a) Registration violation;  
9 (b) Labeling violation;  
10 (c) Plan violation; or  
11 (d) Return share violation.

12 **Manufacturer registration violations:**

- 13 (2) A manufacturer is in "registration violation" of this  
14 chapter if any of the following occurs:  
15 (a) The manufacturer does not submit an updated  
16 registration form within fourteen (14) days of when  
17 changes occur in its registration information.  
18 (b) A manufacturer offers for sale or sells its brand of  
19 CEPs in or into Washington state and:  
20 (i) The manufacturer's brand is not listed as "in  
21 compliance" or "pending" status on the "Manufacturer  
22 Registration List"; or  
23 (ii) The manufacturer's brand name is not listed as  
24 part of the manufacturer's registration.  
25 (c) A retailer offers for sale or sells a manufacturer's  
26 brand CEP in or into Washington state and on the date the  
27 products were ordered from the manufacturer or their  
28 agent,  
29 (i) The manufacturer's brand was not listed as "in  
30 compliance" or "pending" status on the "Manufacturer  
31 Registration List"  
32 (ii) The brand name of the CEP was not listed as in "in  
33 compliance" or "pending" status on the "Manufacturer  
34 Registration List"  
35 (3) A manufacturer may notify retailers, in writing, if the  
36 manufacturer's brand of CEPs cannot be offered for sale or  
37 sold in or into Washington state. The manufacturer must  
38 provide ecology a copy of this notice to avoid a  
39 registration violation.  
40 (4) Each unregistered CEP unit offered for sale or sold is a  
41 separate violation by the manufacturer.

42 **Manufacturer labeling violation:**

- 43 (5) A manufacturer is in "labeling violation" of this chapter  
44 if any of the following occurs:  
45 (a) The manufacturer offers for sale or sells a  
46 manufacturer's electronic product in or into Washington  
47 state that does not have a permanently affixed or readily

- 1 visible label with the manufacturer's brand name.  
 2 (b) A retailer offers for sale or sells the manufacturer's  
 3 electronic product in or into Washington state that is  
 4 not labeled with the manufacturer's brand name.  
 5 (6) Each of the manufacturer's unlabeled units offered for  
 6 sale or sold is a separate violation by the manufacturer.

7 **Manufacturer plan violation:**

- 8 (7) Starting February 1, 2008, a manufacturer is in "plan  
 9 violation" of this chapter if any of the following occurs:  
 10 (a) Has not met the manufacturer's financial obligations  
 11 to its plan; or  
 12 (b) Is not complying with the manufacturer's  
 13 responsibilities as described in the ecology approved  
 14 plan.  
 15 (c) The manufacturer is participating in a plan that is not  
 16 fully implemented and within 30 days of the warning  
 17 letter, the authority or authorized party has not taken  
 18 action approved by ecology to correct violations.  
 19

20 **Return share violation:**

- 21 (8) It is a "return share violation" when the  
 22 manufacturer's brands of CEPs are identified on ecology's  
 23 return share list and the manufacturer has not:  
 24 (a) Become a member of an approved ecology plan; or  
 25 (b) Registered with ecology.  
 26  
 27

28 **New section.**

29 **WAC 173-900-260 Warnings and penalties for manufacturer violations.**

**Comment [Ecology 12]:** This replaces language in existing WAC 173-900-200 and 173-900-600

Table 260 Manufacturer Warning and Penalties			
Type of Violation	Written Warning	First Penalty	Second and subsequent penalties
Registration Violation	Warning Letter	Up to \$1000	Up to \$2000
Labeling Violation	Warning Letter	Up to \$1000	Up to \$2000
Plan Violation	Warning Letter	Up to \$10,000	Up to \$10,000
Return Share Violation	Warning Letter	Up to \$10,000 plus the percentage of their return share of the costs of operating the	Up to \$10,000 plus the percentage of their return share of the costs of operating the

		standard plan.	standard plan.
--	--	----------------	----------------

1 **Warning Letter:**

2 (1) When ecology issues a written warning letter via certified  
3 mail, for any violation, the warning will include a copy of  
4 the requirements to let the manufacturer know what the  
5 manufacturer must do to be in compliance and ecology will  
6 do one of the following:

- 7 (a) Change the manufacturer's status to "in violation"
- 8 (b) Add the manufacturer to the "Manufacturer  
9 Registration List" and put them in "in violation"  
10 status.

11  
12 **Penalties:**

- 13 (2) **First penalties:** If the manufacturer does not meet the  
14 compliance requirements in the warning letter within thirty  
15 (30) days of receipt of the warning, ecology will assess a  
16 first penalty, as defined in Table 260 above.
- 17 (3) **Second and subsequent penalties:** Ecology will issue second  
18 and subsequent penalties as defined in Table 260 no more  
19 often than every thirty (30)days for the same violation.
- 20 (4) Ecology will deposit all penalties collected under this  
21 section into the electronic products recycling account  
22 created under RCW 70.95N.130.

23 **Appeals**

24 (5) Penalties may be appealed to the pollution control  
25 hearings board, pursuant to chapter 43.21B RCW.

26  
27 **New section.**

28 **WAC 173-900-270 Corrective actions for manufacturer violations.**

29 (1) If a manufacturer is in "in violation" status, ecology  
30 will not return them to "in compliance" status until the  
31 manufacturer corrects the violation.

**Comment [Ecology 13]:** This replaces language in existing WAC 173-900-200 and 173-900-600

32 **Corrective actions for manufacturer registration violations:**

- 33 (2) To correct a registration violation the manufacturer must:
  - 34 (a) Meet the registration requirements in this chapter;
  - 35 (b) Correct any other violations; and
  - 36 (c) Pay or settle any penalties due to ecology.

37  
38 **Corrective actions for manufacturer labeling violations:**

- 39 (3) To correct a labeling violation the manufacturer must:
  - 40 (a) Meet the requirements in [WAC 173-900-210](#);
  - 41 (b)Correct any other violations; and
  - 42 (c) Pay or settle any penalties due to ecology.

1 **Corrective actions for plan violations:**

- 2
- 3 (4) To correct a plan violation a manufacturer must:
- 4 (a) Join and participate in an approved plan or a plan
- 5 currently under review for approval;
- 6 (b) Correct any other violations; and
- 7 (c) Pay or settle any penalties due to ecology.
- 8

9 **Corrective actions for return share violations:**

- 10
- 11 (5) To correct a return share violation the manufacturer must:
- 12 (a) Join and participate in an approved plan or a plan
- 13 currently under review for approval;
- 14 (b) Correct any other violations; and
- 15 (c) Pay or settle any penalties due to ecology.
- 16

17 **Existing section.**

18 **WAC 173-900-280 Administrative fee.**

19 (1) **Legislative mandate.** The administrative fee covers

20 ecology's administrative costs related to implementing the

21 electronic product recycling program authorized under

22 chapter 70.95N RCW. It does not include the fees for

23 ecology's review of the standard plan or independent plans.

24 (2) **Data.**

25 (a) Ecology will use data collected to extrapolate

26 Washington market shares, and to calculate manufacturer

27 unit sales. Ecology will use market share and/or CEP

28 unit sales to assign each manufacturer to an

29 administrative fee tier. Ecology may use any of, or a

30 combination of, the following data:

- 31 (i) Generally available market research data;
- 32 (ii) CEP unit sales data supplied by manufacturers for
- 33 brands they manufacture or sell; or
- 34 (iii) CEP unit sales data supplied by retailers for
- 35 brands they sell.

36 (b) Ecology may put the data directly into the data base.

37 Ecology will aggregate the data in sets of at least three

38 companies for confidentiality when published.

39 (3) **Distribution:**

- 40 (a) Ecology will establish a fee schedule to distribute
- 41 administrative fees on a sliding scale, based on tiers,
- 42 that are representative of annual sales of CEPs in
- 43 Washington state.
- 44 (b) Fees will be distributed to each tier in order to
- 45 spread costs based on the estimated unit sales given the
- 46 number of manufacturers and the amount of revenue that
- 47 needs to be generated to cover ecology's administrative
- 48 costs.
- 49 (c) Tier 7 will have no fee amount associated with it, but

**Comment [Ecology 14]:**  
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 underlines and strikethoughs

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1 the manufacturers assigned to this tier must still  
2 complete the registration form (see [WAC 173-900-215](#)).  
3  
4

Tiers	Manufacturer's Market Share
Tier 1	5% or greater
Tier 2	1% to < 5%
Tier 3	0.1% to < 1%
Tier 4	0.03% to < 0.1%
Tier 5	0.01% to < 0.03%
Tier 6	< 0.01%
Tier 7	Manufacturers who previously manufactured

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5  
6 (4) **Calculating the administrative fee:** Ecology will calculate  
7 the tiers based on the combined unit sales of CEPs sold  
8 under manufacturer brands as a percentage of the total  
9 sales of electronic products sold in or into Washington  
10 state.

11 (a) **Administrative fee tier calculations for program year**

12 **2007:** For administrative fees due January 1, 2007,  
13 ecology will base fees on the amount appropriated in the  
14 budget for the electronic product recycling program by  
15 the legislature. Year one includes start-up costs and it  
16 funds the first eighteen (18) months of operations. This  
17 amount is four hundred seventy-five thousand dollars  
18 (\$475,000).

19 (b) **Administrative fee tier calculations for program year**  
20 **2008 and future years:**

21 (i) For administrative fees due January 1, 2008, and  
22 thereafter, ecology will base the fee on the  
23 expenditure authority for the electronic product  
24 recycling program which for program year 2008 is two  
25 hundred twenty-one thousand five hundred dollars  
26 (\$221,500).

27 (ii) The total administrative fee amount will be adjusted  
28 biannually by the fiscal growth factor (FGF) as  
29 calculated under chapter 43.135 RCW (Fee<sub>FGF</sub>).

30 (5) **Tier placement:**

31 (a) **Existing manufacturers:** Ecology will place existing  
32 manufacturers in the appropriate tier based on data  
33 obtained or received as described in subsection (2) of  
34 this section. If ecology has no data, ecology will  
35 place the manufacturer in Tier 4.

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36 (b) **New manufacturers to Washington state:** Ecology will  
37 assign these manufacturers to Tier 6 for their initial  
38 program year. Ecology will assign these manufacturers to  
39 Tier 4 for the second and future program years unless CEP  
40 unit sales data indicates another tier is appropriate.

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1 (c) **Manufacturers whose CEPs are not directly sold in or**  
2 **into Washington state:** Ecology will assign these  
3 manufacturers to Tier 7.

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CEPs

4 (d) **Manufacturers who previously manufactured:** Ecology will  
5 assign these manufacturers to Tier 7.

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6 (6) **Publication of tier assignment:**

7 (a) **Tiers for fees due January 1, 2007:** Ecology will  
8 publish the final tier schedule on ecology's web site by  
9 November 15, 2006, for fees due January 1, 2007. The  
10 tiers will be based on data available to ecology and  
11 received from manufacturers and retailers prior to  
12 November 9, 2006. When providing data to ecology,  
13 manufacturers must meet the requirements of subsection  
14 (7)(a) of this section prior to November 9, 2006.

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15 (b) **Tiers for fees due January 1, 2008, and future years:**

16 For administrative fees for 2008, and future years,  
17 ecology will publish a preliminary tier schedule for  
18 review and a final tier schedule.

19 (i) **Preliminary tier schedule:** Ecology will publish the  
20 preliminary tier schedule on ecology's web site by  
21 September 1 of each calendar year.

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22 (A) This preliminary tier schedule will include the  
23 tiers and a list of manufacturers assigned to each  
24 tier.

25 (B) Ecology will also publish the estimated total  
26 percentage share of the market attributable to each  
27 tier and a list of the brand names for each  
28 manufacturer, which form the basis for the estimates  
29 used in the tier assignment.

30 (C) Manufacturers will have until October 1 to submit  
31 a request for tier reassignment if they believe they  
32 are assigned to the wrong tier. (See subsection  
33 (7)(b) of this section.)

34 (ii) **Final tier schedule:** Ecology will publish the  
35 agency's final tier schedule on ecology's web site by  
36 November 1 of each calendar year. This final tier  
37 schedule will reflect ecology's evaluation of all  
38 available data including but not limited to tier  
39 reassignment requests.

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the

40 (7) **Tier reassignment requests:**

41 (a) **Requests for tier reassignment submitted for fees due**  
42 **January 1, 2007.** Manufacturers may request to be assigned  
43 to a different tier for fees due January 1, 2007.

Deleted:

44 (i) To submit a request for tier reassignment the  
45 manufacturer must, on or before November 9, 2006, do  
46 one of the following:

47 (A) Submit or update their on-line manufacturer  
48 registration form. The manufacturer must provide  
49 the number of units of CEPs, sold in the prior year,  
50 in or into Washington state;

1 (B) Send a written letter to ecology including the  
2 number of units of CEPs sold in the prior year in or  
3 into Washington state; or

4 (C) Submit a complete tier request form available on  
5 ecology's web site.

6 (ii) If CEP unit sales data is provided, ecology will  
7 exempt this data from public disclosure in accordance  
8 with RCW 42.56.270(13).

9 (iii) In addition to submitting information about CEP  
10 unit sales as described above, ecology may request  
11 that the manufacturer submit the CEP unit sales data  
12 in writing certified by a certified public accountant.  
13 Ecology may request this if ecology finds the data  
14 gives a different market share than the national data  
15 collected and/or the information changes the tier  
16 assignment distribution.

17 (b) **Requests for tier reassignment for fees due after**  
18 **January 1, 2007.** If submitting a tier reassignment  
19 request:

20 (i) **Existing manufacturers** must submit the request on or  
21 before October 1 prior to the next billing cycle and  
22 must follow the steps in (c) of this subsection.

23 (ii) **New manufacturers** to Washington state may not submit  
24 a tier reassignment request for their first program  
25 year. Requests for tier reassignment for future  
26 program years must follow the process for existing  
27 manufacturers.

28 (iii) **Manufacturers whose CEPs are not directly sold in**  
29 **or into Washington state**, may request to be assigned to  
30 a different tier at any time and must follow the steps  
31 in (c) of this subsection.

Deleted: who have never sold  
CEPs

32 (iv) **Manufacturers who previously manufactured** may  
33 request to be assigned to a different tier at any time  
34 and must follow the steps in (c) of this subsection.

35 (c) **Submitting tier reassignment-requests:** To request tier  
36 reassignment, the manufacturer must do one of the  
37 following:

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38 (i) Submit or update their manufacturer registration  
39 form. The manufacturer must provide the number of  
40 units of CEPs sold in the prior calendar year in or  
41 into Washington state; or

42 (ii) Send a written letter to ecology including the  
43 number of units of CEPs sold in the prior calendar  
44 year, in or into Washington state.

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45 (iii) If CEP unit sales data is provided, ecology will  
46 exempt this data from public disclosure in accordance  
47 with RCW 42.56.270(13).

48 (iv) In addition to submitting information about CEP unit  
49 sales as described above, ecology may request that the  
50 manufacturer submit the CEP unit sales data in writing

1 certified by a certified public accountant. Ecology  
2 may request this if ecology finds the data gives a  
3 different market share than the national data  
4 collected and/or the information changes the tier  
5 assignment distribution.  
6

7 [Statutory Authority: Chapter 70.95N RCW. 06-23-040 (Order 06-  
8 07), § 173-900-210, filed 11/7/06, effective 12/8/06.]  
9

10  
11 **New section.**

12 **WAC 173-900-290 Successor duties.**

13 Any person acquiring a manufacturer, or brand, or who has  
14 acquired a manufacturer, or brand, shall have all  
15 responsibility for the acquired company's CEPs, including CEPs  
16 manufactured prior to July 1, 2006, unless that responsibility  
17 remains with another entity per the purchase agreement and the  
18 acquiring manufacturer provides ecology with a letter from the  
19 other entity accepting responsibility for the CEPs.  
20 Cobranding manufacturers may negotiate with retailers for  
21 responsibility for those products and must notify ecology of  
22 the results of their negotiations.

