

1 **Option B – Performance Standards**

2 **WAC 173-900-650 Performance standards for processors.**

3 **Recognition of meeting the performance standards.**

- 4
- 5 (1) This section includes performance standards for  
6 environmentally sound handling and management of CEPs by  
7 direct processors to protect human health and the  
8 environment.
- 9 (2) To comply with this section, all processors must submit an  
10 annual compliance report certifying whether or not the  
11 processor meets all the optional performance standards in  
12 this section.
- 13 (3) Ecology will review the compliance report and registration  
14 form submitted by the processor under the procedures  
15 described in Part VI of this chapter. If ecology approves  
16 a processor registration, ecology will place the processor  
17 in "in compliance" on the "Processor Registration List" and  
18 indicate whether or not the processor meets the performance  
19 standards in this section.

20 **(4) Annual Compliance Reports.**

- 21
- 22 (a) Each processor must submit an annual compliance report  
23 to ecology with their annual registration form,  
24 indicating whether or not they meet the performance  
25 standards in this section.
- 26 (b) The processor must submit a new compliance report for  
27 each program year that they are providing services for a  
28 plan.
- 29 (c) The compliance report must be performed by a second-  
30 party or third-party.
- 31 (i) A second-party compliance report is conducted by a  
32 person not employed by the processor but can be employed  
33 by the plan or any of the manufacturers participating in  
34 the plan for which the processor provides services.
- 35 (ii) A third-party compliance report is conducted by a  
36 person who is not employed by:
- 37 (A) The plan,  
38 (B) Any manufacturers who participate in the plan; or  
39 (C) The processor used by the plan.
- 40 (d) The compliance report must include an assessment of  
41 whether or not the processor meets all of the performance  
42 standards in this section.

1 (i) **Meeting the standards:** If the processor is submitting  
2 a report to meet the standards the compliance report  
3 must include:

4 (A) Demonstration of compliance with performance  
5 standards: An assessment of how the processor meets  
6 each of the performance standards, including a list of  
7 all national, state, and local laws, rules, and  
8 ordinances, related to processing activities.

9 (B) Documentation of Conflict: When the processor  
10 performance standards in this section conflict with  
11 the national, state, or local, laws or rules that  
12 apply to the processor, documentation of the  
13 conflict and of the processor's compliance with the  
14 applicable national, state, or local, laws or rules  
15 that apply must be submitted.

16 (C) Documentation of the qualifications of the person  
17 performing the review as described in subsection  
18 (4)(e) of this section.

19 (D) Certification: Certification from the person  
20 performing the assessment certifying that the  
21 processor meets the standards in this section except  
22 as noted in (B) of this subsection.

23 (E) Signature of the person performing the assessment  
24 certifying the accuracy of the report.

25 (ii) **Does not meet the standards:** If the processor is  
26 submitting a report to demonstrate that the processor  
27 does not meet the performance standards in this  
28 section, the report must include:

29 (A) A statement that the processor does not meet the  
30 standards; and

31 (B) That statement must be signed by the same  
32 individual that signs the processor registration form.

33 (e) This compliance report must be completed by a person  
34 who through professional training, work experience and  
35 certification has appropriate knowledge to evaluate the  
36 environmental compliance of the processing facility.

37 (f) Proprietary information submitted to ecology under this  
38 chapter is exempt from public disclosure under RCW  
39 42.56.270.

#### 40 41 **(5) Conflict with performance standards.**

42  
43 (a) To the extent that the processor performance standards  
44 in this section conflict with other national, state or  
45 local laws, the processor may comply with the applicable  
46 national, state, or local laws and rules and still be  
47 recognized as in compliance with the performance

1 standards in this section if the processor can document  
 2 that the applicable laws and rules are equal to or more  
 3 stringent than the requirements in this section.  
 4 (b) The following must be included in the annual compliance  
 5 report:  
 6 (i) Documentation of the conflict;  
 7 (ii) Documentation that the applicable law or rule is  
 8 equal to or more stringent than the requirements in  
 9 this section; and  
 10 (iii) Documentation of compliance with the national,  
 11 state, or local laws or rules.  
 12

