

Option A – Performance Standards

WAC 173-900-650 Performance standards for processors.

Assignment to a performance standard level.

(1) This section includes performance standards for environmentally sound handling and management of CEPs by direct processors to protect human health and the environment. There are three levels of performance standards:

- (a) Minimum standards
- (b) Preferred standards
- (c) Superior standards.

Standard	Minimum	Preferred	Superior
Processing priorities	X	X	X
Compliance with laws and regulations	X	X	X
Record maintenance	X	X	X
Facility access	X	X	X
Notification of penalties and violations	X	X	X
Annual compliance audit reports	X	X	X
Prison labor	X	X	X
Storage	X	X	X
Labeling	X	X	X
Transportation	X	X	X
Processing selected components	X	X	X
Processing of cathode ray tubes (CRT)	X	X	X
Exports of CRTs	X	X	X
Notification and recordkeeping for CRTs exported for reuse	X	X	X
Environmental management system		X	X
Reuse and refurbishment		X	X
Due diligence		X	X
Documentation of export of selected components		X	X
Financial assurance for facility closure			X
Exceeds the specific performance standards or implements additional standards			X

Minimum Standards Level: To meet the minimum standards a processor must comply with the requirements marked with an "X" in the column titled "Minimum".

Preferred Standards Level: To meet the preferred standards a processor must meet the requirements marked with an "X" in the column titled "Preferred".

Superior Standards Level: To meet the superior standards a processor must meet the requirements marked with an "X" in the column titled "Superior".

- (2) At a minimum, each processor used by a plan must submit an annual compliance audit report, with the registration form, demonstrating that the processor complies with the minimum standards described in this chapter.
- (3) If a processor wants to be assigned to the preferred or superior level of performance standards, the processor must submit a compliance audit report, with their registration form, demonstrating compliance with these standards.
- (4) Ecology will review the annual compliance audit report and registration form submitted by the processor under the procedures described in Part VI of this chapter. If ecology approves a processor registration, ecology will place the processor in "in compliance" on the "Processor Registration List" and indicate which level of performance standards the processor meets.

Conflict with performance standards.

(5) **For the minimum standards:**

To the extent that the processor performance standards in this section conflict with laws applicable to a processor in another state or country, the processor may comply with the applicable national, state, or local laws and rules if the following is included in the annual compliance audit report:

- (a) Documentation of the conflict; and
- (b) Documentation of compliance with the national, state, or local laws or rules applicable to the processor.

(6) **For the preferred and superior standards:**

(a) To the extent that the processor performance standards in this section conflict with laws applicable to a processor in another state or country, the processor may comply with the applicable national, state, or local laws and rules and still receive assignment to the preferred or superior level if the processor can document that the applicable laws and rules are equal to or more stringent than the requirements in this section.

(b) The following must be included in the annual compliance audit report:

- (i) Documentation of the conflict;
- (ii) Documentation that the applicable law or rule is

- equal to or more stringent than the requirements in this section; and
- (iii) Documentation of compliance with the national or state laws or rules.

(7) Processing priorities.

- (a) Processors must document that non-hazardous CEPs and their components are managed according to the following solid waste management priorities and should apply the priorities in descending order:
 - (i) Waste reduction;
 - (ii) Recycling, with source separation of recyclable materials as the preferred method;
 - (iii) Energy recovery, incineration, or landfill of separated waste; and
 - (iv) Energy recovery, incineration, or landfill of mixed municipal solid wastes.
- (b) Processors must document that CEPs containing mercury components, batteries; circuit boards; and CRT glass are managed in accordance with the following priorities and should be applied in descending order:
 - (i) Waste reduction;
 - (ii) Waste recycling;
 - (iii) Physical, chemical, and biological treatment;
 - (iv) Incineration;
 - (v) Solidification/stabilization treatment;
 - (vi) Landfill.

"Waste reduction" means reducing waste so that hazardous byproducts are not produced;

"Waste recycling" means reusing waste materials and extracting valuable materials from a waste stream;

"Physical, chemical, and biological treatment" means processing the waste to render it completely innocuous, produce a recyclable byproduct, reduce toxicity, or substantially reduce the volume of material requiring disposal;

"Incineration" means reducing the volume or toxicity of wastes by use of an enclosed device using controlled flame combustion;

"Solidification/stabilization treatment" means the use of encapsulation techniques to solidify wastes and make them less permeable or leachable; and

"Landfill" means a disposal facility, or part of a facility, at which waste is placed in or on land and which is not a land treatment facility, surface impoundment, or injection well.