23 **PART III THE AUTHORITY, AUTHORIZED PARTIES AND**  
24 **COVERED ELECTRONIC PRODUCT (CEP) RECYCLING**  
25 **PLANS**

26 **New section.**

27 **WAC 173-900-300 Covered electronic product (CEP) recycling plans.**

- 28 (1) CEP recycling plans (plans) must provide a program for the  
29 collection, transportation, and processing of CEPs from  
30 covered entities in Washington state.  
31 (2) The authority or authorized party of a plan must:  
32 (a) Ensure that the services provided by entities for the  
33 plan meet the collector, transporter, and direct  
34 processor performance standards in this chapter.  
35 (b) Use due diligence in the selection of collectors,  
36 transporters, direct processors and subcontractors used  
37 for services provided for the plan.  
38 (c) Provide collectors with information about the recycling  
39 of CEPs received into the program that can be shared with  
40 covered entities. This information must include final  
41 destination for processing and final disposition of the  
42 CEPs and CEP materials or components.  
43 (d) Ensure the annual certification of accuracy of scales  
44 used to meet the requirements in this chapter. The  
45 certification must be completed in compliance with

- 1 applicable national and/or state laws or regulations.  
2 (e) Ensure that any CEP that is reused or refurbished after  
3 being received by the processor is not included in any  
4 weight counts or used to satisfy an equivalent share.  
5 (3) Collection, Transportation and Processing services for a  
6 plan:  
7 (a) To implement the program described in the CEP recycling  
8 plan the authority or authorized party must only use the  
9 services of registered collectors, transporters, and  
10 processors.  
11 (b) Processing services: The authority shall accept and use  
12 any processor that:  
13 (i) Meets the requirements of this chapter and  
14 (ii) Meets any requirements described in the authority's  
15 operating plan or through contractual arrangements.  
16 (c) Collection services: The authority of the standard plan  
17 must accept CEPs from registered collectors. The  
18 authority must compensate registered collectors for the  
19 reasonable costs associated with collection of CEPs. If  
20 a collector offers premium or curbside services the  
21 compensation paid by the standard plan does not have to  
22 cover additional costs associated with those services.  
23

24 **New section.**

25 **WAC 173-900-305 The Standard Plan.**

26 A manufacturer must participate in the standard plan  
27 administered by the authority unless the manufacturer is  
28 participating in an ecology approved independent plan.

- 29 (1) The authority is responsible for collecting, transporting,  
30 and recycling the sum of the equivalent shares of all  
31 manufacturers participating in the standard plan.  
32 (2) The "authority" is the Washington Materials Management and  
33 Financing Authority and is authorized to submit the  
34 standard plan for the participating manufacturers.

35 **WAC 173-900-310 An Independent Plan.**

- 36 (1) A single manufacturer or a group of manufacturers may  
37 submit an independent plan to ecology for approval if:  
38 (a) The manufacturers participating in the proposed plan  
39 represent at least five percent return share of CEPs; and  
40 (b) No manufacturer participating in the proposed plan is a  
41 new entrant or a white box manufacturer.  
42 (c) If an independent plan does not represent five (5)  
43 percent return share for two consecutive program years,  
44 ecology will dissolve the independent plan (see [WAC 173-](#)  
45 [900-360](#)).  
46 (2) **Individual independent plan:** A single manufacturer  
47 submitting an independent plan to ecology is responsible

1 for collecting, transporting, and recycling its equivalent  
2 share of CEPs.

3 (3) **Collective independent plan:** Manufacturers collectively  
4 submitting an independent plan are responsible for  
5 collecting, transporting, and recycling the sum of the  
6 equivalent shares of all manufacturers participating in the  
7 collective independent plan.

8 (4) Individual or collective groups of manufacturers  
9 submitting an independent plan must designate an  
10 "authorized party" that is responsible for submitting the  
11 independent plan to ecology. A letter of certification  
12 from each of the manufacturers designating the authorized  
13 party must be submitted to ecology together with their  
14 independent plan.

15 (5) Prior to beginning implementation of an independent plan,  
16 the authorized party for that plan must receive plan  
17 approval from ecology.  
18

19 **New section.**

20 **WAC 173-900-320 CEP recycling plan content.**

21 (1) All plans must contain the all of the following sections  
22 and required information:

- 23 (a) [Binding agreement](#);
- 24 (b) [Standard plan participant assessment of charges or](#)  
25 [apportionment of costs](#) (standard plan only);
- 26 (c) [Letter of certification](#) (independent plan only);
- 27 (d) [Use of Washington businesses](#);
- 28 (e) [Collection services](#);
- 29 (f) [Collectors](#);
- 30 (g) [Transporters](#);
- 31 (h) [Processors](#);
- 32 (i) [Design for recycling](#);
- 33 (j) [Processor contract face sheet](#);
- 34 (k) [Recordkeeping](#);
- 35 (l) [Implementation timeline](#);
- 36 (m) [Public outreach and marketing requirements](#);
- 37 (n) [Fair compensation](#); and
- 38 (o) [Return share sampling](#).

39  
40 (1) **A Binding Agreement:** Each plan must include a written  
41 statement binding the authority or authorized party to the  
42 use of the plan.

- 43 (a) The binding agreement must be signed by:
  - 44 (i) The person(s) designated by the board of the standard  
45 plan to sign such agreements on behalf of the  
46 authority; or
  - 47 (ii) The person(s) designated by the authorized party for  
48 independent plans to sign such agreements on behalf of  
49 the authorized party.

1 (b) The binding agreement must include:

2 (i) Contact information for the authority or authorized  
3 party, including name address and phone number;

4 (ii) A list of all manufacturers participating in the  
5 plan, manufacturer electronic product registration  
6 (EPR) numbers issued by ecology, and their contact  
7 information of the responsible official, including  
8 their location address, mailing address (if  
9 different), phone number and email address;

10 (iii) A statement that the plan members will comply with  
11 the terms and conditions of their ecology approved  
12 plan; and

13 (iv) A statement that if, in the event the plan fails to  
14 meet the manufacturers' obligations under this  
15 chapter, the manufacturers retain responsibility and  
16 liability, including financial liability, for the  
17 collection, transportation and recycling of the their  
18 equivalent share of CEPs as described in this chapter.

19 (2) **Standard Plan participant assessment of charges or**  
20 **apportionment of costs:** For the standard plan only, the  
21 plan must include a process for assessing charges and  
22 apportioning costs for manufacturers participating in the  
23 standard plan. This must include a description of what  
24 information or data the authority used to determine the  
25 charge or cost. This section of the plan may be submitted  
26 separate from the rest of the plan (see [WAC 173-900-325](#)).

27 (3) **Letter of Certification:** For independent plans only, the  
28 plan must include a sworn letter from each of the  
29 manufacturers participating in the independent plan  
30 designating the authorized party.

31 (4) **Use of Washington State Businesses:** A description of how  
32 the authority or authorized party has sought the use of  
33 businesses within the state, including retailers,  
34 charities, processors, and collection and transportation  
35 services.

36 (5) **Collection Services:** A description of how the plan will  
37 meet the collection service requirements in [WAC 173-900-](#)  
38 [355](#). At a minimum the plan must work with the local  
39 government entities responsible for preparing local Solid  
40 Waste Management Plans.

41 (6) **Collectors:**

42 (a) Information about collectors providing collection  
43 services in subsection of (5) of this section must  
44 include:

45 (i) Collector names and collector electronic product  
46 registration (EPR) numbers issued by ecology;

47 (ii) Collection sites: Location and contact number for  
48 collection sites;

49 (iii) Days and hours of operation for each site; and

50 (iv) Types of CEPs collected.

- 1 (7) **Transporters:** Information about transporters of CEPS  
2 participating in the plan including:  
3 (a) Transporter names and transporter electronic product  
4 registration (EPR) numbers issued by ecology;  
5 (b) Counties and cities where the transporter provides  
6 service for the plan; and  
7 (c) Types of CEPs transported.
- 8 (8) **Processors:** Information about processors of CEPS  
9 participating in the plan including:  
10 (a) Processor names and processor electronic product  
11 registration (EPR) numbers issued by ecology;  
12 (b) Physical location of processing facilities;  
13 (c) Contact information and mailing addresses for the  
14 processing facilities;  
15 (d) Types of CEPs processed at each facility;  
16 (e) Processes and methods used to recycle CEPs including a  
17 description of the processing that the processor will  
18 use.
- 19 (9) **Design for recycling:** A description of how manufacturers  
20 participating in the plan will communicate and work with  
21 processors utilized by that plan to promote and encourage  
22 the design of electronic products and their components for  
23 recycling.
- 24 (10) **Processor contract face sheet:**  
25 (a) Copies of the contract face sheet and signature sheet of  
26 the each direct processor contract for processors used by  
27 the plan; and  
28 (b) If not included on the face sheet and signature sheet,  
29 the date of the start of the contract and the date of the  
30 conclusion of the contract.
- 31 (11) **Recordkeeping:** Procedures for how the authority or  
32 authorizing party will collect and maintain records to meet  
33 and demonstrate compliance with the requirements this  
34 chapter. Recordkeeping must include a description of the  
35 accounting and reporting systems that will be employed to  
36 track progress toward the plan's equivalent share;
- 37 (12) **Implementation Timeline:** A timeline describing start-up,  
38 implementation, and progress towards milestones with  
39 anticipated results;
- 40 (13) **Public outreach and marketing requirements:** A description  
41 of how the plan will meet the public outreach requirements  
42 in [WAC 173-900-1000](#).
- 43 (14) **Fair compensation:** Substantiate that fair compensation is  
44 paid to service providers and that payments to service  
45 providers will be made within thirty (30) days net from  
46 date of shipment.
- 47 (15) **Return share sampling:** The name and contact information  
48 for the third-party person the plan will use to meet the  
49 sampling requirements and a description of the process the

1 plan will use to implement sampling as described in WAC  
2 173-900-900.

Comment [Ecology 15]: See  
sampling methodology handout

3  
4 **New section.**

5 **WAC 173-900-325 CEP recycling plan submittal, approval, and**  
6 **implementation.**

7 **Step 1: Format of the CEP recycling plan.**

- 8 (1) All plans must use the "CEP Recycling Plan Template"  
9 provided by ecology.  
10 (2) The authority or authorized party must submit paper copies  
11 of their plan in a three-ring binder so that individual  
12 pages can be submitted and replaced when updates or  
13 revisions are required.

14 **Step 2: Submit the CEP recycling plan.**

- 15 (3) The authority or authorizing party must submit two paper  
16 copies and one usable electronic copy of their plan to  
17 ecology.  
18 (4) All plans intending to begin implementation on or before  
19 January 1, 2009 must be submitted to ecology no later than  
20 February 1, 2008.  
21 (a) The two paper copies must be submitted by mail to one  
22 of the following addresses:  
23

24 **For U.S. Postal Service:**

25 Department of Ecology  
26 Electronic Product Recycling  
27 Solid Waste and Financial Assistance Program  
28 P.O. Box 47600  
29 Olympia, WA 98504-7600  
30

31 Or

32 **For Courier:**

33 Department of Ecology  
34 Electronic Product Recycling  
35 Solid Waste and Financial Assistance Program  
36 300 Desmond Drive  
37 Lacey, WA 98503  
38

- 39 (b) The electronic copy may be submitted by email or other  
40 electronic format usable by ecology that allows  
41 electronic editing and commenting usable by ecology.  
42 (5) The following sections of a plan may be submitted to  
43 ecology for review and approval separate from the rest of  
44 the plan: Standard plan participant assessment of charges  
45 or apportionment of costs. When submitting a section

1 separate from the rest of the plan, the authority must  
2 follow the process described in this section.  
3

### 4 **Step 3: Approval process.**

- 5  
6 (6) Within ninety (90) days after receipt of a complete plan,  
7 ecology will determine whether the plan complies with this  
8 chapter. Ecology will determine if the plan is:  
9 (a) **Approved.** If approved, ecology will send a letter of  
10 approval to the authority or authorized party via  
11 certified mail. The approval letter will include an  
12 expiration date for the plan.  
13 (b) **Disapproved.** If disapproved, ecology will send a  
14 letter of disapproval to the authority or authorized  
15 party via certified mail. The disapproval letter will  
16 provide ecology's reasons for not approving the plan.  
17 (i) The authority or authorized party must submit a new  
18 or revised plan within sixty (60) days after receipt  
19 of the disapproval letter.  
20 (ii) Ecology then has an additional ninety (90) days to  
21 review the new or revised plan.  
22 (c) Ecology will approve plans for no more than five years.  
23 If an independent plan does not represent five percent  
24 return share for two consecutive program years Ecology  
25 will dissolve the independent plan (see [WAC 173-900-360](#)).  
26 (7) **Approval Criteria:** Ecology will consider the following  
27 when reviewing a plan for approval:  
28 (a) The plan submittal dates were met;  
29 (b) The plan meets the requirements in this chapter;  
30 (c) The plan contains all of the information required in  
31 this chapter and provides descriptive information  
32 sufficient to allow ecology to determine that the  
33 implementation of the plan will be in compliance with  
34 this chapter;  
35 (d) When reviewing a plan for service level, ecology may  
36 contact the local government or community identified in  
37 the plan; and  
38 (e) The plan, when implemented, would meet or exceed  
39 required collection service levels (see [WAC 173-900-355](#)).  
40 (8) Ecology may ask for additional information or  
41 clarification during the review of a plan.  
42 (9) Ecology will post all reports on the agency web site.  
43 (10) Proprietary information submitted to ecology under this  
44 chapter is exempt from public disclosure under RCW  
45 42.56.270.  
46

47 **New section.**

1 **WAC 173-900-330 Implementation of the CEP recycling plan.**

- 2 (1) Plans approved for program year 2009 must be implemented  
3 no later than January 1, 2009.  
4 (2) All manufacturers registered as of January 1, 2009, must  
5 be participating in a fully operational, ecology approved,  
6 plan as of January 1, 2009.  
7 (3) The authority or authorized party must notify ecology if  
8 any of the manufacturers listed as a participant in the  
9 plan are not meeting the requirements described in the  
10 ecology approved plan (see [WAC 173-900-350](#)).  
11 (4) If the plan fails to provide service in each county in  
12 Washington state or meet other plan requirements, the  
13 authority or authorized party must submit an updated plan  
14 to ecology within sixty (60) days of failing to provide  
15 service.  
16

17 **New section.**

18 **WAC 173-900-335 Updates and revisions to CEP recycling plans.**

- 19 (1) The authority or authorized party must update or revise  
20 the plan in the following situations:  
21 (a) For five year renewal;  
22 (b) The plan has failed to provide services; and  
23 (c) Plan updates or revisions are required.  
24 (2) **Five year renewal:** The authority or authorized party must:  
25 (a) Review and update their plan every five years  
26 (b) Submit the plan to ecology at least one hundred twenty  
27 (120) days prior to the expiration date on the plan  
28 approval letter.  
29 (3) **Failure to provide service:**  
30 (a) Failure to provide service means the plan fails to do  
31 any of the following:  
32 (i) Provide service in each county in the state;  
33 (ii) Provide service in each city or town with a  
34 population of 10,000 or greater; or  
35 (iii) Meet other plan requirements.  
36 (b) If a plan fails to provide services, the authority or  
37 authorized party must submit an updated plan to  
38 ecology within sixty (60) days of failing to provide  
39 service.  
40 (i) The updated plan must address how the program will  
41 be adjusted to meet the program geographic coverage  
42 and collection service requirements established in  
43 [WAC 173-900-355](#).  
44 (ii) When determining if a plan fails to provide  
45 service, ecology will consider the collection  
46 services requirements in [WAC 173-900-355](#) and the  
47 local government and community satisfaction reports  
48 submitted under [Part VIII](#) of this chapter.

