

Option 3 Revisited

Scope of Products

Purpose: To establish products that will be included.

Desktop or personal computers, computer monitors, portable computers, and television that no longer hold functional value. The universe of products covered includes historic, orphan and migrated units that are in the state. Only products owned by residents of the state of Washington are included, verified by address and a valid Washington state driver's license of product owner.

"Functional value" means the value of a covered electronic product's ability to perform the functions for which it was designed in ways that are fully compatible with current technology and new products available to the public. Covered electronic products are considered to have no functional value when like products containing the same processing technology have not been sold to the public for four years or when it no longer operates as originally designed.

Planning

Purpose: To create a system for collecting transporting and processing end of life electronic products that involves all parties associated with the life of products.

All manufacturers of covered electronic products and retail companies branding as their own covered electronic products for retail sale shall register with the department of their intent to sell and write plans describing how they will provide services to assure recycling of covered electronic products at end of their functional life within and throughout the state of Washington.

Manufacturers may participate in developing and submitting a group plan and commit to participating in a third party managed system with the associated fee described below, or they may write an independent plan and self manage a system of their own design.

Plans must contain the following elements:

- Collection, transporting and processing systems that will be utilized;
- Collection, transportation and processing service providers;
- Costs of providing collection, transportation and processing services, individually;
- Accounting and reporting systems that will be employed to track progress toward meeting target recovery rates and document product sales within the state; and
- Public information campaign to promote the continued use and reuse of covered electronic products and to notify consumers about end of life management of the products by the final users.

Plans must be compatible with the state solid waste management plan and local government solid waste management plans.

The plans will be designed to build upon and utilize existing infrastructure and businesses in the state to the extent practicable and will result in the most cost effective approach for collecting, transporting and processing for the citizens of the state.

Plans must assure that covered electronic products collection services are available throughout the state at a level at least as convenient and available as it is to purchase new covered electronic products. Plans will assure recycling services are provided to:

- Private individuals;
- Small business;
- Government;

- School districts;
- Institutions of higher education; and
- Charities.

Plans may be updated periodically, and will be updated at least every four years, to accommodate changes in products and in response to new collection, transportation and processing technologies that improve efficiency and effectiveness and reduce overall costs.

Plans must be reviewed and approved by the Washington Department of Ecology.

Fee

Purpose: To assure funds are available to pay for collecting, transporting and processing covered products.

A fee is collected at the first point of possession of the electronic product into the state through the distribution system and paid back to the manufacturer.

“Manufacturer” is defined as any one that sells new to the public a brand label covered electronic product in or into the state of Washington. Manufacturers include:

- Original Equipment Manufacturers whose products are sold under brand names owned by the manufacturer, its subsidiaries and related companies;
- Assemblers of covered electronic products that use parts manufactured by others and sold under the assemblers brand names owned by the assembler, its subsidiaries and related companies;
- Retail establishments that sell covered electronic products under their own brand names, its subsidiaries and related companies that are assembled for them by others; and
- Retailers that assemble and sell covered electronic products directly to the public.

Manufacturers that submit independent plans may request a waiver from the requirement of paying a fee, if:

- The plan submitted demonstrates that the company can contribute to meeting target performance standards for their share of market sales; and
- The manufacturer meets the target performance standards, annually.

Manufacturers using independent plans and who have been granted a waiver from the fee, may not seek reimbursement for any expenses from fees collected to support their statewide system.

The fee will be set by the TPO and be evaluated annually. The funds will be operated similar to an escrow account. Manufacturers will be notified, based on the annual evaluation, if they need to pay more or pay less.

Third Party Organization Created

Purpose: To provide for overall management of the planned systems, create accountability mechanisms and provide a conduit for fund distribution.

A third party organization is created as a quasi-governmental organization within the state. The organization will be known as the MATERIALS MANAGEMENT AND FINANCING AUTHORITY. See *TPO discussion paper for details*.

System Management

Purpose: To establish the key elements of responsibility for the TPO.

- Manufacturers submit fee payments to a third-party organization (TPO).
- Manufacturers contract with the TPO to manage the program described in their plans.

