



March 11, 2005

Matt Hale
Director
Office of Solid Waste
US Environmental Protection Agency
1200 Pennsylvania Ave., N.W., (MC 5306W)
Washington, D.C. 20460

Dear Mr. Hale:

We are partners with the United States Environmental Protection Agency in a cooperative agreement to develop an Electronic Product Environmental Assessment Tool (EPEAT) for use by federal, state and institutional purchasers to assess the environmental performance of desktop and laptop computers and monitors. As part of that process, the EPEAT Development Team, which includes representatives of industry, government, academic and environmental groups, reviewed and discussed EPA's "Plug-In To eCycling" Guidelines ("Guidelines") to determine whether the Guidelines could be used as EPEAT criteria.

These Guidelines contain many of the features that a plurality of EPEAT Development Team members considered essential to achieving effective and environmentally sound End-of-Life ("EOL") management systems for used electronics. In addition, we understand that the Guidelines may serve as the basis for a third party certification system to provide assurance that their terms are being met by participating recyclers. For both of these reasons, the EPEAT Development Team voted to include the Plug-In To eCycling Guidelines as the basis for EPEAT's EOL requirements for used equipment. A copy of the EPEAT criteria is attached.

However, the Development Team would like specific clarification from your office, if possible, regarding the Guidelines and their application to the export of nonworking equipment or materials to countries outside the United States – particularly to countries that are signatories to the Basel Convention. We understand that some equipment or materials not listed as "waste" in the Plug-In Guidelines may be considered hazardous waste by countries that are Parties to the Basel Convention. Some EPEAT Development Team members are concerned that this ambiguity may undermine attempts to ensure that the Guidelines are fully understood and met by recyclers, third party auditors and other stakeholders.

For this reason, the EPEAT Development Team is writing to request specific clarification of the language in several sections of the Guidelines. We hope that by providing this information, the Guidelines will provide clearer guidance to stakeholders and third party auditors as to what is required by Section 4(a) of the Guidelines. Section 4(a) states:

"In the case of export of any electronic products and components, the Plug-In partner ensures that:

- a. Any applicable requirements of the U.S., as well as applicable requirements of importing and transit countries, are complied with, and proper business records are kept documenting such compliance."

In order to provide guidance to Plug-In to eCycling participants, we respectfully request that your office provide clarification on the following items in the Guidelines:

- (1) A specific list of which countries are Basel signatories and which are OECD members

Because the “applicable requirements” of importing and transit countries may not be well known to producers or recyclers, we ask that EPA clarify which countries are Basel Convention Parties and which are OECD Agreement Parties. It would be helpful to provide a ‘live’ list of these countries with web links to any guidance they provide on electronic waste imports, where any such web pages are available. Ideally, these lists and links would be subject to periodic review and updating as legal conditions change, so that they reflect the current status of Basel Treaty and OECD agreements as they pertain to the shipment of electronic scrap.

- (2) General information on how the Basel Convention and OECD Agreements may affect cross-boundary shipments of various categories of electronic scrap. Please provide information on the following specific issues if possible:

- How a specific signatory country’s definitions of hazardous wastes under Basel may differ from US or other definitions, and
- How each Basel signatory may have its own rules regarding electronic scrap or nonworking equipment imports; and
- How it may be illegal for producers/recyclers to export certain waste from the US to Basel signatory countries in the absence of a supplementary bilateral or multilateral import/export agreement between Basel Convention signatories and the US.

Please feel free to add any other Basel Treaty and OECD Agreement “rules of thumb” that may help recyclers and producers better understand the waste shipment limitations under which they may be required to operate.

We want to state again that we consider the Plug-In Guidelines a very promising development in the electronics recycling field, and intend to make extensive use of them. We hope that you will agree that the information that we are requesting does not require EPA to conduct legal analysis or develop agency interpretation. It simply requests clarification of how the Guidelines operate in the context of the Basel Convention, the OECD Agreement, and various Bilateral and Multilateral agreements that exist or that may be entered into in future.

Thank you very much for considering making these clarifications to the Guidelines.

Sincerely,



Larry Chalfan
Executive Director, Zero Waste Alliance
EPEAT Project Director

Attachment: EPEAT Criteria