

COMMENT AND QUESTIONS RELATED TO SECTION 2

Establishing target recovery rates is not necessary when requiring that all covered products be processed. Target recovery rates, or performance targets, are necessary when there are no processing requirements.

The target recovery rate as offered under the previous option, 3A Revisited, received the following comments:

- The target percentage is too high compared to Hennepin County where they have been collection electronic products for recycling for years.*
- How can you hold manufacturers accountable to meet a target recovery rate that is completely dependent upon the consumer to make the decision? Manufacturers have no influence over consumer decisions.*
- Penalties associated with not meeting the targets are too high. If we met Hennepin County rates, we would pay \$3,000,000 in penalties.*
- There should be a ramp up over a period of time to meet a target rate. Then we will know what we need to do to achieve it or if the target is reasonable*
- No bill will survive that has required target recovery rates and associated penalties.*
- We need to try things out, see how they work and make adjustments before we can really set any kind of recovery target.*
- Why not just set a goal to achieve without penalties? That will give us something to shoot and an opportunity to try different approaches without the threat of a penalty.*

For every point, there is a counter-point. Responses to those comments include:

- Electronics recycling is not required in Hennepin County and curbside collection is only offered in a small area. Their system could be improved.*
- Manufacturers and retailer influence consumer behavior all the time through advertising, promotion and offering incentives to purchase products Influencing consumer choices is what marketing is all about. That is what manufacturers and retailers are skilled at doing, far better than government.*
- What is an appropriate incentive to meet target recovery rates? In order for penalties to work they need to be meaningful.*
- Suffice it to say, there was a five-year period before penalties would kick in. Is that not reasonable?*
- Government is held accountable in many and redundant ways. There needs to be some type of performance measure to assure accountability and commitment by manufacturers in this type of program as well.*
- A five-year period without penalties kicking in was suggested. If that is not long enough, what is and why?*
- Goals in statute are soft without some sort of associated incentive.*

The issue is assigning responsibility appropriate to the ability to carry out an action. When collection, transportation and processing costs are paid by the mechanism described in Section 3, those services would be free to the consumer at product end of life.

In order to require that all products that are available to recycle are recycled, there needs to be a standard level of service established and an effective and ongoing public information and advertising effort to make sure that consumers are aware of their options.

Placing the onus is on the consumer to participate in the approved programs is appropriate. It is appropriate for manufacturers to design and sell products to consumers that are easily recycled at end of life and provide markets for the recovered material. To the extent that retailers and manufacturers influence consumers in purchasing decisions through advertising, promotions and incentives, an equal level of influence needs to be exercised to assure that consumers return products for recycling at end of life. Government could support this education effort, though that is not government's traditional role. The role of government has traditionally been to establish the rules within which society operates and to enforce those rules.

By requiring processing, all by pass wastes and materials lacking markets after processing can be disposed as waste. This is opposed to a ban, where nothing could be disposed. Bans could cause the processing jobs to go elsewhere, off shore perhaps, where by-pass wastes could be disposed.

The concern expressed is that requiring that all products be processed is a de-facto disposal ban.

However, recognizing that by-pass wastes and non-marketable materials do exist, allows disposal and is therefore not a ban.

Questions:

1. Should we focus on recycling 100% of what is available? Or, should we set a target recovery rate based on the average age of products at end of life and the number of units brought into the state at a point in time equivalent to that average age?
2. If a target recovery rate is preferred, what percent of the total should be captured in these programs?
3. Keys to success in using the required processing approach are to include a high investment to advertise, promote and provide incentives to consumers. How can a public information and advertising campaign be required and enforced? Sections 13 and 14 provide an approach.
4. The other key to success is establishing a level of service for collection of products from consumers. Under section 5. B., a method to determine level of service is suggested. What are the pros and cons to that method? Is there a more effective method?

COMMENTS AND QUESTIONS RELATED TO SECTION 3

1. How should target share and failure to meet target share – leveling the playing field for fairness between manufacturers' plans – be addressed?

Here is the formula for calculating share of responsibility: Number of returned units X % market share = number of units per manufacturer or per plan.

2. What should the enforcement mechanism be, if company A exceeds their share and company B falls short?
Options:

- a. A financial penalty levied on company B by the state for each unit short – such as \$75 per unit.
- b. A cost reimbursement to company A from company B for the services rendered.
- c. A cost reimbursement to company A from company B based on the average cost of all programs per unit.
- d. A fixed per unit reimbursement from company B to company A that is set in statute and adjusted to inflation, that covers the cost, plus a bounty to company A – such as \$75 per unit.
- e. Other???

3. Should televisions, CPUs and monitors be tracked separately for assigning share?
4. What are reliable and accessible sources of information to determine market share?
5. Should there be a margin within which falling long or short does not count? When should enforcement kick in? For example, falling short of the share number by 750 units (?) would kick in an enforcement mechanism. Is 750 too high, too low? Should it be a percentage, for example if company B fell short 5% or more the enforcement mechanism would kick in?

COMMENTS AND QUESTIONS RELATED TO SECTION 4

The requirements in section 4 are created to assure that out of state marketers participate. This is based on a law that regulates the sale of fertilizer in the state. It requires labeling and includes out of state sources.

Questions:

1. Outside of this approach described in section 4, are there other ways to assure that out of state companies participate?
2. If a company does not submit a notice of intent to sell, how would the state know about them?
3. If a company refused to participate in the notification and licensing requirements, should there be a penalty? If so, what should that penalty be?

COMMENTS AND QUESTIONS RELATED TO SECTION 20

1. *Are the penalties appropriate? Are they about right, not enough or too much?*
2. *What other penalties can be used other than financial penalties?*

COMMENTS AND QUESTIONS RELATED TO SECTION 21 through 27

Sections 21 through 27 describe a third party organization that would be quasi-governmental in nature.

1. *Is it necessary to create this authorization?*
2. *Within plans, manufacturers could create a similar organization, as a non-profit without government involvement. Why would a quasi-governmental TPO be better than a non-profit?*
3. *If the authorization to create a quasi-governmental organization to provide program management services, would manufacturers use it? Or, would they opt for the non-profit?*
4. *Other questions?*