

CEA COMMENTS ON PROPOSED RULES GOVERNING ELECTRONIC EQUIPMENT COLLECTION, RECYCLING AND REUSE

New York City Department of Sanitation

October 31, 2008

The Consumer Electronics Association (CEA) appreciates the opportunity to comment on the proposed addition of Chapter 17 to Title 16 of the Rules of the City of New York.

CEA represents more than 2,200 companies and its member companies include major manufacturers of covered electronic products specified in the above-referenced proposed rule. CEA's member companies, although fully supportive of initiatives to promote the environmentally safe and efficient recycling of electronics, strongly object to the interpretation of key elements of the Law that place unreasonable requirements on electronics manufacturers whose products are distributed and sold in New York City.

I. The Interpretation of Local Law Language that Collection “be convenient for residents of the city” is Arbitrary and Capricious

The proposed rule goes well beyond the Law's requirements and would result in collection costs an order of magnitude more costly than the most expensive electronics recycling system in the world. The specific requirement that manufacturers provide a free take-back service whereby covered electronics weighing 10 pounds or more are “collected directly” from NYC residents and small businesses (defined as having 50 or fewer full time employees) – in effect, collected from inside a residence or any small business – is an unreasonable and completely arbitrary interpretation of the new Law.

The Law requires that manufacturers include various collection methods in plans submitted to DSNY for approval. Specifically, manufacturers must include in such plans:

*...details for the collection, handling, and recycling or reuse of covered electronic equipment and orphan waste as required by this chapter, including but not limited to the methods by which a person can return to the manufacturer such covered electronic equipment and orphan waste. **Such methods shall be convenient for residents of the city;** [emphasis added]*

While the proposed regulations have focused on the supposed inability of all residents to move their used covered electronic equipment (“CEE”) outside their door – a focus which blatantly ignores the reality that none of these covered electronics were manufactured inside NYC residences and were, in fact, brought into these homes by residents using a variety of means – this focus fails to recognize how inconvenient the Law is at its core. In essence, residents will need to choose between multiple collection systems for the same products differentiated only by a products brand name. Consumers who have purchased electronics produced by multiple manufacturers will likely have to contact multiple manufacturer collection and recycling program. The inconvenience of

such a system far outweighs how to move CEE physically from the private domain of a residence into the public right of way.

1. There is no basis in law for distinguishing between “large” and “small” covered electronics. These terms do not appear in the enacted Law’s language and such a distinction was not discussed during the legislative process.
2. The selection of 10 pounds as the cutoff between “large” and “small” covered electronics is wholly arbitrary and unsupported by any legal, scientific or other regulatory program.
3. Under current law, it is our understanding that manufacturer programs will be unable to utilize sidewalk space for direct collections from NYC residents. CEA notes that the hassle of scheduling pick-up days and times inside a residence – and that the resident be home at the time of pick-up or arrange for a third party to let the collector inside the residence – is hardly convenient for residents. If having a resident walk covered electronics down to the sidewalk for collection is not considered “convenient,” then DSNY’s current collection program for bulk items (including televisions and computer equipment – and also household appliances such as refrigerators, clothes dryers and microwave ovens) has provided inconvenient service to NYC for several decades. CEA strongly disagrees.
4. The Law only requires that collection be convenient for NYC residents – not businesses. The inclusion of small businesses under the definition of “convenient” is an unreasonable extension of current language and should be struck.
5. In-house collection will require the concurrent use of hundreds of additional trucks, resulting in unnecessary burning fossil fuels and release of tons of additional greenhouse gases annually. The proposed regulations are hardly “carbon neutral” and are, in fact, a major step backwards from responsible resource and environmental stewardship due to the increased noise and pollution from these sources alone.

Finally, as detailed in the analysis in Appendix I to this document, the proposed rule would cost manufacturers between **\$0.90-3.17 per pound** just to collect covered electronics from NYC residents.

II. DSNY Should Implement Regulations Using Language Directly from the Local Law

While CEA would like to see more clarity in some areas, CEA recommends against any attempt to go beyond the existing requirements in the Law that manufacturer programs establish collection “methods . . . convenient for residents of the city.” DSNY should allow manufacturers the opportunity to demonstrate how they can provide convenient collection services to NYC residents and review this requirement at a future date.

In considering this option, DSNY should review results in other urban jurisdictions around the country where comprehensive electronics recycling programs exist without any such “direct collection” proscription. For example, in 2007 the 7 e-waste collectors

operating in the City of San Francisco collected nearly 3 million pounds of video display devices – or 3.91 pounds for every resident of San Francisco – without the proscriptive requirements now proposed in NYC. Similarly, collectors in the City of Los Angeles collected more than 17 million pounds of video display devices in 2007, or 4.79 pounds for every resident of that city.

