



E-Waste Principles for State Legislation

The Consumer Electronic Retailers Coalition (CERC) and its members support a national approach to e-Waste built on the principles of manufacturer responsibility and flexible implementation rather than a patch work of state by state solutions.

Should states proceed with legislation, it should embrace the following basic principles.

- **Keep the process simple – Do not over bureaucratize**
 - Legislation should focus only on those devices/products that are truly deemed to be problematic: e.g., Visual Display Devices with a screen size greater than 9” (includes TVs, monitors and laptops) and desktop/personal computers.
 - *See suggested definitions of ‘scope of products’ attached.*
- **Manufacturer Responsibility - Allow for ‘flexibility’**
 - Of the states that have adopted e-Waste legislation, all but one has adopted a version of “manufacturer responsibility.” The other, California adopted an Advanced Recovery Fee (ARF) which was strongly opposed by retailers. The ARF system has resulted in a significant increase in the original fees, few incentives for innovation or economies of scale and higher prices for consumers.
- **A Manufacturers Responsibility Bill Should Encourage Flexibility, Innovation and Voluntarism**
 - Brand manufacturers should be free to develop their own collection and recycling plans that are deemed to be reasonably convenient for consumers.
 - Voluntary programs should be encouraged.
 - Performance measures should be realistic and provide incentives for manufacturers to increase collection numbers. It is unrealistic to think that consumers can be forced to discard unwanted, obsolete electronics that have reached their end-of-life.
 - Performance measures could be based on the weight of what is discarded
 - Manufacturers could be assessed their share of the responsibility after it is determined what CEDs have come back into the waste system – based on their national market share the previous year extrapolated against the State’s population.

- Manufacturers should receive credits for collecting over and above their market share – e.g. either carrying over to the next year, getting paid for the extra collection, or being able to ‘sell off’ their extras to other manufacturers in the free market place.
 - *See suggested definition of ‘manufacturer’ attached.*
- **Retailer Responsibility**
 - Given reasonable and sufficient notice (allowing for the sell through of CEDs in stock), retailers in the State could be prevented from offering for sale unregistered (and not branded) covered electronic devices. (See suggested definition)
 - Retailers with private label/exclusive brands would be considered ‘manufacturers’ and could be required to develop/implement their own collection program, as well.
- **Reporting**
 - Retailer reporting should be limited. Retailers should not be required to provide proprietary, geographic specific sales data to government agencies or manufactures. The risks of disclosure or misuse or mismanagement of the data are great. Reporting requirements are also administratively burdensome and expensive. The retail reporting regime established in Minnesota for example is not working well and has imposed heavy costs and risks on retailers and manufacturers. Data is best found by extracting the information from national sales data, extrapolated to the State level based on population or other mathematical model. (see suggested language adopted in NC and other states)
- **Consumer Education**
 - Consumer education responsibilities should be realistic, flexible and appropriate for a high volume retail environment. Retailers are prepared to provide CED consumers useful information about recycling options for consumers. Retailers should be given flexibility to implement education efforts in a way that does not slow productivity or checkout time. In this regard, references to “point of sale” should be avoided. Information can be provided in printed form for in-store sales and in printable form for Internet sales.
- **Sunset Provision – Being Open to a Federal Approach**
 - Given the fact that consumer electronics are so easily transported across geographical boundaries and their design/content cannot be easily tailored to individual states we are suggesting a couple of provisions – *see below.*

Suggested Definitions

"Covered Electronic Device" ("CED") means computers and video display devices.

Personal computers include desktop, portable and laptop computers. Video display devices (VDDs) include computer monitors and televisions with or without a tuner, Cathode Ray Tube (CRT)-based and non-CRT-based. A CED does not include:

- (a) An electronic device that is a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchise dealer, including replacement parts for use in a motor vehicle;
- (b) an electronic device that is functionally or physically a part of a larger piece of equipment designed and intended for use in an industrial, commercial or medical setting, including diagnostic, monitoring or control equipment;
- (c) an electronic device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier or air purifier;
- (d) telephones of any type unless they contain a video display area greater than nine inches (9") measured diagonally; and
- (e) nor shall a CED be considered hazardous waste, household waste, solid waste or special waste.

