

COMMENTS REGARDING E-WASTE POLICY DEVELOPMENT INITIATIVE

Presented 11/18/05 by:
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Good morning. I'm Joe Shacter, Senior Policy Advocate at the Environmental Law & Policy Center, headquartered in Chicago and doing work in all of the region V states. We are an organization that supports policies that improve both our economy and our environment.

Along those lines, we thank USEPA, Region V and the Midwest environmental agencies for organizing this meeting. We share your concern about the rapidly accumulating mountains of discarded electronic equipment from both home and business. We also see this new form of waste as a tremendous business opportunity, and are happy to see the Illinois Department of Commerce and Economic Opportunity so interested in this issue. We hope similar departments in other states are supportive as well.

We also applaud basing this model legislation, at least in part, on the NERC legislation. We concur with the goal of making e-waste legislation compatible across regions, ideally forming the basis of eventual federal legislation. We also endorse the concept of a landfill ban for this equipment.

Before focusing as requested on financing, let me start with an overall concern. We are troubled that Section V now refers to fees only covering video display devices, rather than all "covered electronic devices" as in previous drafts. We're happy that Lucy earlier said that this is not narrowing of the scope of this proposed legislation to only be video display devices because this should not be permitted. Electronic waste includes many other forms of equipment that also should be covered comprehensively, including cellular phones. While some manufacturers, notably Motorola, are to be applauded for creatively motivating consumers to send back their phones, codifying a recycling requirement would force the entire industry to behave in an environmentally appropriate way.

Now on the financing plan:

- 1) Again, we are confused that the \$10 fee applies only to video display devices. While these devices may be the most costly of all covered equipment, recycling anything costs money. We thus want to ensure the future of e-waste recycling is sound by having sufficient funding available, and are concerned about subsidization across product lines. We suggest a graduated fee schedule for all covered devices.
- 2) We are inclined to support the manufacturer responsibility model, rather than an advance recovery fee, because we believe the latter to be cumbersome, both because of Internet sales and because we believe manufacturers will probably add the relatively small recycling charge to the formula for calculating the suggested retail

- price—and thus recover the cost. Because consumers pay hundreds or thousands of dollars for this equipment, we believe an additional \$10-\$20 per piece, whether separately listed or part of the MSRP, is trivial, although showing the cost could raise consumer awareness about the need for, and cost of, recycling. We indeed echo the many statements made this morning about the importance of educating consumers to any new recycling legislation and opportunities.
- 3) However, there is an apparent conflict in Option A, paragraph 1. The first clause says \$10 per video device sold to a consumer. But the second clause states the \$10 will be applied based on the number of video devices placed on the market. We are inclined to support the concept of the first clause, and suggest additional NERC-like language requiring retailers to submit periodic reports of sales of covered electronic devices. These reports could then be efficiently tracked to ensure proper billing of manufacturers.
 - 4) The addendum is not needed. Why not just reimburse from the fund any manufacturer that recycles, such as Hewlett-Packard, based on proof of recycling?

I have three other comments:

- 1) Historic or orphan products are not mentioned. They are extremely important to recycle, because, being older, they are more likely to contain hazardous waste. Accordingly, we believe the fees for recycling these materials should be based on current market share, which again would be straightforward to compute based on the periodic retailer sales reports we believe should be made part of the bill.
- 2) The concept of reuse has been removed entirely from the legislation, as it was from NERC's. On the surface, this causes concern. On the other hand, reuse occurs in one of two ways: A charitable donation, for which an individual or company can take a tax deduction, or a manufacturer take-back, refurbishment, and eventual sale, presumably for a profit. This opportunity for either a tax deduction or additional profit on a second use of the machine should provide an incentive for that practice to occur and perhaps reduce the volume of e-waste anyway.
- 3) Finally, Section 9, paragraph 4 states that the third-party corporation overseeing the fee program will compensate "qualified collectors and recyclers." We assume that Section 14, paragraph 2's reference to the Agency establishing performance requirements is the definition of qualification. These requirements are crucial because some companies and recyclers, as noted by the Silicon Valley Toxics Coalition and other groups, have been known to export their collected equipment to third-world countries that then "recycle" the equipment by having impoverished people do the disassembly, exposing them to hazardous materials. This dangerous, inhumane practice should not continue, as my colleague Mike Mitchell from the Illinois Recycling Association agrees.

Again, the Environmental Law & Policy Center thanks the U.S. and state EPA's for hosting this meeting, and hope that it starts us down the path of a sound, economically beneficial, and environmentally friendly approach to handling this growing problem. Thank you.