



February 8, 2006

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Submitted via Email to [cynthia.moore@dnr.state.wi.us](mailto:cynthia.moore@dnr.state.wi.us) and [garth.hickle@pca.state.mn.us](mailto:garth.hickle@pca.state.mn.us)

RE: Midwest Regional Electronic Waste Initiative

Dear Cynthia and Garth:

Apple appreciates the opportunity to provide comments and voice our concerns on the Midwest Regional Electronic Waste Initiative as released on January 20, 2006.

Apple is committed to preserving the environment. In recent years, Apple has been credited not only for our environmentally forward looking product design but also for our leadership in working to craft sound public policy surrounding this issue. In addition, Apple is an active partner with the National Environmental Product Stewardship Initiative (NEPSI) dialogue and the Electronic Industries Alliance's (EIA) national efforts working to develop agreements on recycling programs. While Apple prefers a national solution, we have helped shape state solutions that are effective in eliminating electronic waste and do not place any in-state manufacturer at a competitive disadvantage. Apple was one of the leading companies in California's legislative effort regarding eliminating electronic waste. We were the first computer manufacturer to support the legislation in 2002 and continuously worked with the author until passage. We have also participated in the Minnesota, Maine and Washington stakeholder group to discuss solutions to recycling electronic waste, and we are actively participating in the Northeast Recycling Coalition's Stakeholder Dialogue.

The discussion draft's proposed model attempts to create an electronic waste recycling program at the state level that is unfair to companies like Apple that have operations in the state and would result in a much higher cost of recycling than is necessary. Specifically, this bill would require any manufacturer that has its products sold into the state to pay a fee per unit to cover the cost of recycling or to provide their own means to recycle discarded devices in the state. Apple believes that the burden of electronic recycling is a shared responsibility amongst consumers, retailers, manufacturers and local governments. Apple believes that municipalities, who have the expertise and experience in developing waste management solutions, should work with manufacturers to build upon pre-existent solutions to develop efficient and practical systems for covered electronic devices. Apple also believes that the financial burden of this program should be shared amongst all parties: consumers, retailers, manufacturers and local governments. This draft places all financial responsibility on one party, the manufacturers, unfairly.

Apple has worked hard for the past several years to design for the environment and encourage recycling, including pilot recycling programs. Apple believes, from its many years of research, that the most efficient financing model to reduce electronic waste is to place an advanced recovery fee at the time of first sale on devices determined to be hazardous. Apple supports this solution because it does not place any company at a competitive disadvantage and it allows manufacturers to use already-established recycling systems instead of establishing new, less efficient programs in which they have no experience managing. One of the key goals of a comprehensive recycling system is ease of use for the consumer. We believe that the advanced recovery fee system provides the greatest amount of ease.

This draft assigns a manufacturer of covered electronic devices responsibility based on a per unit basis of devices sold into the state. Current business models will allow for manufacturers to circumvent this process and sell into the state. A fee on manufacturers can only be truly accounted for on direct sales into the state to the consumer. Most manufactures, however, sell into the states through wholesalers, resellers and other channels that, once the stock leaves the manufacturer, provide the manufacturer with no way to account for the amount of products sold into a state. The fee works best when it is applied at the time of sale at the consumer level in the state where the transaction can actually be followed and recorded. For this same reason of maximum enforcement, states collect sales tax at the retail sale versus trying to collect at another point along the process. Finally, retailers, including Apple with 5 retail stores in Illinois, 1 in Indiana, 3 in Ohio, 3 in Michigan, 1 in Wisconsin and 1 in Iowa, are already familiar with remitting sales tax to the state, and thus a system that mirror's this collection would be least costly to manage.

Below is a section-by-section breakdown of our concerns on the draft dated January 20, 2006, along with suggestions that we feel will make the bill easier to comply with.

### **Section 1(g): Definitions – “Covered Electronic Device”**

Apple believes that for a device to be singled out for a unique and costly disposal regime, there should be a scientific basis established before a program is initiated. Once a device has been categorized as hazardous waste, and thus banned from general disposal (landfill/incineration), then listing is proper. This bill creates an electronic waste take back program for devices that have not been scientifically tested and determined to be hazardous to the environment. We believe that the scope of covered devices should be limited to those which have been identified as hazardous and that must be diverted from the waste stream. Without such a system, and the ability to be 'de-listed,' the state removes one of the most powerful tools to encourage and reward those who design for the environment.

### **Section 6: Financing Mechanism**

This section only assigns fees for recycling on video display devices. If the entire scope of the bill includes desktop computers, desktop printers, VCRs and DVD players, why are no fees assigned to cover the cost of recycling those products? Video display device manufacturers should not be responsible for costs of recycling products they do not manufacturer.

In addition, this current draft assesses fees on a per unit basis. Apple believes that one way to provide incentives to manufacturers to design for the environment is to assign the fee based on the weight of the product. The costs of recycling are determined by weight, not by unit. In

addition, in distinguishing the fee by weight, manufacturers have incentives to design lighter weight products that contain less material, which drives down the cost of recycling.

### **Section 7: Manufacturer Responsibility**

Apple has concerns over what methods the agency will use to acquire market share. In our experience, states differ on a computer per capita ratio. How will this be taken into account with this model?

### **Section 7: Retailer Responsibility**

Section (2) states that a retailer will only sell products from manufacturers that are in compliance with this Act. This sentence is worded awkwardly and Apple suggests that the sentence be reworded to reflect that retailers cannot sell covered electronic devices from manufacturers that do not participate in the program. As it currently reads, the retailer can only sell products from manufacturers that are in compliance with this Act. What about products that are not included in the scope of this Act? Or, what about non-covered products from manufacturers that are not compliant with this act?

Section (3) would require a retailer to indicate on the receipt that the device has an associated recycling fee that was paid for by the manufacturer. We feel that this requirement is unnecessary if the retailer is already required to provide information instructing the consumer on proper end-of-life management.

### **Section 19: Effective Date**

Apple asks that the effective date of this bill be extended to give manufacturers opportunities to redesign and review their business operations before the bill is put into effect. We suggest that the 90-day timeframe be extended to at least 12 months.

Apple thanks you for the opportunity to provide comments to Midwest Regional Electronics Waste Initiative. We look forward to working with you further as we finalize this draft. Please feel free to contact me at (408) 974-2503 if you have any questions.

Very truly yours,

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