"Computer" means a desktop, portable or laptop electronic, magnetic, optical, electrochemical, or other high-speed data processing device intended for use in a home or residential environment and marketed to the general public, which is capable of performing logical, arithmetic or storage function, and may include, but not be limited to, both a computer central processing unit and a monitor, but does not include an automated typewriter or typesetter, a portable handheld calculator, a portable digital assistant or other similar device.

"Monitor" means a separate video display component of a computer that does not contain a tuner, whether sold separately or together with a computer central processing unit or computer box, and includes a cathode ray tube, liquid crystal display, gas plasma, digital light processing or other image projection technology greater than four inches when measured diagonally, and its case, interior wires and circuitry.

Additional sub-definitions, but may not be necessary:

"Television" means a stand-alone display system containing a CRT or any other type of display primarily intended to receive video programming via broadcast, having a viewable area greater than four inches when measured diagonally, able to adhere to standard consumer video formats such as PAL, SECAM, NTSC, ATSC and HDTV and having the capability of selecting different broadcast channels and support sound capability.

"Video display device" means a device that has an output surface having a viewable area greater than nine inches when measured diagonally that displays moving graphical images or a visual representation of image sequences or pictures, showing a number of quickly changing

images on a screen in fast succession to create the illusion of motion, including, but not limited to, a device that is an integral part of the display that cannot be easily removed from the display by the consumer and that produces the moving image on the screen and includes technology using a cathode ray tube, liquid crystal display, gas plasma, digital light processing or other image projection technology.

“Manufacturer” means any person who, irrespective of the selling technique used, including by means of remote sale:

- (a) Manufactures covered electronic devices under its own brand for sale in the United States;
- (b) manufactures covered electronic devices for sale in the *[State/Commonwealth of X]* without affixing a brand;
- (c) resells under its own brand name or label in the *[State/Commonwealth]* covered electronic devices manufactured by another, unless the firm or entity which manufactured the covered electronic devices sold under the brand name or label of the reseller meets the labeling and registration requirements of this act.;
- (d) imports covered electronic devices into the United States. However, if a company or licensee from whom an importer purchases the covered electronic device has a presence in the United States and/or assets, that company or licensee shall be deemed to be the manufacturer; or
- (e) manufactures covered electronic devices, supplies them to any person or persons within a distribution network that includes wholesalers or retailers in the *[State/Commonwealth]*, and benefits from the sale in the *[State/Commonwealth]* of those covered electronic devices through that distribution network.

Sell Through Provision (North Carolina Language)

A retailer is not responsible for an unlawful sale under this subdivision if the manufacturer's registration expired or was revoked and the retailer took possession of the covered device prior to the expiration or revocation of the manufacturer's registration and the unlawful sale occurred within six months after the expiration or revocation.

National Sales DATA (NC Language)

The Department shall use national televisions sales data available from commercially available analytical sources to calculate the generation of discarded televisions and to determine market share recovery responsibilities for television manufacturers. The Department shall extrapolate the State's national data on the basis of the State's share of the national population.

Regulation of Video Display Devices

If the United States Environmental Protection Agency adopts regulations under the

Resource Conservation and Recovery Act regarding the handling, storage, or treatment of any type of video display device being recycled, those regulations are automatically effective in this *[state/commonwealth]* on the same date and supersede any rules previously adopted by the agency regarding the handling, storage, or treatment of all video display devices being recycled.

Multistate Implementation

The agency and department are authorized to participate in the establishment of a regional multistate organization or compact to assist in carrying out the requirements of this chapter.

Limitations

The relevant sections of this law will expire if a federal law or combination of federal laws takes effect that is applicable to all video display devices sold in the United States and establish a program for the collection and recycling or reuse of video display devices that is applicable to all video display devices discarded by households.

Conclusion

While CERC strongly favors a national manufacturers responsibility approach to e-waste, we welcome any opportunity to be a resource to policy makers and industry. If you have any questions, please contact Chris McLean, Executive Director of CERC at 202.292.4600 or chris@cercteam.com.