- (c) Processors must ensure that all processing of CEPs occurs in a manner that does not result in adverse environmental impacts.

(8) Compliance with laws and regulations.

Processors must comply with all national, state, and local laws, rules, and ordinances, related to processing activities including but not limited to:

- (a) Registrations and permits from all appropriate governing authorities;
- (b) Occupational health and safety;
- (c) Employment and wage;
- (d) Worker right to know;
- (e) Human health and safety; and
- (f) Environmental protection.

(9) Record maintenance.

Processors must maintain all records required in this section for a minimum of five (5) years. All proprietary and confidential records will remain on site and will not become public record except to document non-compliance.

(10) Facility access.

Processors must allow access to the facility and the documentation required in this section for the purposes of assessing compliance with the requirements in this chapter to:

- (a) Ecology and ecology's designee(s)
- (b) For processors used by the standard plan:
 - (i) The authority
 - (ii) The authority's designee(s)
- (c) For processors used by independent plans:
 - (i) The plan's authorized party
 - (ii) The authorized party's designee(s)

(11) Notification of penalties and violations.

Each direct processor must notify the authority or authorized party of the plan(s) for which the processor provides services if:

- (a) The direct processor receives any penalties, violations or regulatory orders related to processing activities.; or
- (b) The subcontractor used by the direct processor receives any penalties, violations, or regulatory orders related to

processing activities..

(12) Annual compliance audit reports.

- (a) Each processor must submit an annual compliance audit report to ecology with their annual registration form, indicating which level of performance standards the processor meets (minimum; preferred, or superior).
- (b) The processor must submit to a new compliance audit each year that they are providing services for a plan.
- (c) The compliance audit must be a second-party or third-party audit.
 - (i) A second-party audit is an audit conducted by an auditor not employed by the processor, but the auditor can be employed by the plan or any of the manufacturers participating in the plan for which the processor provides services.
 - (ii) A third-party audit is an audit conducted by an independent auditor who is not employed by:
 - (A) The plan,
 - (B) Any manufactures who participate in the plan; or
 - (C) The processor used by the plan.
- (d) The annual compliance audit report must include an assessment of which level of performance standards described in this section the processor meets. This assessment must include:
 - (i) Identification of which performance standard level the processor meets and is seeking approval for from ecology;
 - (ii) A list of all the requirements for that level;
 - (iii) Demonstration of compliance: An assessment of how the processor meets each of the requirements for that level, including a list of all national, state, and local laws, rules, and ordinances, related to processing activities.
 - (iv) Documentation of conflict: When a conflict with the processor performance standards occurs, documentation of the conflict and of compliance with the national, state, or local, laws or rules that apply.
 - (v) Documentation of the auditor's qualifications as described in subsection (12)(e) of this section for the auditor signing the report.
 - (vi) Certification: Certification from the auditor certifying whether or not the processor meets the standards in this section.
 - (vii) Signature of the auditor certifying the accuracy of the report.
- (e) This audit must be completed by an auditor who through professional training, work experience and certification

has appropriate knowledge to evaluate the environmental compliance of the processing facility.

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

(13) Prison labor.

Federal or state prison labor may not be used for processing CEPs.

(14) Storage.

CEPs and their components must be either:

- (a) Stored in a building with a roof, floor, and walls, or
- (b) Placed in a container (i.e., a package or a vehicle) that is constructed, filled, and closed to minimize releases to the environment of CRT glass (including fine solid materials).

(15) Labeling.

- (a) For CEPs and their components containing mercury, batteries, or circuit boards, each container must be labeled or marked clearly with: "Do not mix with other materials" and one or more of the following:
 - (i) ``Used electronic product(s) -contains mercury''
 - (ii) ``Used batteries from electronic product(s)''
 - (iii) ``Used electronic product(s) -contains circuit boards''
- (b) For CRTs, each container in which a CRT is contained must be labeled or marked clearly with ``Do not mix with other glass materials.'' and one of the following phrases:
 - (i) ``Used cathode ray tube(s)-contains leaded glass''
 - (ii) ``Leaded glass from televisions or computers''

(16) Transportation.

CEPs must be transported in a container meeting the storage requirements in subsection (14) of this section.

(17) Processing selected components.