- 1 (4) **Revisions or updates to the plan:** The authority or  
2 authorized party must submit a plan revision, including  
3 non-significant and significant plan revisions, to ecology  
4 within fourteen (14) days of any changes to the plan or  
5 receiving notice from ecology that an update is required.
- 6 (a) When submitting a plan revision the authority or  
7 authorized party may submit only the sections or chapters  
8 related to the revision.
- 9 (b) **Non-significant revisions not needing ecology approval:**  
10 Revisions to the following sections of a plan are not  
11 significant and ecology does not need to approve the  
12 revision prior to implementation:
- 13 (i) Addition or withdrawal of manufacturers participating  
14 in the standard plan;
- 15 (ii) Binding agreement if changing the contact  
16 information included for manufacturers already  
17 participating in the plan;
- 18 (iii) Use of Washington state businesses;
- 19 (iv) Letter of certification, if changing the contact  
20 information included for manufacturers already  
21 participating in the plan;
- 22 (v) Collection services: Addition of collection site(s)  
23 or services without eliminating or changing existing  
24 services; and
- 25 (vi) Collectors: Any addition or change to registered  
26 collectors used by the plan.
- 27 (vii) Transporters: Adding, changing or removing  
28 registered transporters used by the plan; and
- 29 (viii) Processors: Any additions or changes to registered  
30 processors used by the plan.
- 31 (ix) Performance audits: Copies of audit reports for any  
32 processor used by the plan that registered with  
33 ecology after the plan was last approved;
- 34 (x) Recordkeeping;
- 35 (xi) Public outreach and marketing: Additional public  
36 outreach and marketing efforts.
- 37 (xii) Collaboration: Changes or additions to  
38 collaborative efforts.
- 39 (xiii) Local government and community support: Changes to  
40 the list provided with the plan;
- 41 (xiv) Fair compensation.
- 42 (c) **Significant revisions needing ecology approval:**  
43 Revisions to the following sections of a plan are  
44 considered significant and ecology must approve the  
45 revisions prior to implementation:
- 46 (i) For the standard plan, changes to the assessment of  
47 charges or apportionment of costs;
- 48 (ii) Addition or withdrawal of manufacturers  
49 participating in an independent plan;

- (iii) Collection services: Changes to the level of services provided by the plan other than additional services;
- (iv) Implementation timeline; and
- (v) Public outreach and marketing changes, other than additional public outreach and marketing; and
- (vi) Changes to the third-party used to meet the sampling requirements in [WAC 173-900-900](#).

(5) **Approval process:** Within sixty(60) days after receipt of a plan revision requiring approval, or a plan update, ecology will determine whether the plan complies with this chapter. Ecology will determine if the revision or update is:

(a) **Approved.** If approved, ecology will send a letter of approval to the authority or authorized party via certified mail. The approval letter will include an expiration date for the plan.

(b) **Disapproved.** If disapproved, ecology will send a letter of disapproval to the authority or authorized party via certified mail. The disapproval letter will provide ecology's reasons for not approving the plan.

(i) The authority or authorized party must submit a plan revision or plan update within sixty (60) days after receipt of the letter of disapproval.

(ii) Ecology then has an additional sixty (60) days to review the revised revision or plan update.

(6) **Approval Criteria:** Ecology will consider the following when reviewing a plan revision or update for approval:

(a) The updated plan submittal dates were met;

(b) The updated plan contains all of the information required in [WAC 173-900-320](#) and provides descriptive information sufficient to allow ecology to determine that the implementation of the plan will be in compliance with this chapter;

(c) The updated plan, when implemented, would meet or exceed required service levels; and

(d) Additional information or clarification needed by Ecology during the review of a revised or updated plan to determine if the plan is compliant with these rules and Chapter 70.95N RCW.

(7) Ecology will post all reports on the agency web site.

(8) Proprietary information submitted to ecology under this chapter is exempt from public disclosure under RCW 42.56.270.

New section.

1 **WAC 173-900-340 CEP recycling plan review fee.**

- 2 (1) Ecology shall review and approve plans. The authority or  
3 authorized party will pay ecology's plan review and  
4 approval costs.  
5 (2) Plan review and approval includes ecology's costs for:  
6 (a) Review;  
7 (b) Approval; and  
8 (c) Update and plan revision review and approval.  
9 (3) Ecology shall base the plan review fee on actual costs as  
10 follows:

11  
12 Plan Review Fee = Direct Costs + Indirect Costs

13  
14 Where:

- 15  
16 (a) **Direct costs** include ecology staff hourly time and  
17 other costs related to accomplishing the activities  
18 identified in subsection (2) of this section for each  
19 plan. Direct staff costs are the costs of hours worked,  
20 including salaries and benefits required by law to be  
21 paid to, or on behalf of, employees. Other direct costs  
22 are costs incurred as a direct result of ecology staff  
23 working on the plan including, for example, costs of:  
24 travel related to plan review, printing and publishing of  
25 documents about the plan, and other work, contracted or  
26 otherwise, associated with plan review and approval, as  
27 necessary.  
28 (b) **Indirect costs** are those general management and support  
29 costs of ecology. Ecology applies them using the  
30 agency's approved federal indirect cost rate.  
31 (4) **Plan review fee invoicing and payment.** Invoices are  
32 generally sent about the last week of the month, for the  
33 previous month's activity. Payment is expected within  
34 thirty (30) days after the date that ecology has issued the  
35 invoice. Ecology will grant final approval of plans and  
36 post approved plans on ecology's web site, when all  
37 outstanding invoices have been paid by the authority or  
38 authorized party for the activities delineated in (2)  
39 above.

40  
41 **New section.**

42 **WAC 173-900-345 Changing CEP recycling plan participation.**

- 43 (1) After January 31, 2008, no manufacturer may change CEP  
44 recycling plans for program year 2009.  
45 (2) For program year 2010 and thereafter, registered CEP  
46 manufacturers may change participation in plans if the  
47 manufacturer meets the requirements in this section. The  
48 following is the process for changing plan participation:

- 1 (3) The plan the manufacturer is joining must, by August 1  
2 prior to the program year for which the change will take  
3 effect, submit:  
4 (a) For an existing plan, an update or revision under [WAC](#)  
5 [173-900-335](#); or  
6 (b) For a new independent plan, a plan that meets the  
7 requirements of [WAC 173-900-310](#).  
8 (4) Ecology will review the plan under the process described  
9 in [WAC 173-900-325](#) or [WAC 173-900-335](#), as appropriate. If  
10 approved, ecology will send notice, via certified mail, to:  
11 (a) The manufacturer requesting the change; and  
12 (b) The authorized party(s) and the authority affected by  
13 the changing identifying information.  
14 (5) If ecology does not approve the submitted plan by January  
15 1 of the program year for which the change would take  
16 effect, ecology must approve the change, but the change can  
17 not be implemented until the following program year.  
18 (6) Within fourteen (14) days of receiving the notice from  
19 ecology, the manufacturer must submit an updated  
20 registration form to ecology (see [Part II](#)).  
21 (7) Within sixty (60) days of receiving the notice, the plan  
22 the manufacturer left must submit a plan revision to ecology  
23 that meets the requirements in [WAC 173-900-335](#).  
24 (8) If an independent plan does not represent five percent  
25 return share after the manufacturer leaves the plan, the  
26 independent plan has until the end of the following program  
27 year to increase participation to represent the five percent  
28 return share. Remaining members in the independent plan then  
29 become members of the standard plan (see [WAC 173-900-360](#)).  
30  
31

New section.

### **WAC 173-900-350 CEP recycling plan compliance.**

- 32  
33 (1) **Financial obligations of manufacturers:**  
34 (a) If a manufacturer has not met its financial obligations  
35 as determined by the authority, the authority shall  
36 notify ecology within sixty (60) days that the  
37 manufacturer is no longer participating in the standard  
38 plan.  
39 (b) Manufacturers who do not meet their financial  
40 obligations in their plan are in plan violation and will  
41 be placed in "in violation" status (see [WAC 173-900-](#)  
42 [255](#)).  
43 (2) **Non-compliance with plan responsibilities:**  
44 (a) It is the responsibility of the authority or the  
45 authorized party to notify ecology within sixty (60) days  
46 if a manufacturer, who is participating in their plan, is  
47 not complying with the manufacturer's responsibilities as  
48 described in the ecology approved plan.  
49 (b) Manufacturers who do not comply with the  
50 responsibilities identified and agreed to in their plan  
51 are in plan violation and will be placed in "in  
52 violation" status (see [WAC 173-900-255](#)).

1 (3) **Non-compliance with laws and regulations:** The authority or  
2 authorized party must notify ecology within thirty (30)  
3 days if a processor used by the plan receives any  
4 penalties, violations, or regulatory orders from national,  
5 state and local government agencies.

6 (a) Within 5 days of receipt, Ecology will list the direct  
7 processor as "in violation" on the processor list and  
8 will follow the violation procedures in this chapter.

9 (b) Within sixty (60) days of providing notice to ecology  
10 the authority or authorized party:

11 (i) Continue using the processor if they are listed as  
12 "in compliance" on the "Processor Registration List";  
13 or

14 (ii) Must submit a plan update removing that processor  
15 from plan and making necessary changes if another  
16 processor must be added.

17 (iii) If the plan continues to use a processor in "in  
18 violation" status it is a "plan violation". Ecology  
19 will follow the violation, warning, and penalty  
20 procedures in [Part III](#) of this chapter.

21 (4) **Notification:** The notification to ecology must include:

22 (a) Name of manufacturer and EPR number issued by ecology;

23 (b) Description of non-compliance; and

24 (c) Date of notice submittal.

25  
26 **New section.**

### 27 **WAC 173-900-355 Collection services.**

28 Each plan must include the method or methods for the  
29 reasonably convenient collection of all types of CEPs in rural  
30 and urban areas throughout the state; including how the plan  
31 will provide collection service in each county in the state  
32 and for a minimum of one collection site or alternate  
33 collection service for each city or for each city or town with  
34 a population of greater than ten thousand (10,000).

35 (1) Collection services for a plan must be provided to  
36 covered entities at no cost to covered entities in each  
37 county of the state.

38 (2) Each plan must provide collection services through  
39 registered collectors or collection services approved by  
40 ecology for all types and sizes of CEPs.

41 (3) The standard plan must accept CEPs from any registered  
42 collector.

43 (4) Collection services must be:

44 (a) Reasonably convenient;

45 (b) Available to all citizens of Washington state;

46 (c) Provided in both rural and urban areas;

47 (d) Provided in every county of the state; and

48 (e) Provided for each city or town with a population of ten  
49 thousand (10,000) or greater.

- 1 (5) A program may provide collection sites and services  
2 jointly with another plan or plans.
- 3 (6) A program may limit the number of CEPs or CEPs by product  
4 type accepted per customer per day or per delivery at a  
5 collection site or by an alternative collection service.
- 6 (7) The authority and each authorized party is required to  
7 provide at least one collection site or alternate  
8 collection service or a combination of sites and alternate  
9 service that together provide at least one collection  
10 opportunity for all product types for every city or town in  
11 the state with a population of greater than ten thousand.
- 12 (8) A program must provide for processing of large quantities  
13 of CEPs at no charge to the small businesses, small  
14 governments, charities, and school districts.
- 15 (9) **Collection sites:**
- 16 (a) Collection sites must be staffed, open to the public at  
17 a frequency adequate to meet the needs of the area being  
18 served, and on an on-going basis.
- 19 (b) A collection site for a county may be the same as a  
20 collection site for a city or town in the county.
- 21 (c) Collection sites may include electronics recyclers and  
22 repair shops, recyclers of other commodities, reuse  
23 organizations, charities, retailers, government recycling  
24 sites, or other suitable locations.
- 25 (d) All covered entities may use a collection site as long  
26 as the covered entities adhere to any restrictions  
27 established in the approved plans.
- 28 (10) **Alternatives to collection sites:**
- 29 (a) A plan may provide alternative collection services to  
30 covered entities in forms different than collection sites  
31 if those alternative collection services provide:
- 32 (i) Equal or better convenience than a collection site;  
33 and
- 34 (ii) Equal or increased recovery of unwanted CEPs than  
35 would be achieved through a collection site.
- 36 (b) If a plan provides alternative services at a cost, the  
37 plan must also provide a non-cost collection service to  
38 covered entities in that county and for cities or towns  
39 with a population of ten thousand or greater.
- 40 (c) These alternatives must be included in the plan as  
41 required under [Part III](#) of this chapter.
- 42 (d) To use an alternative collection service in lieu of a  
43 collection site a plan must provide ecology documentation  
44 that demonstrates the alternative service meets  
45 subsection (9)(a)(i-ii) of this section.
- 46 (11) **Curbside collection services and premium services:**
- 47 (a) Curbside collection services may be used to collect  
48 CEPs from households and other covered entities in small  
49 quantities. Those providing curbside collection services  
50 may charge an additional fee to the covered entity that

1 use the service to cover the costs not paid by the  
2 standard or independent plans.

3 (b) Premium services are services that are adjunct to  
4 simple collection and are provided on-site such as at-  
5 location system upgrade or replacement services provided  
6 to covered entities and at-home pickup services offered  
7 to households. Those providing premium services may  
8 charge an additional fee to the householder to cover the  
9 costs not paid by the standard or independent plans.

10 (12) **Collection services in rural areas:** For rural areas  
11 without commercial centers, or areas with widely dispersed  
12 population, a program may provide collection at the nearest  
13 commercial centers or solid waste sites, collection events,  
14 mail-back systems, or a combination of these options.

15 (13) **Alternatives for collecting large quantities of CEPs:**

16 (a) A program may provide alternate collection services to  
17 small businesses, small governments, charities, and  
18 school districts that may have large quantities of CEPs  
19 that cannot be handled at collection sites or through  
20 curbside services. (b) Alternative collection services  
21 for large quantities of CEPs must be described in the  
22 plan.

23 (c) Large quantities are those CEPs from covered entities  
24 in quantities greater than the amount established in  
25 plans as described in (6) of this section.

26 (14) **Mail-back collection services:**

27 The recipient of the CEPs submitted to the plan must  
28 register as the CEP collector and transporter under [Part](#)  
29 [IV](#) and transporter under [Part V](#) of this chapter and meet  
30 the applicable performance standards.

31 **New section.**

### 32 **WAC 173-900-360 Dissolving an independent plan.**

33 (1) If an independent plan does not represent five percent  
34 return share for two consecutive program years, ecology  
35 will dissolve the independent plan.

36 (2) After August 1 but prior to the start of the next program  
37 year, ecology will dissolve any independent plan that does  
38 not meet the independent plan criteria in [WAC 173-900-310](#).

39 (a) Ecology will send notice, via certified mail, informing  
40 all participants in the plan that they must join the  
41 standard plan and update their manufacturer registration  
42 form (see [Part II](#)).

43 (b) If a manufacturer does not submit their updated  
44 registration form within fourteen (14) days of receiving  
45 the notice, it is a registration violation (see [WAC 173-](#)  
46 [900-255](#)).

47 (3) If ecology determines that this change may significantly  
48 alter the program described in the standard plan, the  
49  
50

1 authority must submit an updated plan to ecology (see [WAC](#)  
2 [173-900-335](#)).

3  
4 **New section.**

5 **WAC 173-900-370 Authority or authorized party violations**

6  
7 (1) The authority or authorized party is in violation of this  
8 chapter when there is:

- 9 (a) A plan violation; or  
10 (b) An annual report violation.

11 (2) **Plan violation:** As of January 1, 2009, it is a plan  
12 violation if the authority or authorized party:

- 13 (a) Does not implement the plan so that the plan meets the  
14 requirements in this chapter. (See [Part III](#) of this  
15 chapter);  
16 (b) Uses a collector, transporter, or direct processor that  
17 is not in "in compliance" status; or  
18 (d) Does not implement return share sampling as described  
19 in [WAC 173-900-900](#).

20 (3) **Annual report violation.**

21 As of March 1, 2010, it is an authority or authorized party  
22 violation if the plan's annual report is not submitted to  
23 ecology and approved under [WAC 173-900-800](#).

