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**WELCOME TO THE NJDEP
STAKEHOLDER MEETING FOR
ELECTRONIC WASTE RECYCLING
RULES DISCUSSION**

October 2021

OPENING REMARKS

Why Amendments are Necessary

- To accurately reflect the 2017 revisions to the E-waste Law
- To refine definitions
- To ensure roles and responsibilities are clearly articulated
- To clarify the credit process
- To discuss Compliance Issues and Enforcement

GOAL OF MEETING

To Inform stakeholders of rule changes
and receive feedback

Note: Topics previously
discussed in 2019 that have
not changed may be
covered quickly.



INTRODUCTIONS

- **Assistant Commissioner's Office, Site Remediation & Waste Management**
 - Judith Andrejko, Esq., *Regulatory Officer & Facilitator*
- **Bureau of Recycling & Hazardous Waste Management**
 - Daniel Clark, Ph.D. *Environmental Specialist & Rule Manager*
 - Karen Kloo, *Bureau Chief*
 - Janis Hottinger, *Supervisor*
 - Scott Compton, *Environmental Specialist*
 - John Dickinson, *Rule Assistant*
- **Bureau of Hazardous Waste Compliance & Enforcement**
 - Nick Baier, *Environmental Specialist*

INTRODUCTIONS - STAKEHOLDERS

- Before commenting, please state your name and affiliation.
- To ensure accurate notes, please speak slowly and clearly.
- Please mute your microphone.
- Q&A sessions will be offered throughout the presentation and at the end where the panel will address additional questions.
- There are two options for interacting: one is to raise your hand, and the other is to write your comment in the meeting chat.
- If you raise your hand to make a comment, please consider turning on your camera.
- If you have multiple questions for each topic, please allow others time to speak and direct your remaining questions to the panel.



GENERAL OVERVIEW OF PROGRAM

- ANNUAL REGISTRATION & FEE - Program year begins 1/1
- COLLECTION OBLIGATIONS ARE CALCULATED & ISSUED (Spring)
- COLLECTION PLANS SUBMITTED (60 days after obligation issued), REVIEWED
- SEMIANNUAL REPORTS (SARs) - 8/1, 2/1
- PROGRAM YEAR ANALYSIS (actual-market-share-in-weight)
- CREDIT ACCUMULATION & TRADING PROCESS

DETERMINATION OF A MANUFACTURER'S ESTIMATED- MARKET-SHARE-IN-WEIGHT

- Covered Electronic Devices (CEDs)
- Market Share (MS)
- Estimated-Market-Share-in-Weight (EMSW)
- DEP calculates separate market shares for 3 categories of CEDs
 - Televisions, Computers/monitors/tablets, Desktop printers/faxes
 - National sales data is used
- A Manufacturer's Overall Market Share is calculated

DETERMINATION OF A MANUFACTURER'S ESTIMATED-MARKET- SHARE-IN-WEIGHT

- DEP determines the manufacturer's EMSW for a program year.
- DEP provides the manufacturer with its program-year MS and its EMSW via an EMSW notice.
- 10 – day comment period for MS and EMSW

COLLECTION PLAN

- Must be submitted to DEP within 60 days of receiving its estimated-market-share-in-weight
- The plan must include:
 - the methods and services that would be used to collect CEDs, (including sites and events)
 - processes and methods that would be used to recycle CEDs,
 - the means that would be used to publicize collection services,
 - how the manufacturer intends to meet its collection obligation through its own operations.
 - Certification template

SEMI-ANNUAL REPORTS

- Due Feb 1st and Aug 1st of each year
- Completed by ARs, collection sites, and manufacturers
- Every manufacturer must report on its progress
- Every GPA must report for each of its manufacturers
- Every operator of a collection site must report the weight of CEDs collected at the site
- Every AR must report on the collection, transportation and sale of weight recycled at the facility and the disposition of any recycled CED or residue from the recycling process.

AUTHORIZED RECYCLER SARS

- AR SARs are the backbone of the program
- Will be adding a tab for consolidated "Manufacturer/GPA sold to" for Jan-June 2022 SAR

RECORD KEEPING REQUIREMENTS FOR AUTHORIZED RECYCLERS (ARS) & OPERATORS OF COLLECTION SITES

- An Authorized Recycler would be required to maintain a Covered Electronic Device Receipt
- An operator of a collection site would be required to maintain a record of CEDs transported from the site.
- An AR and operator of a collection site would be required to retain the foregoing records for a period of three calendar years.

PERFORMANCE REQUIREMENTS FOR OPERATORS OF COLLECTION SITES AND AUTHORIZED RECYCLERS

- Authorized Recyclers and subcontractor must be R2, e-stewards or equivalent certified
- Additional requirements for operators of collection sites include staffing and securing the site, and training staff
- Additional performance requirements for ARs would include compliance with any State requirements for permits or approvals

GROUP PLAN ADMINISTRATOR (GPA)

- A group plan administrator will be required to comply with the requirements of the rules for each manufacturer
- GPA may not sell any weight to manufacturers outside its group or to other group plan administrators until it has collected each of its participating manufacturers' estimated market-share-in-weight for that year
- GPA required to collect sum of weight for all manufacturers

AUTHORIZED RECYCLER ACTING AS A GPA

- Weight purchased from another AR would only be able to be sold to a manufacturer within the group - not resold
- Weight collected, transported and recycled from other sources would be able to be sold to manufacturers outside the group or other manufacturers, as well as manufacturers within the group.

Q AND A?