13 **Performance Standards:**

14 For ecology to list a processor as "meets performance standards"  
 15 on ecology's web site the processor must submit a compliance  
 16 report, with their registration form, certifying compliance with  
 17 all the performance standards listed in the table below and  
 18 described this section.  
 19

<b>Performance Standards</b>
Processing priorities
Compliance with laws and regulations
Record maintenance
Facility access
Notification of penalties and violations
Prison labor
Storage
Labeling
Transportation
Processing selected components
Processing of cathode ray tubes (CRT)
Exports of CRTs
Notification and recordkeeping for CRTs exported for reuse
Environmental management system
Reuse and refurbishment
Due diligence
Documentation of export of selected components

20  
 21 **(6) Processing priorities.**  
 22

23 (a) Processors must document that non-hazardous CEPs and their  
 24 components are managed according to the following solid

1 waste management priorities and should apply the priorities  
2 in descending order:

- 3 (i) Waste reduction;
- 4 (ii) Recycling, with source separation of recyclable  
5 materials as the preferred method;
- 6 (iii) Energy recovery, incineration, or landfill of  
7 separated waste; and
- 8 (iv) Energy recovery, incineration, or landfill of mixed  
9 municipal solid wastes.

10 (b) Processors must document that CEPs containing mercury  
11 components, batteries; circuit boards; and CRT glass are  
12 managed in accordance with the following priorities and  
13 should be applied in descending order:

- 14 (i) Waste reduction;
- 15 (ii) Waste recycling;
- 16 (iii) Physical, chemical, and biological treatment;
- 17 (iv) Incineration;
- 18 (v) Solidification/stabilization treatment;
- 19 (vi) Landfill.

20  
21 "Waste reduction" means reducing waste so that  
22 hazardous byproducts are not produced;

23  
24 "Waste recycling" means reusing waste materials and  
25 extracting valuable materials from a waste stream;

26  
27 "Physical, chemical, and biological treatment" means  
28 processing the waste to render it completely  
29 innocuous, produce a recyclable byproduct, reduce  
30 toxicity, or substantially reduce the volume of  
31 material requiring disposal;

32  
33 "Incineration" means reducing the volume or toxicity  
34 of wastes by use of an enclosed device using  
35 controlled flame combustion;

36  
37 "Solidification/stabilization treatment" means the use  
38 of encapsulation techniques to solidify wastes and  
39 make them less permeable or leachable; and

40  
41 "Landfill" means a disposal facility, or part of a  
42 facility, at which waste is placed in or on land and  
43 which is not a land treatment facility, surface  
44 impoundment, or injection well.

45  
46 (c) Ensure that all processing of CEPs occurs in a manner  
47 that does not result in adverse environmental impacts.  
48

1 **(7) Compliance with laws and regulations.**

2  
3 Processors must comply with all national, state, and local  
4 laws, rules, and ordinances, related to processing  
5 activities including but not limited to:

- 6 (a) Registrations and permits from all appropriate  
7 governing authorities;
  - 8 (b) Occupational health and safety;
  - 9 (c) Employment and wage;
  - 10 (d) Worker right to know;
  - 11 (e) Human health and safety; and
  - 12 (f) Environmental protection.
- 13

14 **(8) Record maintenance.**

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

19 **(9) Facility access.**

20  
21 Processors must allow access to the facility and the  
22 documentation required in this section for the purposes of  
23 assessing compliance with the requirements in this chapter to:

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

31 **(10) Notification of penalties and violations.**

32  
33 Each processor must notify the authority or authorized party  
34 of the plan(s) for which the processor provides services if:  
35 (a) The direct processor receives any penalties, violations or  
36 regulatory orders related to processing activities; or  
37 (b) The subcontractor used by the direct processor receives  
38 any penalties, violations, or regulatory orders related to  
39 processing activities.

40

41 **(11) Prison labor.**

42  
43 Federal or state prison labor may not be used for processing  
44 CEPS.

1 (12) Storage.

2  
3 CEPS and their components must be either:

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

9 (13) Labeling.