24  
25 **New section.**

26 **WAC 173-900-380 Authority and authorized party violation notice and**  
27 **penalties**

28 **Table 380 Authority and Authorized Party Penalties**

Type of Violation	Written Notice	First Penalty	Second and subsequent penalties
Plan Violation	Penalty Notice	Up to \$5000	Up to \$10,000
Annual Report Violation	Warning Letter	Up to \$1000	Up to \$2000

29 **Penalty notice for plan violations.**

30 (1) When ecology issues a penalty notice for a "plan  
31 violation" ecology will send the penalty notice to the  
32 authority or authorized party by certified mail. The  
33 penalty notice will include:

- 34 (a) A first penalty assessment as defined in Table 380;  
35 (b) A statement that the plan is no longer approved;  
36 (c) The requirements that need to be corrected; and  
37 (d) A statement that the authority or authorized party must  
38 correct the violation within thirty (30) days of receipt  
39 of the notice.

- 1 (2) If after thirty (30) days, the authority or authorized  
2 party fails to make the required corrections and implement  
3 the plan, ecology must  
4 (i) Then assess a second penalty as defined in Table 380;  
5 and  
6 (ii) Inform the manufacturers listed in the plan that  
7 they have a "manufacturer plan violation" (see [WAC](#)  
8 [173-900-255](#)).
- 9 (3) If the authority or authorized party does not correct the  
10 violation, Ecology must assess subsequent penalties no more  
11 often than every (30) days.

### 12 **Warning Letter for annual report violations.**

- 13 (1) When ecology issues a warning letter for an "annual report  
14 violation", ecology will send the letter to the authority  
15 or authorized party by certified mail. The warning letter  
16 will include:  
17 (a) The requirements that need to be corrected; and  
18 (d) A statement that the authority or authorized party must  
19 correct the violation within thirty (30) days of receipt  
20 of the warning letter.
- 21 (2) If after thirty (30) days, the authority or authorized  
22 party fails to make the required corrections, ecology must  
23 (i) Then assess a first penalty as defined in Table 380;  
24 and  
25 (ii) Inform the manufacturers listed in the plan that  
26 they have a "manufacturer plan violation" (see [WAC](#)  
27 [173-900-255](#)).
- 28 (3) If the authority or authorized party does not correct the  
29 violation, Ecology must assess subsequent penalties no more  
30 often than every (30) days.
- 31 (4) Ecology will deposit all penalties collected under this  
32 section into the electronic products recycling account  
33 created under RCW 70.95N.130.

### 34 **Appeals.**

- 35 (5) Penalties may be appealed to the pollution control  
36 hearings board, pursuant to chapter 43.21B RCW.

37  
38 **New section.**

### 39 **WAC 173-900-390 Corrective actions for authority or authorized party**

#### 40 **Corrective actions for plan violations.**

- 41 (1) The authority or authorized party must:  
42 (a) Meet the plan requirements in [Part III](#) of this chapter;  
43 (b) Correct any other violations; and  
44 (c) Pay or settle any penalties due to ecology.

1 **Corrective actions for annual report violations.**

- 2 (2) The authority or authorized party must:
- 3 (a) Submit their annual report to ecology or correct any
- 4 deficiencies in the report and submit to ecology;
- 5 (b) Correct any other violations; and
- 6 (c) Pay or settle any penalties due to ecology.

7 **PART IV COLLECTORS FOR CEP RECYCLING PLANS**

8 **New section.**

9 **WAC 173-900-400 What collectors need to know to collect CEPs for a CEP recycling plan.**

Comment [Ecology 16]: This replaces language in WAC 173-900-300.

- 12 (1) To collect CEPs for a plan under this chapter the
- 13 collector must:
- 14 (a) Submit an initial registration;
- 15 (b) Update the registration information if it changes;
- 16 (c) Renew registration annually;
- 17 (c) Meet the collector performance standards; and
- 18 (d) Be in "in compliance" status on the "Collector
- 19 Registration List" on ecology's web site.
- 20

Collector's Status	Can a collector, collect CEPs for a plan?	Definition
In compliance	Yes	"In compliance" means the collector is registered and meets the collector performance standards in this chapter.
In violation	No	"In violation" means the collector is in violation of the requirements in this chapter.
Collector's name is not on the "Collector Registration List"	No	Collectors who collect CEPs or other electronic products and do not want to participate in this program do not need to register to continue doing business.

- 21 (2) Collection services:
- 22 (a) The only CEPs a collector can collect and submit to a
- 23 plan are those CEPs submitted for recycling by covered
- 24 entities (households, charities, school districts, small
- 25 businesses, and or small governments located in
- 26

1 Washington state).

2 (b) Plans are not required to compensate collectors for  
3 CEPS collected prior to January 1, 2009.

4 (3) Collectors who collect CEPS or other electronic products  
5 and do not want to participate in this program do not need  
6 to register to continue doing business.

7 (4) Registration under this chapter is only for purposes of  
8 administering the electronic product recycling program and  
9 does not constitute endorsement by ecology of a particular  
10 registrant.

11 (5) The authority of the standard plan must accept CEPS from  
12 registered collectors in "in compliance" status.

13 (6) The authority must compensate registered collectors for  
14 the reasonable costs associated with collection of CEPS.

15 (7) The standard plan will not pay for additional costs  
16 associated with premium or curbside services, unless a  
17 prior written agreement has been made between the authority  
18 and the service provider.  
19

20 **New section.**

21 **WAC 173-900-410 Initial registration as a CEP collector.**

**Comment [Ecology 17]:** This replaces language in WAC 173-900-300.

22  
23 **Step 1: Complete the collector registration form.**

24  
25 (1) Each collector must complete the online or paper  
26 registration form provided by ecology and must include all  
27 of the following:

- 28 (a) Name of individual responsible for implementing the  
29 collector requirements;
- 30 (b) Contact and location information;
- 31 (c) Business license information;
- 32 (d) Permit information;
- 33 (e) Description of services provided; and
- 34 (f) Geographic areas where services are provided.

35 **Step 2: Submit the collector registration form.**

36  
37 (2) The individual responsible for implementing the  
38 collector requirements must sign the form. Signing the  
39 form means the collector has provided accurate and  
40 complete information on the form and will comply with the  
41 collector performance standards in [WAC 173-900-450](#).

42 (3) The collector must submit the form using one of the  
43 three options below:

- 44 (a) Online registration;
- 45 (b) Submitting the original paper version through:

46  
47 U.S. Postal Service to:

1 Department of Ecology  
2 Electronic Product Recycling  
3 Solid Waste and Financial Assistance Program  
4 PO Box 47600  
5 Olympia, WA 98504-7600  
6

7 Courier service to:

8 Department of Ecology  
9 Electronic Product Recycling  
10 Solid Waste and Financial Assistance Program  
11 300 Desmond Drive  
12 Lacey, WA 98503  
13  
14

New section.

15 **WAC 173-900-420 How collectors know if their registration is**  
16 **approved.**

Comment [Ecology 18]: This replaces language in WAC 173-900-300.

17 **Step 1: Ecology review of collector registration forms.**  
18

- 19 (1) After receiving a form, ecology will review the form to  
20 decide if the form is complete and accurate.  
21 (2) If the form is not complete and accurate ecology will  
22 contact the collector to:  
23 (a) Tell the collector what information is missing or  
24 inaccurate; and  
25 (b) Request a revised form.  
26 (3) The collector must submit a revised form within thirty  
27 (30) days from the day ecology contacted the collector.

28 **Step 2: Approval or denial of collector registration forms.**  
29

- 30 (4) **Approval.**  
31 (a) Approval means that ecology has decided the form is  
32 complete and accurate.  
33 (b) If ecology approves the collector's registration,  
34 ecology will post the collector's name on the "Collector  
35 Registration List" and place the collector in "in  
36 compliance" status. The collector is allowed to collect  
37 CEPs for a plan.  
38 (5) **Denial.**  
39 (a) Denial means that ecology has decided the form is not  
40 complete and accurate and the collector did not revise  
41 information as requested.  
42 (b) If ecology denies a collector's registration,  
43 ecology will list the collector as "in violation" on the  
44 "Collector Registration List" or remove the collector's  
45 name from the list.  
46 (c) The collector must stop collecting CEPs for a plan.

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New section.

**WAC 173-900-430 Annual renewal of collector registration.**

Comment [Ecology 19]: This replaces language in WAC 173-900-300.

- (1) Collectors must submit its annual renewal registration form to ecology between June 1 and September 1 of each calendar year for the next program year.
- (2) If a collector does not submit a renewal registration form, ecology will remove the collector from the "Collector Registration List".
- (3) The collector must submit their annual registration form using one of the three (3) options below:
  - (a) Reviewing, if necessary amending, and resubmitting The online registration form;
  - (b) The original paper version of a form through:
    - U.S. Postal Service
      - Department of Ecology
      - Electronic Product Recycling
      - Solid Waste and Financial Assistance Program
      - PO Box 47600
      - Olympia, WA 98504-7600
    - Courier Service
      - Department of Ecology
      - Electronic Product Recycling
      - Solid Waste and Financial Assistance Program
      - 300 Desmond Drive
      - Lacey, WA 98503
- (4) Ecology will review collector registration forms submitted for annual registration under the process described in [WAC 173-900-420](#).

New section.

**WAC 173-900-440 Updates to collector registration.**

Comment [Ecology 20]: This replaces language in WAC 173-900-300.

- (1) A registered collector must submit an updated registration form to ecology within fourteen (14) days of a change to the information provided in a registration form.
- (2) The collector must submit updates to its registration form by using one of the options below:
  - (a) Updating the collector's registration information using the online form;
  - (b) Submitting the original paper version of the form with updated information through:
    - U.S. Postal Service to:
      - Department of Ecology

1 Electronic Product Recycling  
2 Solid Waste and Financial Assistance Program  
3 PO Box 47600  
4 Olympia, WA 98504-7600

5  
6 Courier service to:  
7 Department of Ecology  
8 Electronic Product Recycling  
9 Solid Waste and Financial Assistance Program  
10 300 Desmond Drive  
11 Lacey, WA 98503  
12

13 (3) Ecology will review collector updated registration forms  
14 under the process described in [WAC 173-900-420](#).

15  
16 **New section.**

17 **WAC 173-900-450 Performance standards for collectors.**

- 18 (1) CEPs collected for a plan must be collected from covered  
19 entities free of charge except for the following services:  
20 (a) Premium services as described in an approved plan;  
21 (b) Curbside collection services to cover the costs not  
22 paid by the standard or independent plans;  
23 or  
24 (c) Collection of large quantities of CEPs from small  
25 businesses, small governments, charities, and school  
26 districts as defined in WAC 173-900-355(11)(c).
- 27 (2) A registered collector may dismantle or disassemble CEPs  
28 for the purpose of removing components for reuse in  
29 refurbished electronic products.
- 30 (3) A registered collector must not dismantle CEPs for  
31 purposes of recycling components unless they also meet the  
32 processor standard requirements and are a registered  
33 processor under this chapter.
- 34 (4) In addition to the requirements in this chapter, all  
35 registered collectors must comply with all applicable laws,  
36 rules, and local ordinances.
- 37 (5) Collection services for CEPs including CRTs:  
38 When providing collection services for a plan, the  
39 registered collector must:  
40 (a) Staff the site during operating hours.  
41 (b) Notify the authority and/or authorized party of any  
42 changes in hours and days of operation and types of CEPs  
43 accepted if the collection services provided are  
44 identified in an ecology approved plan.  
45 (c) Post recycling information provided by the plan at the  
46 collection location.  
47 (d) Cooperate with CEP sampling efforts conducted by CEP  
48 recycling programs approved under this chapter.  
49 (e) Provide enclosed storage areas with impervious floors

1 so that the CEPs collected and their components are  
 2 protected from the weather.  
 3 (f) Collectors must post, in a readily visible location, at  
 4 the collection site information on the final destination  
 5 and final disposition of CEPs submitted for recycling to  
 6 the program. This information is provided by the plan(s)  
 7 for which the collector is providing services.

8 **(6) Additional standards for collection services for CEPs**  
 9 **containing CRTs:**

- 10 (a) Storage. CRTs must be either:  
 11 (i) Stored in a building with a roof, floor and walls;  
 12 or  
 13 (ii) Placed in a container (i.e., a package or a  
 14 vehicle) that is constructed, filled, and closed to  
 15 minimize releases of CRT glass to the environment  
 16 (including fine solid materials).  
 17 (b) Labeling. Each container in which the CRT is  
 18 contained must be labeled or marked clearly with ``Do  
 19 not mix with other glass materials.'' and one of the  
 20 following phrases:  
 21 (i) ``Used cathode ray tube(s)-contains leaded glass  
 22 '' or  
 23 (ii) ``Leaded glass from televisions or computers.''

- 24 (7) Allow access to ecology or their authorized third party  
 25 representative for purposes of determining return share.  
 26 (8) Allow access to ecology for inspections to determine  
 27 compliance with the requirements in this chapter.  
 28  
 29

30 **New section.**

31 **WAC 173-900-460 Ecology determination of collector compliance.**

- 32 (1) Beginning January 1, 2009, ecology may inspect any  
 33 collector used by a plan for compliance with this chapter.  
 34 (2) If ecology determines a violation has occurred, ecology  
 35 will document each violation and follow the warning,  
 36 violation, and penalties procedures in [Part IV](#) of this  
 37 chapter.  
 38

39 **New section.**

40 **WAC 173-900-470 Collector violations.**

41 Collector violations are described in Table 470.  
 42

**Comment [Ecology 21]:** This replaces language in WAC 173-900-300 and 173-900-620.

<b>Table 470: Collector Violations</b>			
<b>Starting</b>	<b>If</b>	<b>Then</b>	<b>and Ecology will</b>
September 1, 2007	A collector has collected CEPs for a plan and is	It is a <b>Collector Registration</b>	List the collector's name on the "Collector Registration List" and

	not registered.	<b>violation</b>	place the collector in "in violation" status.
Effective date of this chapter	A collector does not update its registration information within fourteen (14) days of a change.	It is a <b>Collector Registration violation</b>	List the collector's name on the "Collector Registration List" and place the collector in "in violation" status.
January 1, 2009	A collector collecting CEPs for a plan is out of compliance with the collector standards in <a href="#">WAC 173-900-450</a> .	It is a <b>Collector Standards Violation</b>	List the collector's name on the "Collector Registration List" and place the collector in "in violation" status.

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5

New section.

**WAC 173-900-480 Warnings and penalties for collector violations.**

**Comment [Ecology 22]:** This replaces language in WAC 173-900-300 and 173-900-620.

**Table 480 Collector Warning and Penalties**

Type of Violation	Written Warning	First Penalty	Second and subsequent penalties
Collector Registration Violation	Warning Letter	Up to \$1000	Up to \$2000
Collector Standards Violation	Warning Letter	Up to \$1000	Up to \$2000

**Warning Letter**

(1) When ecology issues a written warning letter via certified mail, for any violation, the warning will include a copy of the requirements to let the collector know what must be done to be in compliance and ecology will do one of the following:

- (a) Change the collector's status to "in violation"
- (b) Add the collector to the "Collector Registration List" and put them in "in violation" status.

**Penalties**

- (2) **First penalties:** If the collector does not meet the compliance requirements in the warning letter within thirty (30) days of receipt of the warning, ecology will assess a first penalty, as defined in Table 480 above.
- (3) **Second and subsequent penalties:** Ecology will issue second

1 and subsequent penalties as defined in Table 480 no more  
 2 often than every thirty (30) days for the same violation.  
 3 (4) Ecology will deposit all penalties collected under this  
 4 section into the electronic products recycling account  
 5 created under RCW 70.95N.130.

6 **Appeals**

7 (5) Penalties may be appealed to the pollution control  
 8 hearings board, pursuant to chapter 43.21B RCW.

9  
 10 **New section.**

11 **WAC 173-900-490 Corrective action for collector violations.**

**Comment [Ecology 23]:** This replaces language in WAC 173-900-300 and 173-900-620.

12 For ecology to change a collector from the "in violation"  
 13 status to "in compliance" status on the "Collector  
 14 Registration List" the collector must:

- 15 (1) Meet the registration requirements in [Part IV](#) of this  
 16 chapter;
- 17 (2) Meet the collector performance standards in [WAC 173-900-](#)  
 18 [450](#); and
- 19 (3) Pay or settle any penalties to ecology.  
 20

21 **Part V TRANSPORTERS FOR CEP RECYCLING PLANS**

**Comment [Ecology 24]:** In the existing rule collectors and transporters are in the same section. In the proposed rule they will be separated.