- (a) The following selected components need to be processed, recycled, or disposed of in accordance with Chapter 173-303 WAC Dangerous Waste Regulations or disposed of in accordance with Chapter 173-350 WAC Minimum Functional Standards:
 - (i) Mercury containing lamps and other components,
 - (ii) Batteries;
 - (iii) Circuit boards;
 - (iv) CRT glass; and

- (v) Whole CEPs not in working condition or tested.
- (b) Before shredding CEPs processors must remove and separately process the following components as described below:
 - (i) **Batteries** must be recycled at facilities permitted by local, state, and national authorities;
 - (ii) **Mercury containing lamps and other components** must be removed from devices and recycled in permitted facilities.
- (c) Where recycling of the components listed above is not possible the residual must be handled according to applicable hazardous waste laws and regulations.

(18) Processing of cathode ray tubes (CRT).

Processors must manage CRTs and processed CRTs as follows:

- (a) **When intentionally breaking intact CRTs or further breaking or separating broken CRTs; or sorting or otherwise managing glass removed from CRT monitors the following must occur:**
 - (i) Processing must be performed within a building with a roof, floor, and walls; and
 - (ii) No activities may be performed that use temperatures high enough to volatilize lead from CRTs.
- (b) **Processed CRT glass sent to CRT glass making or lead smelting:** Glass from CRTs that is destined for recycling at a CRT glass manufacturer or a lead smelter after processing is not a solid waste unless it is speculatively accumulated as defined in WAC 173-303-016 or the applicable laws of the governing jurisdiction.
- (c) **Use constituting disposal:** Glass from used CRTs that is used in a manner constituting disposal must comply with the applicable hazardous waste requirements where disposal occurs.

(19) Exports of CRTs.

In addition to the storage, labeling and transportation requirements in this subsection, exporters of CRTs must comply with the following requirements. In this subsection "recycler" means processors and subcontractors.

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

notification must be in writing, signed by the exporter, and include the following information:

- (i) Name, mailing address, telephone number and EPA/state ID number (if applicable) of the exporter of the CRTs.
 - (ii) The estimated frequency or rate at which the CRTs are to be exported and the period of time over which they are to be exported.
 - (iii) The estimated total quantity of CRTs specified in kilograms.
 - (iv) All points of entry to and departure from each foreign country through which the CRTs will pass.
 - (v) A description of the means by which each shipment of the CRTs will be transported (for example, mode of transportation vehicle (air, highway, rail, water, etc.), type(s) of container (drums, boxes, tanks, etc.)).
 - (vi) The name and address of the recycler and any alternate recycler.
 - (vii) A description of the manner in which the CRTs will be recycled in the foreign country that will be receiving the CRTs.
 - (viii) The name of any transit country through which the CRTs will be sent and a description of the approximate length of time the CRTs will remain in such country and the nature of their handling while there.
- (b) Notifications submitted by mail should be sent to the following mailing address:
- Office of Enforcement and Compliance Assurance
 - Office of Federal Activities
 - International Compliance Assurance Division (Mail Code 2254A)
 - Environmental Protection Agency
 - 1200 Pennsylvania Ave., NW.
 - Washington, DC 20460.

Hand-delivered notifications should be sent to:

- Office of Enforcement and Compliance Assurance
- Office of Federal Activities
- International Compliance Assurance Division (Mail Code 2254A)
- Environmental Protection Agency
- Ariel Rios Bldg., Room 6144
- 1200 Pennsylvania Ave., NW.
- Washington, DC.

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

"Attention: Notification of Intent to Export CRTs."

- (i) Upon request by EPA, the exporter must furnish to EPA any additional information which a receiving country requests in order to respond to a notification.
- (ii) EPA will provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of paragraph (19)(a) of this section. Where a claim of confidentiality is asserted with respect to any notification information required by paragraph (19)(a) of this section, EPA may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.
- (iii) The export of CRTs is prohibited unless the receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the CRTs, EPA will forward an Acknowledgment of Consent to Export CRTs to the exporter. Where the receiving country objects to receipt of the CRTs or withdraws a prior consent, EPA will notify the exporter in writing. EPA will also notify the exporter of any responses from transit countries.
- (iv) When the conditions specified on the original notification change, the exporter must provide EPA with a written renotification of the change, except for changes to the telephone number in paragraph (19)(a)(i) of this section and decreases in the quantity indicated pursuant to paragraph (19)(a)(iii) of this subsection. The shipment cannot take place until consent of the receiving country to the changes has been obtained (except for changes to information about points of entry and departure and transit countries pursuant to paragraphs (19)(a)(iv) and (19)(a)(viii) of this section and the exporter of CRTs receives from EPA a copy of the Acknowledgment of Consent to Export CRTs reflecting the receiving country's consent to the changes.
- (v) A copy of the Acknowledgment of Consent to Export CRTs must accompany the shipment of CRTs. The shipment must conform to the terms of the Acknowledgment.
- (vi) If a shipment of CRTs cannot be delivered for any reason to the recycler or the alternate recycler, the exporter of CRTs must renotify EPA of a change in the conditions of the original notification to allow shipment to a new recycler in accordance with paragraph (19)(b)(iv) of this section and obtain another Acknowledgment of Consent to Export CRTs.
- (vii) Exporters must keep copies of notifications and Acknowledgments of Consent to Export CRTs for a period

of five (5) years following receipt of the Acknowledgment.