10  
11 (a) For CEPS and their components containing mercury,  
12 batteries, or circuit boards each container must be labeled  
13 or marked clearly with: "Do not mix with other materials"  
14 and one or more of the following:

- 15 (i) ``Used electronic product(s) - contains mercury''
- 16 (ii) ``Used batteries from electronic product(s)''
- 17 (iii) ``Used electronic product(s) - contains circuit
- 18 boards"

19 (b) For CRTs, each container in which a CRT is contained must  
20 be labeled or marked clearly with ``Do not mix with other  
21 glass materials.'' and one of the following phrases:

- 22 (i) ``Used cathode ray tube(s)-contains leaded glass''
- 23 (ii) ``Leaded glass from televisions or computers''

24 (14) Transportation.

25  
26 CEPS must be transported in a container meeting the storage  
27 requirements in subsection (12) of this section.

28 (15) Processing selected components.

29  
30 (a) The following selected components need to be processed,  
31 recycled, or disposed of in accordance with Chapter 173-303  
32 WAC Dangerous Waste Regulations or disposed of in  
33 accordance with Chapter 173-350 WAC Minimum Functional  
34 Standards:

- 35 (i) Mercury containing lamps and other components,
- 36 (ii) Batteries;
- 37 (iii) Circuit boards;
- 38 (iv) CRT glass; and
- 39 (v) Whole CEPS not in working condition or tested.

40 (b) Before shredding CEPS processors must remove and  
41 separately process the following components as described  
42 below:

- 43 (i) **Batteries** must be recycled at facilities permitted by  
44 local, state, and national authorities;
- 45 (ii) **Mercury containing lamps and other components** must be

1 removed from devices and recycled in permitted  
2 facilities.  
3 (c) Where recycling of the components listed above is not  
4 possible the residual must be handled according to  
5 applicable hazardous waste laws and regulations.

6 **(16) Processing of cathode ray tubes (CRT).**

7  
8 Processors must manage CRTs and processed CRTs as follows:

- 9 (a) **When intentionally breaking intact CRTs or further**  
10 **breaking or separating broken CRTs; or sorting or**  
11 **otherwise managing glass removed from CRT monitors the**  
12 **following must occur:**  
13 (i) Processing must be performed within a building with a  
14 roof, floor, and walls; and  
15 (ii) No activities may be performed that use temperatures  
16 high enough to volatilize lead from CRTs.  
17 (b) **Processed CRT glass sent to CRT glass making or lead**  
18 **smelting:** Glass from CRTs that is destined for recycling  
19 at a CRT glass manufacturer or a lead smelter after  
20 processing is not a solid waste unless it is  
21 speculatively accumulated as defined in WAC 173-303-016  
22 or the applicable laws of the governing jurisdiction.  
23 (c) **Use constituting disposal:** Glass from used CRTs that is  
24 used in a manner constituting disposal must comply with  
25 the applicable hazardous waste requirements where  
26 disposal occurs.  
27

28 **(17) Exports of CRTs.**

29  
30 In addition to the storage, labeling and transportation  
31 requirements in this subsection, exporters of CRTs must  
32 comply with the following requirements. In this subsection  
33 "recycler" means processors and subcontractors.

- 34 (a) Notify the Environmental Protection Agency (EPA) of  
35 an intended export before the CRTs are scheduled to  
36 leave the United States. A complete notification  
37 should be submitted sixty (60) days before the initial  
38 shipment is intended to be shipped off-site. This  
39 notification may cover export activities extending  
40 over a twelve (12) month or lesser period. The  
41 notification must be in writing, signed by the  
42 exporter, and include the following information:  
43 (i) Name, mailing address, telephone number and  
44 EPA/state ID number (if applicable) of the exporter  
45 of the CRTs.

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

23 (b) Notifications submitted by mail should be sent to the  
24 following mailing address:

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

32  
33 Hand-delivered notifications should be sent to:

34  
35 Office of Enforcement and Compliance Assurance  
36 Office of Federal Activities  
37 International Compliance Assurance Division (Mail  
38 Code 2254A)  
39 Environmental Protection Agency  
40 Ariel Rios Bldg., Room 6144  
41 1200 Pennsylvania Ave., NW.  
42 Washington, DC.