22  
 23 **New section.**

24 **WAC 173-900-500 What transporters need to know to collect CEPs for**  
 25 **a CEP recycling plan.**

**Comment [Ecology 25]:** This replaces language in WAC 173-900-300.

- 26 (1) To transport CEPs for a plan under this chapter a  
 27 transporter must:
- 28 (a) Submit an initial registration;
- 29 (b) Update the registration information if it changes;
- 30 (c) Renew registration annually;
- 31 (d) Meet the transporter performance standards in [WAC 173-](#)  
 32 [900-550](#); and
- 33 (e) Be in "in compliance" status on the "Transporter  
 34 Registration List" on ecology's web site.  
 35

Transporter's Status	Can a transporter, transport CEPs for a plan?	Definition
In compliance	Yes	"In compliance" means the transporter is registered and meets the transporter performance standards in this chapter.
In violation	No	"In violation" means the

		transporter is in violation of the requirements in this chapter.
Transporter's name is not on the "Transporter Registration List"	No	Transporters who transport CEPs or other electronic products and do not want to participate in this program do not need to register to continue doing business.

1  
2 (2) Registration under this chapter is only for purposes of  
3 administering the electronic product recycling program and  
4 does not constitute endorsement by ecology of a particular  
5 registrant.

6  
7 **New section.**

8 **WAC 173-900-510 Initial registration as a CEP transporter.**

**Comment [Ecology 26]:** This replaces language in WAC 173-900-300.

9 **Step 1: Complete the transporter registration form.**

- 10  
11 (1) Each transporter must use the form provided by ecology and  
12 must include all of the following:  
13 (a) Contact and location information;  
14 (b) Business license information;  
15 (c) Permit information;  
16 (d) Description of services provided; and  
17 (e) Geographic areas where services are provided.

18 **Step 2: Submit the registration form.**

- 19  
20 (2) The individual responsible for implementing the  
21 transporter requirements must sign the form. Signing the  
22 form means the transporter has provided accurate and  
23 complete information on the form and will comply with the  
24 transporter standards in [WAC 173-900-550](#).  
25 (3) The transporter must submit the form using one of the  
26 options below:  
27 (a) Online registration;  
28 (b) The original paper version through:

29  
30 U.S. Postal Service  
31 Department of Ecology  
32 Electronic Product Recycling  
33 Solid Waste and Financial Assistance Program  
34 PO Box 47600  
35 Olympia, WA 98504-7600

36  
37 Courier Service  
38 Department of Ecology

8 **New section.**

9 **WAC 173-900-520 How transporters know if their registration is approved.**

Comment [Ecology 27]: This replaces language in WAC 173-900-300.

10  
11 **Step 1: Ecology review of transporter registration form.**

- 12  
13 (1) After receiving a form, ecology will review the form to  
14 decide if the form is complete and accurate.  
15 (2) If the form is not complete and accurate ecology will  
16 contact the transporters to:  
17 (a) Tell the transporter what information is missing or  
18 inaccurate; and  
19 (b) Request a revised form.  
20 (3) The transporter must submit a revised form within thirty  
21 (30) days from the day ecology contacted the transporter.  
22

23 **Step 2: Approval or denial of transporter registration forms.**

- 24  
25 (4) **Approval.**  
26 (a) Approval means that ecology has decided the form is  
27 complete and accurate.  
28 (b) If ecology approves the transporter's registration,  
29 ecology will post the transporter's name on a list called  
30 "Transporter Registration List" and place the transporter  
31 in "in compliance" status. The transporter is allowed to  
32 transport CEPs for a plan.  
33 (5) **Denial.**  
34 (a) Denial means that ecology has decided the form is not  
35 complete and accurate and the transporter did not revise  
36 information as requested.  
37 (b) If ecology denies a transporter's registration,  
38 ecology will either list the transporter as "in  
39 violation" on the "Transporter Registration List" or  
40 remove the transporter's name from the list.  
41 (c) The transporter must stop transporting CEPs for a plan.  
42

43 **New section.**

44 **WAC 173-900-530 Annual renewal of transporter registration.**

Comment [Ecology 28]: This replaces language in WAC 173-900-300.

- 45 (1) Transporters must submit its annual renewal registration  
46 form to ecology between June 1 and September 1 of each  
47

1 calendar year for the next program year.

2 (2) If a transporter does not submit a renewal registration  
3 form, ecology will remove the collector from the "Collector  
4 Registration List".

5 (3) The transporter must submit its annual registration form  
6 using one of the options below:

7 (a) Reviewing, if necessary amending, and resubmitting the  
8 online registration form;

9 (b) Submitting the original paper version through:

10 U.S. Postal Service to:

11 Department of Ecology  
12 Electronic Product Recycling  
13 Solid Waste and Financial Assistance Program  
14 PO Box 47600  
15 Olympia, WA 98504-7600  
16

17 Courier service to:

18 Department of Ecology  
19 Electronic Product Recycling  
20 Solid Waste and Financial Assistance Program  
21 300 Desmond Drive  
22 Lacey, WA 98503  
23

24 (4) Ecology will review transporter registration forms  
25 submitted for annual registration under the process  
26 described in [WAC 173-900-520](#).  
27

28 **New section.**

29 **WAC 173-900-540 Updates to transporter registration.**

**Comment [Ecology 29]:** This replaces language in WAC 173-900-300.

30  
31 (1) A registered transporter must submit an updated  
32 registration form to ecology within fourteen (14) days of a  
33 change to the information provided in a registration form.

34 (2) The transporter must submit updates to its registration  
35 form by using one of the options below:

36 (a) Updating the transporter's registration information  
37 using the online form;

38 (b) Submitting the original paper version of the form with  
39 updated information through:  
40

41 U.S. Postal Service to:

42 Department of Ecology  
43 Electronic Product Recycling  
44 Solid Waste and Financial Assistance Program  
45 PO Box 47600  
46 Olympia, WA 98504-7600  
47

48 Courier service to:

49 Department of Ecology  
50 Electronic Product Recycling

1 Solid Waste and Financial Assistance Program  
2 300 Desmond Drive  
3 Lacey, WA 98503  
4

5 (3) Ecology will review transporter updated registration forms  
6 under the process described in [WAC 173-900-520](#).

7  
8 **New section.**

9 **WAC 173-900-550 Performance standards for transporters.**

10 The following are transporter performance standards for any  
11 transporter who is transporting CEPs for a plan:

12 (1) **Storage.** CEPs must be either:

- 13 (a) Stored in a building with a roof, floor, and walls, or  
14 (b) Placed in a container (i.e., a package or a vehicle)  
15 that is constructed, filled, and closed to minimize  
16 exposure of CEPs and their components to the environment.

17 (2) **Labeling.**

- 18 (a) When transporting from collection sites to processing  
19 facilities, all containers must be labeled: Electronic  
20 products - may contain mercury, batteries or other  
21 hazardous materials.  
22 (b) When transporting from processors to downstream  
23 markets, for CEPs and their components containing  
24 mercury, batteries, or circuit boards each container must  
25 be labeled or marked clearly with: "Do not mix with other  
26 materials" and one or more of the following:  
27 (i) ``Used electronic product(s)-contains mercury''  
28 (ii) ``Used batteries from electronic product(s)''  
29 (iii) `` Used electronic product(s)-contains circuit  
30 boards"  
31 (c) Each container in which the CRT is contained must be  
32 labeled or marked clearly with ``Do not mix with other  
33 glass materials.'' and one of the following phrases:  
34 (i) ``Used cathode ray tube(s)-contains leaded glass''  
35 (ii) ``Leaded glass from televisions or computers''

36 (3) **Transportation.** CEPs must be transported in a container  
37 meeting the requirements in (1) of this section.

38 (4) **Exports of CRTs.** In addition to the storage, labeling and  
39 transportation requirements in this section, exporters of  
40 CRTs must comply with the following requirements. In this  
41 subsection "recycler" means processors and subcontractors.

- 42 (a) Notify the Environmental Protection Agency (EPA) of an  
43 intended export before the CRTs are scheduled to leave  
44 the United States. A complete notification should be  
45 submitted sixty (60) days before the initial shipment is  
46 intended to be shipped off-site. This notification may  
47 cover export activities extending over a twelve (12)  
48 month or lesser period. The notification must be in

1 writing, signed by the exporter, and include the  
2 following information:

- 3 (i) Name, mailing address, telephone number and EPA/state  
4 ID number (if applicable) of the exporter of the CRTs.  
5 (ii) The estimated frequency or rate at which the CRTs  
6 are to be exported and the period of time over which  
7 they are to be exported.  
8 (iii) The estimated total quantity of CRTs specified in  
9 kilograms.  
10 (iv) All points of entry to and departure from each  
11 foreign country through which the CRTs will pass.  
12 (v) A description of the means by which each shipment of  
13 the CRTs will be transported (for example, mode of  
14 transportation vehicle (air, highway, rail, water,  
15 etc.), type(s) of container (drums, boxes, tanks,  
16 etc.)).  
17 (vi) The name and address of the recycler and any  
18 alternate recycler.  
19 (vii) A description of the manner in which the CRTs will  
20 be recycled in the foreign country that will be  
21 receiving the CRTs.  
22 (viii) The name of any transit country through which the  
23 CRTs will be sent and a description of the approximate  
24 length of time the CRTs will remain in such country  
25 and the nature of their handling while there.  
26 (b) Notifications submitted by mail should be sent to the  
27 following mailing address:

28 Office of Enforcement and Compliance Assurance  
29 Office of Federal Activities  
30 International Compliance Assurance Division (Mail  
31 Code 2254A)  
32 Environmental Protection Agency  
33 1200 Pennsylvania Ave., NW.  
34 Washington, DC 20460.

35  
36 Hand-delivered notifications should be sent to:

37  
38 Office of Enforcement and Compliance Assurance  
39 Office of Federal Activities  
40 International Compliance Assurance Division(Mail Code  
41 2254A)  
42 Environmental Protection Agency  
43 Ariel Rios Bldg., Room 6144  
44 1200 Pennsylvania Ave., NW.  
45 Washington, DC.

46 In both cases, the following must be prominently  
47 displayed on the front of the envelope:

48  
49 "Attention: Notification of Intent to Export CRTs."  
50

- 1 (c) Upon request by EPA, the exporter must furnish to EPA  
2 any additional information which a receiving country  
3 requests in order to respond to a notification.
- 4 (d) EPA will provide a complete notification to the  
5 receiving country and any transit countries. A  
6 notification is complete when EPA receives a notification  
7 which EPA determines satisfies the requirements of  
8 paragraph (4)(a) of this section. Where a claim of  
9 confidentiality is asserted with respect to any  
10 notification information required by paragraph (4)(a) of  
11 this subsection, EPA may find the notification not  
12 complete until any such claim is resolved in accordance  
13 with 40 CFR 260.2.
- 14 (e) The export of CRTs is prohibited unless the receiving  
15 country consents to the intended export. When the  
16 receiving country consents in writing to the receipt of  
17 the CRTs, EPA will forward an Acknowledgment of Consent  
18 to Export CRTs to the exporter. Where the receiving  
19 country objects to receipt of the CRTs or withdraws a  
20 prior consent, EPA will notify the exporter in writing.  
21 EPA will also notify the exporter of any responses from  
22 transit countries.
- 23 (f) When the conditions specified on the original  
24 notification change, the exporter must provide EPA with a  
25 written renotification of the change, except for changes  
26 to the telephone number in paragraph (4)(a)(i) of this  
27 section and decreases in the quantity indicated pursuant  
28 to paragraph (4)(a)(iii) of this section. The shipment  
29 cannot take place until consent of the receiving country  
30 to the changes has been obtained (except for changes to  
31 information about points of entry and departure and  
32 transit countries pursuant to paragraphs (4)(a)(iv) and  
33 (4)(a)(vii) of this section and the exporter of CRTs  
34 receives from EPA a copy of the Acknowledgment of Consent  
35 to Export CRTs reflecting the receiving country's consent  
36 to the changes.
- 37 (g) A copy of the Acknowledgment of Consent to Export CRTs  
38 must accompany the shipment of CRTs. The shipment must  
39 conform to the terms of the Acknowledgment.
- 40 (h) If a shipment of CRTs cannot be delivered for any  
41 reason to the recycler or the alternate recycler, the  
42 exporter of CRTs must renotify EPA of a change in the  
43 conditions of the original notification to allow shipment  
44 to a new recycler in accordance with paragraph (4)(f) of  
45 this section and obtain another Acknowledgment of Consent  
46 to Export CRTs.
- 47 (i) Exporters must keep copies of notifications and  
48 Acknowledgments of Consent to Export CRTs for a period of  
49 five (5) years following receipt of the Acknowledgment.

50 **(5) Notification and recordkeeping for CRTs exported for**  
51 **reuse.**

- (i) Persons who export CRTs for reuse must send a one-time notification to the U.S. EPA Regional Administrator. The notification must include:
- (A) A statement that the notifier plans to export CRTs for reuse,
  - (B) The notifier's name, address, and EPA/state ID number (if applicable); and
  - (C) The name and phone number of a contact person.
- (ii) Persons who export CRTs for reuse must keep copies of normal business records, such as contracts, demonstrating that each shipment of exported CRTs will be reused. This documentation must be retained for a period of at least five (5) years from the date the CRTs were exported.
- (6) Allow access to ecology for inspections to determine compliance with the requirements in this chapter.

New section.

**WAC 173-900-560 Ecology determination of transporter compliance.**

- (1) Beginning January 1, 2009, ecology may inspect any transporter used by a plan for compliance with this chapter.
- (2) If ecology determines a violation occurred, ecology will document each violation and follow the warning, violation, and penalties procedures in [Part V](#) of this chapter.

New section.

**WAC 173-900-570 Transporter violations.**

Transporter violations are described in Table 570.

**Comment [Ecology 30]:** This replaces language in WAC 173-900-300.

**Table 570: Transporter Violations**

Starting	If	Then	and Ecology will
September 1, 2007	A transporter has transported CEPs for a plan and is not registered.	It is a <b>Transporter Registration violation</b>	List the transporter's name on the "Transporter Registration List" and place the transporter in "in violation" status.
Effective date of this chapter	A transporter does not update its registration information within fourteen (14) days of a change.	It is a <b>Transporter Registration violation</b>	List the transporter's name on the "Transporter Registration List" and place the transporter in "in violation" status.
January	A transporter	It is a	List the

1, 2009	transporting CEPS for a plan is out of compliance with the transporter standards in WAC 173-900-550.	<b>Transporter Standards violation</b>	transporter's name on the "Transporter Registration List" and place the transporter in "in violation" status.
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New section.

**WAC 173-900-580 Warnings and penalties for transporters.**

**Comment [Ecology 31]:** This replaces language in WAC 173-900-300 and 173-900-630.

Type of Violation	Written Warning	First Penalty	Second and subsequent penalties
Transporter Registration Violation	Warning Letter	Up to \$1000	Up to \$2000
Transporter Standards Violation	Warning Letter	Up to \$1000	Up to \$2000

**Warning Letter.**

- (1) When ecology issues a written warning letter via certified mail, for any violation, the warning will include a copy of the requirements to let the transporter know what the transporter must do to be in compliance and ecology will do one of the following:
  - (a) Change the transporter's status to "in violation"
  - (b) Add the transporter to the "Transporter Registration List" in "in violation" status.

**Penalties.**

- (2) **First penalties:** If the transporter does not meet the compliance requirements in the warning letter within thirty (30) days of receipt of the warning, ecology will assess a first penalty, as defined in Table 580 above.
- (3) **Second and subsequent penalties:** Ecology will issue second and subsequent penalties as defined in Table 580 no more often than every thirty (30) days for the same violation.
- (4) Ecology will deposit all penalties collected under this section into the electronic products recycling account created under RCW 70.95N.130.