PROGRAM YEAR ANALYSIS

- Step 1: Tabulate total weight collected
- Step 2: Compare total actual weight collected to estimated obligation
- Step 3: Adjust overall obligation based on collection by all manufacturers (if necessary, based on DEP discretion)
- Step 4: Issue adjusted obligation to manufacturers (if necessary)

CREDIT ACCUMULATION & TRADING

- DEP did this for the 2020 Program Year in Spring of 2021
- DEP largely views this as a success for the first time the credit trading period was run in that DEP was able to track the movement of credits and at least some credits transferred among manufacturers
- That said, DEP would welcome feedback on how to make this easier

CREDIT ACCUMULATION AND TRADING

- Step 1: Calculate manufacturer's Actual-Market-Share-in-Weight
 - Total weight of all CEDs collected \times program-year-market-share
 - Actual collected exceeds actual market share in weight = credit
 - Actual collected less than actual market share in weight = shortfall
 - 1lb = 1 credit

CREDIT ACCUMULATION AND TRADING

- Step 2: DEP notifies a manufacturer of its actual-market-share-in weight
 - Includes number of Credits or Shortfall weight
- Step 3: Credit Trading
 - Apply 25% towards following year's obligation
 - Sell the credits to other manufacturers
 - A manufacturer with a shortfall will be required to cure their shortfall
- Credit Trading period of 45 days

CREDIT TRADING & GROUP PLAN ADMINISTRATORS

- A GPA may transfer or apply credits if:
 - GPA's contract with its members authorizes it to do so, and
 - GPA collects, transports, and recycles CEDs in excess of the combined actual market-shares-in-weight of its members.
- If a GPA meets the above criteria, the GPA may:
 - Transfer credits to one or more of its members with a shortfall
 - Apply credits to satisfy up to 25% of that member's estimated-market-share-in-weight for the following program year
 - or both, if sufficient credits are available.

CREDIT TRADING REPORTING & RECORDKEEPING

- Submit report detailing any Credit trading transactions
 - Within five business days of the close of the credit-trading period
- Maintain records on transactions for three years
- Records shall be made available to the Department upon request.

FAILURE TO CURE A SHORTFALL

- Within 10 business days of the close of the credit trading period, the manufacturer or if applicable, the GPA, may submit a written explanation to DEP elaborating on the amount of the shortfall, whether the manufacturer met its estimated-market-share-in-weight for the year of the shortfall, or if not, the reasons therefore, the manufacturer's/GPA's effort to cure the shortfall, and the steps taken to prevent a recurrence.
- DEP would weigh all of the information submitted in considering its enforcement options. Submission of the required information does not mean that DEP would not assess a penalty or a non-compliance fee, only that DEP would consider the circumstances that led to a shortfall in evaluating its enforcement options.

Q AND A?

COMPLIANCE

A. Compliance List for manufacturers

1. *Posted on NJDEP webpage:*

<https://www.state.nj.us/dep/dshw/ewaste/index.html>

2. *Retailers consult with the webpage before selling products*

B. Sale Ban

1. *Prohibition for non-compliant OEMs to sell CEDs in NJ*

C. Non-compliance fee

1. *Imposed on entire obligation*

2. *Statutory, not DEP discretion to change*

ENFORCEMENT

A. Penalties

1. The Act authorizes the Department to assess a civil administrative penalty in an amount not less than \$500, nor more than \$1,000 for a violation of the Act or the rules, except that a maximum penalty of \$25,000 may be assessed for certain statutorily enumerated violations.
2. A civil administrative penalty would be assessed for many violations via a base penalty set forth in a penalty table. The amount of each base penalty would reflect the above-noted penalty scheme and may be adjusted upward via a severity component .
3. Penalties for violations without a base penalty would be assessed via a matrix using seriousness and conduct factors.
4. Request for hearing must be submitted **within 35 days** of receipt of a notice of penalty assessment.

GRACE PERIOD

A. Minor Violations

1. No penalty assessed if compliance is achieved within specified timeframe.
2. A violator's compliance history may preclude the violation being designated as minor and thus the ability of the violator to cure the violation without penalty during the grace period.

B. Non-Minor Violations

1. No grace period is available for non-minor violations.

FEE SCHEDULE

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- The Electronic Waste Management Act authorizes DEP to "charge reasonable fees for any of the services to be performed in connection with [the Act], which shall cover the full costs incurred by [DEP] for the review of plans and for other costs incurred by [DEP] for the implementation of [the Act]."
- Consistent with the above authority, the Department is working on a fee schedule for the e-waste program, which will be incorporated into the proposed rules.
- The fee schedule would establish reasonable fees to cover the costs of reviewing collection plans, semi-annual reports and other documents submitted to the DEP, as well as other program costs.
- The fees would supplement other available funding sources, when necessary, and ensure the continued and efficient operation of the e-waste program.
- The fee schedule will be available for public review and comment during the proposed rules' 60-day comment period.

Q AND A?

CLOSING REMARKS

- A. Summaries of the topics covered at the meeting and relevant information will be made available following the meetings at <https://www.nj.gov/dep/workgroups/index.html>
- B. Following proposals of the rule changes, formal comments on the rules can be made by anyone during the announced comment period.
- C. The Department will publish the proposed electronic waste rule in the New Jersey Register and accept public comment on the rule for a period of 60 days. During that time, all interested parties may submit comments to the Department. All comments on the rule proposal should be submitted as directed in the proposal.
- D. If you would like to provide additional comments about this meeting, please send them to: ecycle@dep.nj.gov .