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

45  
46 "Attention: Notification of Intent to Export CRTs."  
47

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

1 (vii) Exporters must keep copies of notifications and  
2 Acknowledgments of Consent to Export CRTs for a period  
3 of five (5) years following receipt of the  
4 Acknowledgment.  
5

#### 6 **(18) Notification and recordkeeping for CRTs exported for reuse.**

7 (a) Persons who export CRTs for reuse must send a one-time  
8 notification to the U.S. EPA Regional Administrator. The  
9 notification must include:

10 (i) A statement that the notifier plans to export CRTs for  
11 reuse,

12 (ii) The notifier's name, address, and EPA/state ID number  
13 (if applicable) and

14 (iii) The name and phone number of a contact person.

15 (b) Persons who export CRTs for reuse must keep copies of  
16 normal business records, such as contracts, demonstrating  
17 that each shipment of exported CRTs will be reused. This  
18 documentation must be retained for a period of at least  
19 five (5) years from the date the CRTs were exported.

#### 20 **(19) Environmental management system.**

21 The processor must have an environmental management system,  
22 appropriate in the level of detail to the scale and function  
23 of the facility, for regular and ongoing self-audits and/or  
24 inspections of the facility's environmental compliance. This  
25 system must include a mechanism for self-corrections and  
26 process improvements.  
27

#### 28 **(20) Reuse and refurbishment.**

29 (a) To send CEPs for refurbishment or reuse the processor  
30 must meet all of the following standards.

31 (b) The CEP or CEP components must:

32 (i) Be a computer or peripheral that is in working  
33 condition.

34 (ii) Have their hard drives wiped to the US Department of  
35 Defense 5220.22M 'one wipe' standard (or subsequent  
36 standards);

37 (iii) Be tested and working prior to shipping or providing  
38 the computer for reuse. The refurbisher must provide  
39 the direct processor/plan with documentation that the  
40 CEPs were shipped or provided to legitimate reuse.

41 (d) Be returned by the refurbisher to the contracted  
42 processor, at no charge and for no payment, if the CEPs or  
43 their components are found to be unsuitable for  
44 refurbishment or reuse.

1 (e) Be counted only once in the equivalent share calculations  
2 if they are returned as unworking CEPs.  
3

#### 4 **(21) Due diligence.**

5 (a) Downstream due diligence is the act of determining  
6 whether the practices and processes of a subcontractor  
7 conform to the relevant provisions standards for  
8 processors.

9 (b) To do due diligence a processor must obtain:

10 (i) Documentation sufficient to satisfy a compliance audit  
11 as required in subsection (4) of this section; or

12 (ii) Certification of the subcontractor's relevant  
13 practices and procedures by a third-party audit.

14 (c) The processor must obtain records that demonstrate that  
15 the subcontractor used by the processor is:

16 (i) In compliance with all applicable laws, regulations and  
17 ordinances;

18 (ii) Adhering to an environmental management system as  
19 described in subsection (19) of this section;

20 (iii) Managing the following selected components to ensure  
21 no adverse environmental impact:

22 (A) Batteries;

23 (B) Mercury containing lamps and components;

24 (C) CRT glass;

25 (D) Circuit boards; and

26 (E) Whole CEPs not working or tested.

27 (iv) Documentation of any penalties, violations, or  
28 regulatory orders of applicable laws, rules, or  
29 ordinances received by the subcontractor.

#### 30 **(22) Documentation of export of selected components.**

31  
32 (a) For mercury containing lamps and other components,  
33 batteries, circuit boards, CRT glass, and whole CEPs not in  
34 working condition or tested:

35 (i) Compliance with all applicable national export and  
36 import requirements of the export, import, and transit  
37 states and countries for all CEPs and related materials and  
38 parts.

39 (ii) Processors must maintain the following related  
40 records:

41 (A) Intended use and destination of shipments (including  
42 facility name and address) of CEP units, materials or  
43 components exported for reclaiming, reuse, or  
44 refurbished products, prepared in a manner appropriate

- 1           for material recovery processing for use in new  
2           products;  
3           (B) Specifications required by the destination facility  
4           in relation to shipment contents.  
5           (C) Documentation that all shipments for export, as  
6           applicable to the receiving facility, are legal and  
7           satisfy all applicable laws in the destination  
8           country, including import and operating permits and  
9           licenses.  
10          (D) Contracts with subcontractors.  
11          (E) Documentation that CEPs were rendered unusable before  
12          leaving the facility for further processing.

13  
14   **(23) Financial assurance for facility closure.**

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