**Appeals.**

- (5) Penalties may be appealed to the pollution control hearings board, pursuant to chapter 43.21B RCW.

1 New section.

Comment [Ecology 32]: This replaces language in WAC 173-900-300 and 173-900-630.

2 **WAC 173-900-590 Corrective actions for transporter violations.**

- 3 (1) For ecology to change a transporter from the "in
- 4 violation" status to "in compliance" status on the
- 5 "Transporter Registration List" the transporter must:
- 6 (a) Meet the registration requirements in Part V of this
- 7 chapter;
- 8 (b) Meet the transporter standards in WAC 173-900-550; and
- 9 (c) Pay or settle any penalties to ecology.

10 **PART VI DIRECT PROCESSOR REQUIREMENTS**

11 New section.

12 **WAC 173-900-600 What direct processors need to know to process CEPs for a CEP recycling plan.**

- 13 (1) To be a direct processor and process CEPs for a plan
- 14 under this chapter the processor must:
- 15 (a) Submit an initial registration packet that includes a
- 16 registration form and an annual compliance audit report;
- 17 (b) Update registration information if it changes;
- 18 (c) Renew registration annually;
- 19 (d) Be contracted with each plan the processor provides
- 20 processing services;
- 21 (e) Be in "in compliance" status on the "Processor
- 22 Registration List" on ecology's web site;
- 23 (f) **OPTION A:** Meet the level of performance standards,
- 24 throughout the program year, assigned to the processor on
- 25 the "Processor Registration List".
- 26 **OPTION B or C:** Meet the performance standards, throughout
- 27 the program year, assigned to the processor on the
- 28 "Processor Registration List".
- 29 (3) At least sixty (60) days prior to receiving CEPs for
- 30 processing the processor must submit a registration form to
- 31 ecology and may not begin processing until ecology places
- 32 the processor in "in compliance" status on the "Processor
- 33 Registration List" on ecology's web site.
- 34
- 35
- 36
- 37

Direct Processor's Status	Can a processor process CEPs for a plan?	Definition
In compliance	Yes	"In compliance" means the processor is registered and complies with the requirements in WAC 173-900-650.
In violation	No	"In violation" means the processor is in violation of the requirements in this

		chapter and the plan can not use the services of the processor until compliance is achieved.
Processor's name is not on the "Processor Registration List"	No	If the processor's name is not on the "Processor Registration List" that processor must not provide processing services to a plan or receive compensation from a plan for processing services.

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**(4) Processing services for the Standard Plan:**

- (a) The authority shall contract with any processor that:
    - (i) Meets the requirements of this chapter; and
    - (ii) Meets any requirements described in the authority's operating plan or through contractual arrangements with the authority.
  - (b) Processors used by the standard plan shall:
    - (i) Provide documentation to the authority at least annually regarding how they are meeting the performance standards in [WAC 173-900-650](#), including enough detail to allow the standard plan to meet the plan's annual reporting requirements (see Annual Reporting in [WAC 173-900-800](#)); and
    - (ii) Submit to compliance audits meeting the requirements in [WAC 173-900-650](#) conducted by or for the authority.
  - (c) The authority shall compensate such processors for the reasonable costs, as determined by the authority, associated with processing unwanted electronic products.
  - (d) Such processors must demonstrate that the unwanted electronic products have been received from registered collectors or transporters, as may be required by the authority.
- (5) Registration under this chapter is only for purposes of administering the electronic product recycling program, and does not constitute endorsement by ecology of a particular registrant.

**New section.**

**WAC 173-900-610 How to register as a direct CEP processor.**

Type of Registration	Definition	Due date
New registration	Processor is not currently registered with ecology under this chapter.	Submit form to ecology at any time
Annual Renewal	Processor is currently registered under this chapter.	Submit renewal form between July 1 and September 1

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**Step 1: Complete a processor registration packet.**

- (1) Each processor must complete a registration packet which includes the registration form and annual compliance audit report.
- (2) The registration form must include all the following:
  - (a) Contact and location information;
  - (b) Business license information;
  - (c) Documentation of any necessary operating permits issued as required and issued by local, state, or national authorities;
  - (d) Description of services provided;
  - (e) Geographic areas where electronic products are accepted from;
- (3) The annual compliance audit report must meet the requirements in [WAC 173-900-650](#); and
  - Option A:** certify which of the three levels of performance standards in [WAC 173-900-650](#) the processor meets (minimum, preferred or superior).
  - Option B or C:** certify whether or not the processor meets the performance standards in [WAC 173-900-650](#).

**Step 2: Submit the processor registration packet.**

- (3) The person responsible for implementing the processor requirements under this chapter must sign the registration form. The signature certifies the company has provided accurate and complete information on the form and is complying with all applicable state, local, and national, laws and regulations.
- (4) The person must submit the packet using one of the options below:
  - (a) Online registration;
  - (b) The original paper version through:
    - U.S. Postal Service
    - Department of Ecology
    - Electronic Product Recycling
    - Solid Waste and Financial Assistance Program
    - PO Box 47600
    - Olympia, WA 98504-7600

1 Courier Service  
2 Department of Ecology  
3 Electronic Product Recycling  
4 Solid Waste and Financial Assistance Program  
5 300 Desmond Drive  
6 Lacey, WA 98503  
7

8 **New section.**

9 **WAC 173-900-620 How direct processors know if their registration is**  
10 **approved.**

11 **Step 1: Ecology review of processor registration packets.**

- 12  
13 (1) After receiving a registration packet, ecology will review  
14 the form and report to decide if:  
15 (a) The form is complete and accurate; and  
16 (b) The report  
17 **OPTION A:** demonstrates and certifies compliance with the  
18 performance standard level indicated in the processor's  
19 registration packet.  
20 **OPTION B or C:** demonstrates and certifies whether or not  
21 the processor meets the processor performance standards.  
22 (2) If the form is not complete and accurate, ecology will  
23 contact the processor to:  
24 (a) Tell the processor what information is missing or  
25 inaccurate; and  
26 (b) Request a revised form within thirty (30) days from the  
27 day ecology contacted the processor.  
28 (3) If ecology determines the annual compliance audit report  
29 **OPTION A:** does not demonstrate or certify compliance with the  
30 level of performance standards indicated by the processor,  
31 ecology will:  
32 **OPTION B or C:** does not demonstrate or certify whether or not  
33 the processor meets the processor performance standards,  
34 ecology will:  
35 (a) Tell the processor where there is missing, inadequate  
36 or inaccurate information; and  
37 (b) Request another report within thirty (30) days from the  
38 day ecology contacted the processor.

39 **Step 2: Approval or denial of processor registration.**

- 40  
41 (4) **Approval.**  
42 (a) Approval means that ecology has decided:  
43 (i) The form is complete and accurate; and  
44 (ii) **Option A:** which performance standard level to  
45 assign the processor to, based on the compliance audit  
46 report.  
47 **OPTION B or C:** whether or not the processor is meeting

- 1 the performance standards based on the compliance  
2 audit report.
- 3 (b) If ecology approves the processor's registration,  
4 ecology will:
- 5 (i) Place the processor's name on the "Processor  
6 Registration List"
  - 7 (ii) Place the processor in "in compliance" status; and
  - 8 (iii) **Option A:** List with level of performance standards  
9 the processor is assigned.  
10 **Option B and C:** List whether or not the processor  
11 meets the performance standards in this chapter.
- 12 (c) The processor may process CEPs for a plan.

13 (5) **Denial.**

- 14 (a) Denial means that ecology has decided:
- 15 (i) The form is not complete and accurate; or
  - 16 (ii) The compliance audit report is not accurate or  
17 adequate to decide
- 18 **Option A:** what level of performance standards to assign  
19 the processor.
- 20 **Option B or C:** whether or not the processor meets the  
21 performance standards.
- 22 (b) If ecology denies a processor's registration, ecology  
23 will either:
- 24 (i) Remove the processor's name from the list; or
  - 25 (ii) For renewals and updates, change the processor's  
26 status to "in violation" on the "Processor  
27 Registration List".

28  
29 **New section.**

30 **WAC 173-900-630 Annual renewal of direct processor registration.**

- 31
- 32 (1) Processors must submit their annual renewal registration  
33 packet to ecology between September 1 and September 1 of  
34 each calendar year for the next program year. When  
35 submitting an annual renewal the processor must also submit  
36 a new compliance audit report that meets the requirements  
37 of [WAC 173-900-650](#)(13).
- 38 (2) If an annual renewal registration packet is not received  
39 during this time-period, the processor will no longer be  
40 registered with Ecology and must not process CEPs for a  
41 plan until a registration packet is submitted.
- 42 (3) The processor must submit its annual registration packet  
43 using one of the options below:
- 44 (a) Reviewing, if necessary amending, and resubmitting The  
45 online registration form;
  - 46 (b) The original paper version through:

47  
48 U.S. Postal Service  
49 Department of Ecology  
50 Electronic Product Recycling

1 Solid Waste and Financial Assistance Program  
2 PO Box 47600  
3 Olympia, WA 98504-7600

4  
5 Courier Service  
6 Department of Ecology  
7 Electronic Product Recycling  
8 Solid Waste and Financial Assistance Program  
9 300 Desmond Drive  
10 Lacey, WA 98503

11 (3) Ecology will review processor registration packets  
12 submitted for annual renewal under the process described in  
13 [WAC 173-900-620](#).  
14

15  
16 **New section.**

17 **WAC 173-900-640 Updates to direct processor registration.**

- 18  
19 (1) A registered processor must submit an updated registration  
20 form to ecology sixty (60) days prior to providing  
21 new/additional processing services for a plan.  
22 (2) The processor must submit updates to its registration form  
23 by using one of the options below:  
24 (a) Updating the processor registration information using  
25 the online form;  
26 (b) The original paper version through:  
27

28 U.S. Postal Service  
29 Department of Ecology  
30 Electronic Product Recycling  
31 Solid Waste and Financial Assistance Program  
32 PO Box 47600  
33 Olympia, WA 98504-7600  
34

35 Courier Service  
36 Department of Ecology  
37 Electronic Product Recycling  
38 Solid Waste and Financial Assistance Program  
39 300 Desmond Drive  
40 Lacey, WA 98503

41 (3) Ecology will review processor updated registration forms  
42 under the process described in [WAC 173-900-620](#).  
43

44 **New section.**

45 **WAC 173-900-650 Performance standards for direct processors.**

46 **See option A, Option B, and Option C handouts.**  
47  
48

1 **New section.**

2 **WAC 173-900-660 Ecology determination of direct processor status.**

- 3
- 4 (1) Beginning January 1, 2009, Ecology may:
- 5 (a) Inspect any processor used by a plan to determine the
- 6 status of the processor.
- 7 (b) Use a processor annual compliance report submitted to
- 8 ecology to confirm a processor is meeting the performance
- 9 standards in this chapter.
- 10 (2) If ecology determines a violation occurred, ecology will
- 11 document each violation and follow the warning, violation,
- 12 and penalties procedures in this chapter.

13 **New section.**

14 **WAC 173-900-670 Direct processor performance status.**

15

<b>Table 670: Direct Processor Status on Ecology's Processor Registration List</b>		
<b>Starting</b>	<b>If</b>	<b>Ecology will</b>
September 1, 2007	A processor is registered, meeting the performance standards in this chapter as certified in their compliance report and is providing services to a plan.	List the processor's name on the "Processor Registration List" and place the processor in "in compliance" status.
September 1, 2007	A processor provides processing services to a plan and is not registered.	List the processor's name on the "Processor Registration List" and place the processor in "in violation" status.
	A processor does not update their registration information within 14 days of a change	List the processor's name on the "Processor Registration List" and place the processor in "in violation" status.
January 1, 2009	A processor is providing processing services to a plan and <b>OPTION A:</b> no longer meets the processor performance standards level assigned to the processor. <b>Option B and C:</b> no longer meets the performance standards in this chapter if previously identified as doing so.	List the processor's name on the "Processor Registration List" and place the processor in "in violation" status.

16

17 (1) If a processor is listed on the "Processor Registration

- 18 List" as "in violation":
- 19 (a) The processor must not process CEPs for a plan; and
- 20 (b) The plan must not use that processor to process CEPs
- 21 for the plan.

22 (2) If a plan uses a processor that is in "in violation"

23 status, it is a "plan violation" for the plan that used the

processor. Ecology will follow the violation, warning, and penalty procedures in [Part III](#) of this chapter.

New section.

### **WAC 173-900-690 Processor status corrections.**

For ecology to change a processor from the "in violation" status to "in compliance" status on the "Processor Registration List" the processor must:

- (1) Meet the registration requirements in [Part VI](#); and
  - (2) **OPTION A:** Submit a new compliance report demonstrating the processor meets at least the minimum processor performance standards in [WAC 173-900-650](#)
- Option B or C:** Submit a new compliance audit report meeting the requirements in [WAC 173-900-650](#).

## **PART VII RETAILER REQUIREMENTS**

New section.

### **WAC 173-900-700 Retailer -- Offering for sale or selling CEPs in or into Washington state.**

**Comment [Ecology 33]:** This replaces language in WAC 173-900-050.

In order for a retailer to offer for sale or sell a CEP in or into Washington state, on the date the product was ordered:

- (1) The brand name on the CEP must be on the "Manufacturer Registration List" posted on ecology's web site, and
- (2) The manufacturer must be in "pending" or "in compliance" status.

New section.

### **WAC 173-900-710 CEP Required brand labeling.**

**Comment [Ecology 34]:** This replaces language in WAC 173-900-040.

- (1) Beginning January 1, 2007, no person may sell or offer for sale an electronic product to any person in Washington state unless the electronic product is labeled with the manufacturer's brand.
- (2) The label must be permanently affixed and readily visible.
- (3) In-state retailers in possession of unlabeled, or white box, electronic products on January 1, 2007, may exhaust their stock through sales to the public.

New section.

### **WAC 173-900-720 Ecology determination of compliance for retailers.**

- (1) **Retailers:**
  - (a) Beginning January 1, 2007, ecology may inspect any retailer's CEP inventory offered for sale in or into

1 Washington state to determine if the requirements in this  
2 chapter are met. If ecology determines a violation has  
3 occurred, ecology will document each violation and follow  
4 the warning, violations, and penalties procedure in [WAC](#)  
5 [173-900-730](#).

- 6 (b) Beginning January 1, 2007, ecology may check any  
7 retailer's CEP inventory offered for sale in or into  
8 Washington state to determine if brand labeling  
9 requirements in [WAC 173-900-710](#) have been met. If ecology  
10 determines a violation has occurred, ecology will  
11 document each violation and follow the warning,  
12 violations, and penalties procedure in [WAC 173-900-730](#).

13 **New section.**

14 **WAC 173-900-730 Retailer violations.**

**Comment [Ecology 35]:** This replaces language in WAC 173-900-610.

- 15 (1) A retailer is "in violation" of this chapter when one or  
16 more of the following retailer violations occurs:  
17 (a) Offering for sale or selling violation;  
18 (b) Labeling violation; or  
19 (c) Public outreach violation.  
20 (2) **Retailer offering for sale or selling violation.**  
21 A retailer is in "offering for sale or selling violation"  
22 of this chapter when a retailer offers for sale or sells  
23 CEPs and:  
24 (a) On the date the electronic products are ordered from  
25 the manufacturer or their agent, the manufacturer's name  
26 or brand name does not appear on ecology's "Manufacturer  
27 Registration List".  
28 (i) This means that brand of the manufacturer's  
29 electronic products must not be sold in or into  
30 Washington state.  
31 (ii) Each unit offered for sale or sold is a separate  
32 violation by the retailer.  
33 (iii) If the retailer can prove that the retailer ordered  
34 the electronic products from the manufacturer or their  
35 agent prior to January 1, 2007, the offering for sale,  
36 or selling, of those products is not a retailer  
37 violation.  
38 (b) On the date the electronic products were ordered from  
39 the manufacturer or their agent, the manufacturer was in  
40 "in violation" status on ecology's "Manufacturer  
41 Registration List".  
42 (i) Each unit offered for sale or sold is a separate  
43 violation for the retailer.  
44 (ii) If the retailer can prove that the products were  
45 ordered from the manufacturer or their agent when the  
46 brand and manufacturer name was on ecology's  
47 "Manufacturer Registration List" and was in "in  
48 compliance" or "pending" status, the offering for  
49 sale, or selling, of those products is not a  
50 violation.