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- The TPO is responsible for implementing a statewide program for the collection, transportation and processing of covered electronic products. The TPO will not operate collection, transportation or processing services directly, but rather will contract for services with qualified service providers operating within the state of Washington.
- All service providers must register with the department before they can contract to provide services with the TPO. The department will maintain a list of qualified service providers that have provided assurance of compliance with all state and federal laws related to waste management.
- The TPO will gather information and report program performance against the target recovery rate to the department.

Target Recovery Rates

To assure that maximum recovery of covered products is achieved.

A “units per capita” recovery rate is established for the program with the TPO and manufacturers bearing joint responsibility to assure that the rates are met. The rate is set at 80% of those units sold into the state 18 years prior for televisions and 80% of CPUs and computer monitors 11 years prior.

Reporting

Purpose: To monitor results of programs, create a multi-faceted accountability mechanism for both collaborative and independent manufacturers, assure fee payments are made appropriately and are adjusted as necessary, and create a tracking system to monitor export of covered products from the state.

Manufacturers will report to Ecology and TPO the number of units that their fee is based on, if using the TPO. Those manufacturers opting to write independent plans will report to Ecology the number of their branded units sold into the state of Washington.

Retailers and direct marketers will report to the department the number of covered electronic products sold into the state by brand and type.

The two reports must balance.

Transporters must report the number of units transported, from which county in the state the products originated and to whom collected products were delivered. Processors must report the number of units processed, where recovered materials were marketed and to whom in a manner that will provide a chain of custody trail to a new product.

Penalties

Purpose: To provide incentives for compliance.

Enforcement is the sole responsibility of the Department of Ecology. Penalties are set for:

- Failure to meet target recovery rate: \$100,000 for each percentage point under the target recovery rate collective assessed to all manufacturers and distributed amongst them as they agree, through the TPO. Money generated through the penalty shall be used by the TPO, less enforcement costs incurred by the department, to pay for public information campaigns that support the collection of covered electronic products.
- Failure to register as an electronic product collector, transporter or processor: \$10,000 for each violation and \$100 for each covered electronic product handled.
- Sale of non-brand label equipment prohibited: \$200 per each unit sold upon first citation of infraction and \$1,000 per each unit sold upon the second and each subsequent citations of infraction.

- Failure to register as a covered electronic products manufacturer: \$10,000 plus \$200 per each unit sold into the state upon first citation of infraction and \$25,000 plus \$1,000 per each unit sold into the state upon the second and each subsequent citation of infraction.
- Failure to submit a plan: \$10,000 plus \$1,000 for each covered electronic product sold into the state. Manufacturers will not be eligible to sell or have sold their covered electronic product brands to any government or political sub-division within the state.
- Unapproved disposal of covered electronic products prohibited: \$200 for each unit. No owner of covered electronic products shall dispose of covered electronic products within the state of Washington outside of the systems established within the approved plans. Funds collected under this provision shall be used to supplement TPO consumer education programs, less cost of bring enforcement actions by the department. (By-pass wastes and products with no secondary market may be disposed of appropriately, only after they have been processed to recover all usable and marketable materials).

Other Provisions

Export

Purpose: To assure that materials generated within Washington state are handled in a manner at least as stringent as required in the United States.

All transporters and processors must report to the TPO the type of material transported and processed and where it was delivered foreign and domestic. All shipments must comply with all state and federal environmental, import and export laws, all applicable laws of receiving countries and all applicable international laws and agreements.

Labeling

Purpose: To assure that all manufacturers of covered products sold within the state are in compliance and have submitted and received approval of their plans.

All covered electronic products sold into the state of Washington shall be labeled by the manufacturer of the products in such a way that the labels cannot be removed and include brand, and name of manufacturer and date of manufacture by month and year.

Restrictions on Hazardous Substances

Purpose: Protection of human health and the environment.

Electronic products sold into the state of Washington must comply with the European Union's directive, "restriction of the use of certain hazardous substances in electrical and electronic equipment," (RoHS).

Deferral to national program

Purpose: To encourage a national system.

This would become void upon the establishment of a national electronic product recycling system established by and funded through an act of Congress.