

Labeling and Consumer Information Requirements of the California e-Waste Recycling Act

California's Electronic Waste Recycling Act of 2003 ("the Act"), enacted as Senate Bill 20, established a series of requirements for manufacturers and retailers of electronic products that contain cathode ray tubes (CRTs) and Liquid Crystal Display (LCD) panels. When all of these requirements are fully implemented, California will have a comprehensive recycling and disposal program for CRT and LCD products that are sold in California, and will impose European standards banning the sale of CRT and LCD products containing certain substances. Each requirement will have a ripple effect on manufacturers around the world.

This *e-Waste Recycling Bulletin* and subsequent *Bulletins* in this series will apprise readers of key requirements under the Act and current developments in its implementation.

Earlier *e-Waste Recycling Bulletins* in this series summarized key provisions of the Electronic Waste Recycling Act, the duties of manufacturers and retailers, and the possibility for private enforcement of the Act through California's Unfair Competition Law. This *Bulletin* addresses the requirements under the Act for labeling and providing recycling information to consumers.

▶ Labeling Requirements for Manufacturers and Retailers?

Beginning January 1, 2005, it will be unlawful for any person to sell or offer for sale in California a covered electronic device that is not clearly labeled with the manufacturer's name or the manufacturer's brand label. The Act requires that this label be "readily visible." *Cal. Pub. Res. Code § 42465.1*. Neither the Department of Toxic Substances Control nor the Integrated Waste Management Board, the two state agencies responsible for implementing and enforcing the Act, currently intend to issue further guidance on the labeling requirement. According to the Board, the language of the Act is clear and straightforward.

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This requirement affects manufacturers that do not currently label their products. Manufacturers will need to decide whether to label all of their products, or merely those intended for sale in California. California retailers of covered products will be affected as well. Retailers will need to ensure that the manufacturer's name or brand label is present on the covered products they sell in California.

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Both manufacturers and retailers are liable under the Act for up to \$25,000 in civil penalties for products sold in California without a manufacturer label. The Integrated Waste Management Board can impose civil penalties administratively.

▶ **Recycling Information That Manufacturers Must Provide**

Beginning July 1, 2005, each manufacturer subject to the Act will be required to make information available to consumers that describes where and how to return, recycle and dispose of covered electronic devices. *Cal. Pub. Res. Code § 42465.2(a)(2)*. According to the Act, this information may take the form of the use of a toll-free telephone number, Internet website, information labeled on the device, information included in the packaging, or information accompanying the sale of covered electronic devices. *Id.*

Additional regulations promulgated by the Integrated Waste Management Board earlier this year require manufacturers to make the recycling information available in English and Spanish. If a manufacturer chooses to use a centralized database or Internet website to meet the recycling information requirement, the manufacturer must maintain the database or site to ensure its accuracy. *14 Cal. Code Regs. § 18660.42*. Thus, manufacturers will be responsible for the accuracy of the information in their centralized databases or Internet sites.

This requirement affects manufacturers that do not currently provide this information for their covered products sold in California. Again, manufacturers will be liable for up to \$25,000 in civil penalties for products sold in California without consumer recycling information.

To help manufacturers comply with the Act's recycling information requirement, the Integrated Waste Management Board is now creating an Internet website, www.e-recycle.org, which the Board anticipates will be online in the middle of October 2004. This site will have a list of approved collectors and recyclers, and will be a source of information for use in complying with the Act. According to the Board, providing the information from this site, the website address, or a link to this site on the Internet will meet the recycling information requirement above.

The Board also will be proposing a sponsorship program in which manufacturers will have the opportunity to link their websites, reciprocally, to www.e-recycle.org. The details of this program are yet to be developed, and the Board intends to publish notice of a workshop on the program for October 7, 2004. Manufacturers seeking information to comply with the Act's consumer recycling information requirements might consider participating in this program, and linking reciprocally with the Board's website.

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