1 (3) **Retailer labeling violations.**

2 (a) It is a retailer "labeling violation" when a retailer  
3 offers for sale or sells an electronic product in or into  
4 Washington state that is not labeled with the  
5 manufacturer's brand name.

6 (b) Each unlabeled unit offered for sale or sold is a  
7 separate violation by the retailer.

8 (c) If the retailer can demonstrate to ecology that the  
9 retailer was in possession of the unlabeled electronic  
10 products prior to January 1, 2007, the offering for sale  
11 or selling of these electronic products is not a  
12 violation.

13 (4) **Retailer public outreach violation.**

14 It is a retailer violation if the retailer does not meet  
15 the public outreach requirements in WAC 173-900-1000.

16  
17 **WAC 173-900-740 Warning, penalties, and corrective action for all**  
18 **retailer violations.**

Comment [Ecology 36]: This replaces language in WAC 173-900-610.

19 **Table 740 Retailer Warning and Penalties**

Type of Violation	Written Warning	First Penalty	Second and subsequent penalties
Offering For Sale or Selling Violation	Warning Letter	Up to \$1000	Up to \$2000
Labeling Violation	Warning Letter	Up to \$1000	Up to \$2000
Public Outreach Violation	Warning Letter	Up to \$1000	Up to \$2000

20 **Warning Letter.**

21 (1) When ecology issues a written warning letter via certified  
22 mail, for any violation, the warning will include a copy of  
23 the requirements to let the retailer know what the retailer  
24 must do to be in compliance.

25  
26 **Penalties.**

27 (2) **First penalties:** If the retailer does not meet the  
28 compliance requirements in the warning letter within thirty  
29 (30) days of receipt of the warning, ecology will assess a  
30 first penalty, as defined in Table 740 above.

31 (3) **Second and subsequent penalties:** Ecology will issue second  
32 and subsequent penalties as defined in Table 740 no more  
33 often than every thirty (30)days for the same violation.

34 (4) Ecology will deposit all penalties collected under this  
35 section into the electronic products recycling account  
36 created under RCW 70.95N.130.

1 **Appeals.**

2 (5) Penalties may be appealed to the pollution control  
3 hearings board, pursuant to chapter 43.21B RCW.

4 **WAC 173-900-750 Corrective action for all retailer violations.**

- 5 (1) For offering for sale and selling violations, the retailer
- 6 must stop offering for sale or selling CEPs until the
- 7 manufacturer is listed as "pending" or "in compliance"
- 8 status on ecology's "Manufacturer Registration List".
- 9 (2) For a labeling violation, the retailer must meet the
- 10 requirements in [WAC 173-900-710](#);
- 11 (3) For a public outreach violation, the retailer must meet
- 12 the requirements in [WAC 173-900-1000](#); and
- 13 (4) The retailer must pay or settle any penalties.

Comment [Ecology 37]: This replaces language in WAC 173-900-610.

14 **PART VIII REPORTING REQUIRMENTS**

15 **New section.**

16 **WAC 173-900-800 CEP recycling plan annual reports.**

- 17 (1) By March 1, 2010, and each program year thereafter, the
- 18 authority and each authorized party must file an annual
- 19 report with ecology for the preceding year's program.
- 20 Ecology will review the report and notify the authority or
- 21 authorized party of any deficiencies that need to be
- 22 addressed.
- 23 (2) The annual report must include the following information:
- 24 (a) The total weight in pounds of CEPs, including orphans,
- 25 for the preceding program year including documentation
- 26 verifying collection and processing of that material for:
- 27 (i) CEPs collected, reported by county, not including
- 28 CEPs gleaned for reuse or refurbishment;
- 29 (ii) CEPs recycled;
- 30 (iii) Residual from CEPs not recycled; and
- 31 (iv) Final destination and fate of (i) - (iii).
- 32 (b) The total weight in pounds of CEPs received from each
- 33 nonprofit charitable organization primarily engaged in
- 34 the business of reuse and resale used by the plan;
- 35 (c) The total weight in pounds of CEPs that were received
- 36 in large quantities from small businesses, small
- 37 governments, charities and school districts;
- 38 (d) The collection services provided in each county and for
- 39 each city with a population over ten thousand including a
- 40 list of all collection sites and services operating in
- 41 the state in the prior program year and the parties who
- 42 operated them;
- 43 (e) A list of all processors used, the weight of CEPs
- 44 processed by each processor, and a description of the
- 45 processes and methods used by each processor to recycle
- 46

- 1 the CEPs including a description of the processing and  
2 facility locations;
- 3 (f) A list of subcontractors used by the processor  
4 including their facility addresses;
- 5 (g) Educational and promotional efforts that were  
6 undertaken to inform covered entities about where and how  
7 to reuse and recycle their CEPs;
- 8 (h) The results of sampling as required in [WAC 173-900-900](#);
- 9 (i) The amount of unwanted electronic products and  
10 electronic scrap that have been exported from Washington  
11 state to countries that are not members of the  
12 organization for economic cooperation and development or  
13 the European Union.
- 14 (j) The list of manufacturers that are participating in the  
15 plan;
- 16 (k) Signature of the authority or the authorized party; and
- 17 (l) Any other clarifying information deemed necessary by  
18 ecology to determine compliance with this chapter.
- 19 (3) **Submittal:** The authority or authorized party must submit:
- 20 (a) One electronic copy in a format usable by ecology that  
21 allows electronic editing and commenting; and
- 22 (b) Two paper copies to one of the following addresses:

23  
24 For U.S. Postal Service:

25 Department of Ecology  
26 Electronic Product Recycling  
27 Solid Waste and Financial Assistance Program  
28 PO Box 47600  
29 Olympia, WA 98504-7600

30 Or

31 For Courier:

32 Department of Ecology  
33 Electronic Product Recycling  
34 Solid Waste and Financial Assistance Program  
35 300 Desmond Drive  
36 Lacey, WA 98503

- 37
- 38 (c) Faxes are not accepted.
- 39 (4) All reports must use the "CEP Recycling Report Template"  
40 provided by ecology.
- 41 (5) **Review and Approval:** Ecology will review each report  
42 within ninety (90) days of receipt and will notify the  
43 authority or authorized party of any need for additional  
44 information or documentation, or any deficiency in its  
45 program or the report.
- 46 (a) Within five (5) business days of receipt of the report  
47 ecology will notify the authority or authorized party  
48 that the report has been received and it is under review.
- 49 (b) If ecology determines that there are no deficiencies in  
50 the report, a written notice of approval will be sent via  
51 certified mail.

1 (c) If ecology determines that additional information is  
2 needed, the authority or authorized party must submit the  
3 additional information to ecology within thirty (30) days  
4 of receipt of the notice.

5 (d) If ecology determines that there are deficiencies in  
6 the authority's or authorized party's program, the  
7 authority or authorized party must submit an updated plan  
8 to ecology following the process in [WAC 173-900-335](#).

9 (6) Ecology will post all reports on the agency web site.

10 (7) Proprietary information submitted to ecology under this  
11 chapter is exempt from public disclosure under RCW  
12 42.56.270.

13  
14 **New section.**

15 **WAC 173-900-810 Local government and community satisfaction**  
16 **reports.**

17 (1) Starting January 1, 2010, local governments and local  
18 communities are encouraged to submit an annual satisfaction  
19 report to ecology March 1 of each calendar year.

20 (2) The entity responsible for preparing the Solid Waste  
21 Management Plan for an area is responsible for submitting  
22 the Satisfaction Report to ecology.

23 (3) The report must include information about local government  
24 and community satisfaction with the services provided by  
25 plans in their community including:

26 (a) Accessibility and convenience of services;

27 (b) How are services working in their community;

28 (c) What services are not working and why;

29 (d) Suggestions for improvements to the services being  
30 provided by plans;

31 (e) Description of public outreach and education; and

32 (f) Any other information the local government determines  
33 is important to include.

34 (4) **Submittal:** The submitting entity must submit:

35 (a) One electronic copy, by email or other electronic  
36 means, in a format usable by ecology that allows  
37 electronic editing and commenting and

38 (b) One paper copy by mail to one of the following  
39 addresses:

40 **For U.S. Postal Service:**

41 Department of Ecology

42 Electronic Product Recycling

43 Solid Waste and Financial Assistance Program

44 P.O. Box 47600

45 Olympia, WA 98504-7600

46  
47 Or

48 **For Courier:**

49 Department of Ecology

50 Electronic Product Recycling

51 Solid Waste and Financial Assistance Program

1 300 Desmond Drive  
2 Lacey, WA 98503

- 3 (5) All reports must use the "Nonprofit charitable  
4 organization report template" prescribed by ecology.  
5 (6) **Review and approval:** Ecology will review each report  
6 within ninety (90) days of receipt and will notify the  
7 submitting entity of any need for additional information or  
8 documentation.  
9 (a) Within five (5) business days of receipt of the report  
10 ecology will notify the submitting entity that the  
11 satisfaction report has been received and it is under  
12 review.  
13 (b) If ecology determines that no additional information is  
14 needed, a written notice of approval will be sent via  
15 certified mail.  
16 (c) If ecology determines that additional information is  
17 needed, the submitting entity must submit the additional  
18 information to ecology within thirty (30) days of receipt  
19 of the notice.  
20 (7) If a report is submitted, ecology will use the information  
21 provided in these reports when reviewing plan updates and  
22 revisions.  
23 (a) Reports indicating dissatisfaction will be sent to the  
24 authority or authorized party.  
25 (b) The authority or authorized party has sixty (60) days  
26 to respond to the report submittee(s) and ecology  
27 addressing issues raised in the report.  
28 (c) If based on this response, ecology determines that the  
29 plan is failing to provide service in a community;  
30 ecology will send written notice, via certified mail, to  
31 the authority or authorized party.  
32 (d) The authority or authorized party will have sixty  
33 (60) days from receipt of the notice to submit an updated  
34 plan to ecology (see [WAC 173-900-335](#)).  
35 (8) At any time, communities may submit comments to Ecology  
36 about the CEP recycling programs in their area.  
37

38 **New section.**

39 **WAC 173-900-820 Nonprofit charitable organization collection reports.**

- 40 (1) Starting in 2010, and every calendar year thereafter,  
41 nonprofit charitable organizations that are primarily  
42 engaged in the business of reuse and resale that collect  
43 CEPs for a plan must submit an annual report to ecology by  
44 March 1.  
45 (2) The report must indicate and document the weight of CEPs  
46 sent for recycling during the previous program year  
47 attributed to each plan that the nonprofit charitable  
48 organization is participating in.  
49 (3) **Submittal:** The nonprofit charitable organization must  
50 submit:

- 1 (a) One electronic copy, by email or other electronic  
2 means, in a format usable by ecology that allows  
3 electronic editing and commenting and  
4 (b) One paper copy by mail to one of the following  
5 addresses:

6  
7 **For U.S. Postal Service:**

8 Department of Ecology  
9 Electronic Product Recycling  
10 Solid Waste and Financial Assistance Program  
11 P.O. Box 47600  
12 Olympia, WA 98504-7600

13  
14 Or

15  
16 **For Courier:**

17 Department of Ecology  
18 Electronic Product Recycling  
19 Solid Waste and Financial Assistance Program  
20 300 Desmond Drive  
21 Lacey, WA 98503

- 22 (4) All reports must use the "Nonprofit charitable  
23 organization report template" prescribed by ecology.  
24 (5) **Review and approval:** Ecology will review each report  
25 within ninety (90) days of receipt and will notify the  
26 nonprofit charitable organization of any need for  
27 additional information or documentation.  
28 (a) Within five (5) business days of receipt of the report  
29 ecology will notify the nonprofit charitable organization  
30 that the collection report has been received and it is  
31 under review.  
32 (b) If ecology determines no additional information is  
33 needed, a written notice of approval will be sent via  
34 certified mail.  
35 (c) If ecology determines that additional information is  
36 needed, the nonprofit charitable organization must submit  
37 the additional information to ecology within thirty (30)  
38 days of receipt of the notice.  
39 (d) If a non-profit charitable organization used by a plan  
40 does not submit their annual collection report, the plan  
41 can not receive the five percent credit for using that  
42 organization as a collector.

43 **Part IX RETURN SHARE AND EQUIVALENT SHARE**

44  
45 **New section.**

46 **WAC 173-900-900 Sampling Methodology.**

47  
48 **See Sampling Methodology handout.**

49  
50 **New section.**

1 **WAC 173-900-910 Calculating return share.**

- 2 (1) In order for a CEP to be counted in a plan's return share,  
3 the CEP or CEP components must go to a processor that meets  
4 the requirements in [Part VI](#) of this chapter.
- 5 (2) **Return shares issued in 2007 through 2009:**
- 6 (a) Ecology must determine return shares for all  
7 manufacturers in the standard plan or an independent plan  
8 by using all reasonable means and base those  
9 determinations on the best available information  
10 regarding return share data from other states and other  
11 pertinent data.
- 12 (b) If ecology does not have any return data on a  
13 particular manufacturer, ecology will assign that  
14 manufacturer to the lowest represented percentage of  
15 return share on the preliminary return list.
- 16 (c) Ecology will use the first return share to:
- 17 (i) Appoint five board members for the first term of  
18 appointments to the Materials Management Board of  
19 Directors from the top ten manufacturers holding the  
20 highest return share; and
- 21 (ii) Establish the first program year return share for  
22 manufacturers in a plan.
- 23 (3) **Return shares issued 2010 and later:** For the second and  
24 all subsequent program years,
- 25 (a) Ecology will determine the return share for each  
26 manufacturer in the standard plan or an independent plan  
27 by dividing the weight of CEPs identified for each  
28 manufacturer through the sampling methodology and  
29 protocol in [WAC 173-900-900](#) by the total sampled weight  
30 of CEPs identified for all manufacturers in the plans.  
31 That quotient will then be multiplied by one hundred to  
32 establish a percentage share for each manufacturer.

33 **New section.**

34

35 **WAC 173-900-920 Use and publication of CEP return shares.**

36 **Return shares for program year 2009:**

- 37 (1) Ecology will announce the preliminary return share for  
38 each manufacturer and each plan by June 1 of each year.
- 39 (2) Ecology will publish the preliminary return shares on the  
40 agency web site.
- 41 (3) Ecology will notify each registered manufacturer by June 1  
42 of each year.
- 43 (4) Manufacturers may challenge their preliminary return share  
44 by written petition to ecology. The petition must be  
45 received by ecology within thirty (30) days of the date of  
46 publication of the preliminary return shares.
- 47 (5) The petition must contain:
- 48 (a) A detailed explanation of the grounds for the  
49 challenge;
- 50 (b) An alternative calculation, and the basis for such a  
51 calculation;

- 1 (c) Documentary evidence supporting the challenge; and  
2 (d) Complete contact information for requests for  
3 additional information or clarification.
- 4 (6) Sixty (60) days after the publication of the preliminary  
5 return share, ecology will make a final decision on return  
6 shares, having fully taken into consideration any and all  
7 challenges to its preliminary calculations.
- 8 (7) A written record of challenges received and a summary of  
9 the basis for the challenges, as well as ecology's  
10 response, must be published at the same time as the  
11 publication of the final return shares.
- 12 (8) By August 1, 2007, ecology shall publish the final return  
13 shares for the first program year.
- 14 **Return shares announced for program year 2010 and thereafter:**
- 15 (9) Ecology will announce the preliminary return share and  
16 notify each registered manufacturer by June 1 of each year.
- 17 (10) Manufacturers may challenge their preliminary return  
18 share by written petition to ecology. The petition must be  
19 received by ecology within thirty (30) days of the date of  
20 publication of the preliminary return shares.
- 21 (11) The petition must contain:
- 22 (a) A detailed explanation of the grounds for the  
23 challenge;
- 24 (b) An alternative calculation, and the basis for such a  
25 calculation;
- 26 (c) Documentary evidence supporting the challenge; and  
27 (d) Complete contact information for requests for  
28 additional information or clarification.
- 29 (12) Sixty (60) days after the publication of the preliminary  
30 return share, ecology will make a final decision on return  
31 shares, having fully taken into consideration any and all  
32 challenges to its preliminary calculations.
- 33 (13) A written record of challenges received and a summary of  
34 the basis for the challenges, as well as ecology's  
35 response, must be published at the same time as the  
36 publication of the final return shares.
- 37 (14) By August 1 of each program year, ecology shall publish  
38 the final return shares for use in the coming program year.
- 39 (15) Ecology will publish the final return shares on the  
40 agency web site.