(20) Notification and recordkeeping for CRTs exported for reuse.

- (a) Persons who export CRTs for reuse must send a one-time notification to the U.S. EPA Regional Administrator. The notification must include:
 - (i) A statement that the notifier plans to export CRTs for reuse;
 - (ii) The notifier's name, address, and EPA/state ID number (if applicable); and
 - (iii) The name and phone number of a contact person.
- (b) 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.

(21) Environmental management system.

The processor must have an environmental management system, appropriate in the level of detail to the scale and function of the facility, for regular and ongoing self-audits and/or inspections of the facility's environmental compliance. This system must include a mechanism for self-corrections and process improvements.

(22) Reuse and refurbishment.

- (a) To send CEPs for refurbishment or reuse the processor must meet all of the following standards.
- (b) The CEP or CEP components must:
 - (i) Be a computer or peripheral that is in working condition.
 - (ii) Have their hard drives wiped to the US Department of Defense 5220.22M 'one wipe' standard (or subsequent standards);
 - (iii) Be tested and working prior to shipping or providing the computer for reuse. The refurbisher must provide the direct processor/plan with documentation that the CEPs were shipped or provided to legitimate reuse.
- (c) Be returned by the refurbisher to the contracted processor, at no charge and for no payment, if the CEPs or their components are found to be unsuitable for refurbishment or reuse.
- (d) Be counted only once in the equivalent share calculations if they are returned as unworking CEPs.

(23) Due diligence.

- (a) Downstream due diligence is the act of determining whether the practices and processes of a subcontractor conform to the relevant provisions of the premium or superior standards for processors.
- (b) To do due diligence a processor must obtain:
 - (i) Documentation sufficient to satisfy an annual compliance audit as required in subsection (12) of this section; or
 - (ii) Certification of the subcontractor's relevant practices and procedures by a third-party audit.
- (c) The processor must obtain records that demonstrate that the subcontractors used by the processor is:
 - (i) In compliance with all applicable laws, regulations and ordinances;
 - (ii) Adhering to an environmental management system as described in subsection (21) of this section;
 - (iii) Managing the following selected components to ensure no adverse environmental impact:
 - (A) Batteries;
 - (B) Mercury containing lamps and components;
 - (C) CRT glass;
 - (D) Circuit boards; and
 - (E) Whole CEPs not working or tested.
- (d) Document and provide notice of any penalties, violations, or regulatory orders of applicable laws, rules, or ordinances received by the subcontractor.

(24) Documentation of export of selected components.

For mercury containing lamps and other components, batteries, circuit boards, CRT glass, and whole CEPs not in working condition or tested:

- (i) Compliance with all applicable national export and import requirements of the export, import, and transit states and countries for all CEPs and related materials and parts.
- (ii) Processors must maintain the following related records:
 - (A) Intended use and destination of shipments(including facility name and address) of CEP units, materials or components exported for reclaiming, reuse, or refurbished products, prepared in a manner appropriate for material recovery processing for use in new products;
 - (B) Specifications required by the destination facility in relation to shipment contents.
 - (C) Documentation that all shipments for export, as applicable to the receiving facility, are legal and satisfy all applicable laws in the destination

country, including import and operating permits and licenses.

(D) Contracts with subcontractors.

(E) Documentation that CEPs were rendered unusable before leaving the facility for further processing.

(25) Financial assurance for facility closure.

The processor must have financial assurance for facility closure appropriate for the facility used for processing of CEPs and their components.

(26) Exceeds the specific performance standards or implements additional standards.

(a) Processors requesting assignment to the superior standards level must have documentation that the performance standards the processor is using to process CEPs for a plan do one or more of the following:

(i) Exceed the standards in this section; or

(ii) The processor is implementing additional standards that provide environmental protection in addition to that provided by the standards in this section.

(b) Ecology will review processors' requests for assignment to the superior standards level on a case-by-case basis and make determinations based on the merits of the information provided with each request. Determinations for assignment to the superior standards level are solely at ecology's discretion.