41  
42 **New section.**

43 **WAC 173-900-930 Calculating the total equivalent share.**

44 **Step 1: Calculating individual manufacturer equivalent share.**

- 45  
46 (1) Ecology must determine the total equivalent share for each  
47 manufacturer in the standard plan or an independent plan by  
48 dividing the return share percentage for each manufacturer  
49 by one hundred, then multiplying the quotient by the sum of  
50 total weight in pounds of CEPs collected, not including any

1 CEPS gleaned for reuse or refurbishment, for that program  
2 year and any additional credited pounds under [WAC 173-900-](#)  
3 [940](#).

## 4 **Step 2: Calculating a plan's equivalent share.**

5  
6 (2) A plan's equivalent share is equal to the total of the  
7 equivalent shares for all manufacturers participating in  
8 the plan. ▼

Deleted:

9  
10 **New section.**

## 11 **WAC 173-900-940 Equivalent Share credits**

12 Plans that use the collection services of nonprofit charitable  
13 organizations that qualify for a taxation exemption under  
14 section 501(c)(3) of the Internal Revenue Code of 1986 (26  
15 U.S.C. Sec. 501(c)(3)) that are primarily engaged in the  
16 business of reuse and resale must be given an additional five  
17 percent credit to be applied toward a Plan's equivalent share  
18 for pounds that are received for recycling from those  
19 organizations. Ecology may adjust the percentage of credit  
20 annually.

21  
22 **New section.**

## 23 **WAC 173-900- 950 Notification of equivalent share.**

24 By June 1 of each program year starting in 2010, ecology will  
25 notify each:

- 26 (1) Manufacturer of the manufacturer's equivalent share of  
27 CEPS to be applied to the previous program year;
- 28 (2) Plan of the plan's equivalent share of CEPS to be  
29 applied to the previous program year;
- 30 (3) Manufacturer and plan of how its equivalent share was  
31 determined.

32  
33 **New section.**

## 34 **WAC 173-900-960 Share payments.**

- 35 (1) For a CEP recycling plan, if the total weight in pounds of  
36 CEPS collected by the plan and processed by a processor  
37 during a program year is less than the plan's equivalent  
38 share of CEPS for that year, then the authority or  
39 authorized party must submit to ecology a payment equal to  
40 the weight in pounds of the deficit multiplied by the  
41 reasonable collection, transportation, and recycling cost  
42 for CEPS and an administrative fee.
- 43 (2) Moneys collected by ecology must be deposited in the  
44 electronic products recycling account created under RCW  
45 70.95N.130.
- 46 (3) For a plan, if the total weight in pounds of CEPS  
47 collected during a program year is more than the plan's

1 equivalent share of CEPs for that year, then ecology shall  
2 submit to the authority or authorized party, a payment  
3 equal to the weight in pounds of the surplus multiplied by  
4 the reasonable collection, transportation, and recycling  
5 cost for CEPs.

6 (4) For purposes of this section, the initial reasonable  
7 collection, transportation, and recycling cost for CEPs is  
8 forty-five (45) cents per pound and the administrative fee  
9 is five (5) cents per pound.

10 (5) Ecology may annually adjust the reasonable collection,  
11 transportation, and recycling cost for CEPs and the  
12 administrative fee described in this section. Prior to  
13 making any changes ecology will:

14 (a) Post the proposed new amounts on the agency web site;

15 (b) Send notice to the all registered manufacturers;

16 (c) Provide a thirty-day (30) comment period;

17 (d) Evaluate comments and make revisions to the amounts if  
18 appropriate; and

19 (e) Post the new amounts on the agency web site.

20 (6) Ecology will notify all registered manufacturers of any  
21 changes to the reasonable collection, transportation, and  
22 recycling cost or the administrative fee by January 1 of  
23 the program year in which the change is to take place.

24  
25 **New section.**

## 26 ***WAC 173-900-970 Collecting and paying share payments.***

### 27 28 **Billing share payments.**

29  
30 (1) By June 1 of each program year, ecology will bill any  
31 authorized party or authority that has not attained its  
32 plan's equivalent share as determined in [WAC 173-900-930](#)  
33 Share payments. The authorized party or authority must  
34 remit payment to ecology within sixty (60) days from the  
35 billing date.

### 36 37 **Ecology payment of share payments.**

38  
39 (2) By September 1 of each program year, ecology must pay any  
40 authorized party or authority that exceeded its plan's  
41 equivalent share.

## 42 43 **Part X PUBLIC OUTREACH**

44 **New section.**

1 **WAC 173-900-1000 Public Outreach**

2 **Independent and Standard Plans:**

- 3 (1) Public outreach and marketing requirements: An independent  
4 plan and the standard plan must inform covered entities  
5 about where and how to reuse and recycle their CEPs at the  
6 end of the product's life. At a minimum, this outreach  
7 must:
- 8 (a) Use the artwork developed by ecology;
  - 9 (b) Use ecology's toll-free telephone number and web site;
  - 10 (c) Provide visible signage for each collection site listed  
11 in the plan; and
  - 12 (d) Include advertising at a level or frequency that  
13 assures awareness of the program by covered entities in  
14 Washington state, such as print, broadcast or web-based  
15 methods.

16 **Ecology:**

- 17 (2) Ecology will promote CEP recycling by:
- 18 (a) Posting information describing where to recycle  
19 unwanted CEPs on its web site;
  - 20 (b) Providing information about recycling CEPs through a  
21 toll-free telephone service; and
  - 22 (c) Developing and providing artwork for use by others in  
23 flyers, signage, web content, and other advertising  
24 mechanisms.
- 25 (3) Ecology will determine the effectiveness of the public  
26 outreach and education campaign based on information  
27 supplied in the reports required under this chapter.

28 **Local Governments:**

- 29 (4) Local governments must promote CEP recycling, including  
30 listings of local collection sites and services, through  
31 existing educational methods typically used by each local  
32 government.

33 **Retailers:**

- 34 (5) A retailer who sells new CEPs must provide information to  
35 consumers describing where and how to recycle CEPs and  
36 opportunities and locations for the convenient collection  
37 or return of the products at the point of sale. At a  
38 minimum this outreach must:
- 39 (a) Use ecology's artwork in advertisements such as on  
40 flyers, shelf-tags, or brochures for this program.
  - 41 (b) Provide ecology's toll-free telephone number and web  
42 site.
  - 43 (c) Include information about how to recycle CEPs in  
44 Washington either in, on, or, with the packaging;
- 45 (6) Remote sellers may include the information in a visible  
46 location on their web site as fulfillment of this  
47 requirement.

1 **Collaboration:**

2 (7) Manufacturers, state government, local governments,  
3 retailers, and collection sites and services must  
4 collaborate in the development and implementation of the  
5 public information campaign.  
6

7 **PART XI THE MATERIALS MANAGEMENT AND FINANCE**  
8 **AUTHORITY (THE AUTHORITY)**  
9

10 **New section.**

11 **WAC 173-900-1100 Ecology's relationship to the authority.**

12 (1) The director of the department of ecology, or the  
13 director's designee, will serve as an ex officio member of  
14 the Materials Management and Finance Authority Board of  
15 Directors.

16 (a) Ex officio designations must be made in writing and  
17 communicated to the authority director.

18 (b) The function of ecology's membership is advisory only  
19 and carries no voting privileges on matters brought  
20 before the board.

21 (2) Ecology must provide staff to assist in the creation of  
22 the authority.

23 (a) If requested by the authority, ecology will also provide  
24 start-up support staff to the authority for its first  
25 twelve months of operation, or part thereof, to assist  
26 in the quick establishment of the authority.

27 (b) Staff expenses incurred by ecology must be paid back to  
28 ecology through funds collected by the authority and  
29 must be reimbursed to ecology from the authority's  
30 financial resources within the first twenty-four (24)  
31 months of operation.  
32

33 **New section.**

34 **WAC 173-900-1110 Appointing the board of the authority.**

35 (1) The board of directors of the authority is comprised of  
36 eleven participating manufacturers:

37 (a) Five board positions are reserved for representatives  
38 of the top ten brand owners by return share of covered  
39 electronic products.

40 (b) Six board positions are reserved for representatives of  
41 other brands. At least one of these board positions is  
42 reserved for a manufacturer who is also a retailer  
43 selling their own private label.

44 (c) The board must have representation from both television  
45 and computer manufacturers.

46 (d) The board of directors is appointed by the director of  
47 the department of ecology.

48 (i) Manufacturers will indicate their interest in serving  
49 on the board of directors to ecology.

- 1 (ii) Manufacturers expressing interest will be asked to  
2 submit the name of their representative.
- 3 (iii) Ecology will select board members from the  
4 candidates that have expressed interest using the  
5 following criteria:
- 6 (A) Five from the top ten brand owners by return share  
7 of CEPs willing to participate on the board;
  - 8 (B) One retailer that is also a manufacturer;
  - 9 (C) Representation of manufacturers from eastern  
10 Washington;
  - 11 (D) Representation from small, in-state manufacturers;
  - 12 (E) Balance between manufacturers whose business is  
13 primarily that of television manufacturing and those  
14 whose business is primarily that of computer  
15 manufacturing; and
  - 16 (F) At least one manufacturer that is a new market  
17 entrant.
- 18 (e) The first board will be appointed from those  
19 manufacturers expressing interest in serving on the board  
20 in the first registration of manufacturers.
- 21 (f) The first board of directors will serve a term of one  
22 year.
- 23 (g) Subsequent appointments to the board of directors will  
24 be made on intervals established in the authority by-laws  
25 created by the board.

26  
27 **New section.**

28 **WAC 173-900-1120 Board reimbursement for use of ecology support-**  
29 **staff.**

- 30 (1) The costs collected under this section are only for  
31 support provided during the start-up and the first twelve  
32 (12) months of operation for the board.
- 33 (2) The board must reimburse all costs to ecology within  
34 twenty-four (24) months of beginning operation.
- 35 (3) Ecology will calculate reimbursements based on actual  
36 costs:

37  
38 Reimbursement amount = Direct Costs + Indirect Costs

39  
40 Where:

- 41  
42 (a) **Direct costs** include ecology staff time and other costs  
43 related to accomplishing the activities identified in  
44 subsection (1) of this section. Direct staff costs are  
45 the costs of hours worked, including salaries and  
46 benefits required by law to be paid to, or on behalf of,  
47 employees. Other direct costs are costs incurred as a  
48 direct result of ecology staff working with the board  
49 including, for example, costs of: travel, printing and  
50 publishing of documents, and other work, contracted or  
51 otherwise, associated with the board.

1 (b) **Indirect costs** are those general management and support  
2 costs of ecology. Ecology applies them using the agency's  
3 approved federal indirect cost rate.

4 (4) **Cost reimbursement invoicing and payment.** Invoices are  
5 generally sent about the last week of the month, for the  
6 previous month's activity. Payment is expected within  
7 thirty (30) days after the date that ecology has issued the  
8 invoice. If the board uses ecology support staff the  
9 authority must reimburse ecology from the authority's  
10 financial resources within the first twenty-four (24)  
11 months of operation.  
12

13 **New section.**

14 **WAC 173-900-1130 The standard plan's assessment of charges and**  
15 **apportionment of costs.**

16 (1) Manufacturers participating in the standard plan must pay  
17 the authority to cover all administrative and operational  
18 costs associated with the collection, transportation, and  
19 recycling of covered electronic products within the state  
20 of Washington incurred by the standard program operated by  
21 the authority to meet the standard plan's equivalent share  
22 obligation.

23 (2) The authority must assess charges on each manufacturer  
24 participating in the standard plan and collect funds from  
25 each participating manufacturer for the manufacturer's  
26 portion of the costs in subsection (1) of this section.

27 (a) Such apportionment must be based on return share,  
28 market share, any combination of return share and market  
29 share, or any other equitable method.

30 (b) The authority's apportionment of costs to manufacturers  
31 participating in the standard plan may not include nor be  
32 based on electronic products imported through the state  
33 and subsequently exported outside the state.

34 (c) Charges assessed under this section must not be  
35 formulated in such a way as to create incentives to  
36 divert imported electronic products to ports or  
37 distribution centers in other states.

38 (d) The authority must adjust the charges to manufacturers  
39 participating in the standard plan as necessary in order  
40 to ensure that all costs associated with the identified  
41 activities are covered.

42 (3) The authority may require financial assurances or  
43 performance bonds for manufacturers participating in the  
44 standard plan, including but not limited to new entrants  
45 and white box manufacturers, when determining equitable  
46 methods for apportioning costs to ensure that the long-term  
47 costs for collecting, transporting, and recycling of a  
48 covered electronic product are borne by the appropriate  
49 manufacturer in the event that the manufacturer ceases to  
50 participate in the program.

- 1 (4) Nothing in this section authorizes the authority to assess  
2 fees or levy taxes directly on the sale or possession of  
3 electronic products.
- 4 (5) If a manufacturer has not met its financial obligations as  
5 determined by the authority, the authority must notify  
6 ecology that the manufacture is not participating in the  
7 standard plan (see [WAC 173-900-350](#))
- 8 (6) The authority must submit its plan for assessing charges  
9 and apportioning cost on manufacturers as part of the  
10 standard plan (see [Part III](#) of this chapter).
- 11 (7) **Appeals:** Any manufacturer participating in the standard  
12 plan may appeal an assessment of charges or apportionment  
13 of cost as collected by the authority.
- 14 (a) The manufacturer must pay their charges or  
15 apportionment to the authority and submit a written  
16 petition to the director of the department of ecology  
17 within fourteen (14) calendar days of receipt of  
18 notification of charges or apportionment. The written  
19 petition must include proof that:
- 20 (i) The authority's assessments or apportionment of costs  
21 were an arbitrary administrative decision;
- 22 (ii) An abuse of administrative discretions is proven; or  
23 (iii) It is not an equitable assessment of apportionment  
24 of costs.
- 25 (b) Within thirty (30)calendar days of receipt of the  
26 written petition the director or the director's designee  
27 will review the appeal.
- 28 (c) The director will reverse any assessments of charges or  
29 apportionment of costs if the appeal is determined to be  
30 correct.
- 31 (d) If the director reverses an assessment of charges, the  
32 authority must:
- 33 (i) Re-determine the assessment or apportionment of costs  
34 and submit a plan revision as described in [WAC 173-](#)  
35 [900-335](#), CEP Recycling Plan Update; and  
36 (ii) Once the revision is approved by ecology, send  
37 refunds or assess additional charges to standard plan  
38 participants per the revision.
- 39 (8) Arbitration: Disputes regarding the final decision by the  
40 director or the director's designee may be challenged  
41 through arbitration.
- 42 (a) The director shall appoint one member to serve on the  
43 arbitration panel.
- 44 (b) The challenging party shall appoint one member to serve  
45 on the arbitration panel.
- 46 (c) These two members shall choose a third person to serve.  
47 If the two persons cannot agree on a third person, the  
48 presiding judge of the Thurston county superior court  
49 shall choose a third person.
- 50 (d) The decision of the arbitration panel shall be final  
51 and binding, subject to review by the superior court

1 solely upon the question of whether the decision of the  
2 panel was arbitrary or capricious.