There are other urban examples outside the United States that the proposed regulations fail to take into account. Tokyo residents own cars at rates similar to Manhattan residents but there is no similar “direct collection” mandate in Japan’s advanced electronics and appliance take-back system. In Tokyo, residents may take their electronics to one of many drop-off locations or the collection service is provided by retailers. Manufacturers operate “secondary” collection locations as consolidation points for electronics collected at these “primary” collectors, but there is no legal mandate for manufacturers to send their agents into Japanese households to collect even larger household appliances.

Given these results and lack of any credible justification for the overly burdensome direct collection requirements proposed, CEA strongly urges DSNY to replace the proposed collection requirements with text from the adopted Law.

CEA appreciates the opportunity to comment on these proposed rules and is available to discuss alternatives in greater detail. Thank you for considering our industry’s concerns.

APPENDIX I

Estimated Manufacturer Costs for Compliance with DSNY Proposed Rules Governing Electronic Equipment Collection, Recycling and Reuse

On September 16, 2008 the New York City Department of Sanitation (DSNY) published proposed regulations for implementation of the New York City e-waste Law enacted earlier this year.¹ Within these proposed regulations is an attempt to define what is “convenient” for the collection of covered electronic equipment (CEE). The proposed regulations would require “direct collection” for “larger” CEE specified as equipment weighing more than 10 lbs. DSNY explained its thinking behind this proposal on its web site (see

http://www.nyc.gov/html/nycwasteless/html/in_business/electroniclaw_reqs.shtml):

Given the unique characteristics of New York City, DSNY currently believes that convenient collection for large items will include a method whereby these items are collected directly from a person's home or place of business. For smaller items, DSNY currently believes that convenient collection will include a larger variety of options, including mail and similar delivery methods.

The analysis below provides an estimate of the annual CEE manufacturing cost to collect “large” CEE as potentially required in the proposed regulation.

Methodology

Two distinct approaches to estimating costs are utilized. The first is a “bottoms up” approach, which estimates (1) the amount of large CEEs to be collected, (2) the labor and direct costs to perform the collection, and (3) the average weight collected in any single direct collection event (e.g., pickup of CEEs from a residence). The second approach is an estimate based on current costs incurred by manufacturers and retailers who collect old televisions for recycling when installing a new one inside a residence.

The results of these two estimates are presented as a range of potential annual compliance costs for the proposed DSNY regulation.

Estimate Number One

The first estimate is constructed using a model with the following variables:

¹ DSNY has published proposed rules in the *City Record*. Written comments regarding these proposed rules may be sent to the office of the Deputy Commissioner for Legal Affairs, New York City Department of Sanitation, 125 Worth Street, Room 710, New York, New York 10013 on or before October 31, 2008. In addition, a public hearing regarding the proposed amendments will be held on October 21, 2008 at 125 Worth Street, 2nd Floor Auditorium, New York, New York from 9:30 A.M. to 12:30 P.M and 2:00 P.M. to 4:00 P.M.

- A crew of 2 is required to drive the truck, enter the residence, haul the CEE unit outside the residence (or small business) and place it safely onto a truck.
- The average labor cost for each of these crew members, fully loaded, is \$60/hour (assumes one driver and one junior assistant on each crew).
- A 2-person crew will operate on a scheduled pick-up system that allows them to pickup CEE from an average of 1.5 locations an hour for 8 hours a day.
- The average weight of all CEE collected per residence (or small business) is 50 pounds.
- Operating costs for each truck used for direct collections is \$50,000/year, which includes maintenance and procurement costs.
- Of the total solid waste collected by DSNY, 1% is CEE requiring direct collection (based on several waste sorts, EPA estimates that approximately 1% of all municipal solid waste is used electronics). Using total solid waste figures published by DSNY for 2007, this would be approximately 70 million lbs. of CEE, or 8.5 lbs. per capita.
- By weight, 90% of the total CEE in NYC would be collected by direct collections due to the definition of “large” CEE as all covered devices weighing more than 10 lbs. (i.e., all televisions, monitors, desktops and printers would thus be defined as “large”).

A simple model using these assumptions results in direct collection cost estimates of **\$3.17 per pound**. Other results from this scenario are presented in Table 1 below.

Table 1: Estimate 1 - Direct Collection Costs Incurred by Manufacturers Under Proposed DSNY Regulations

\$2,112.31	Average daily cost per 2-person truck team
\$176.03	Average cost per pickup
600	Pounds collected daily by 2-person truck team
403	Number of concurrent truck teams required to collect estimated amounts
\$850,951	Total daily cost to manufacturers
\$221,247,332	Total annual cost to manufacturers for "direct collections"

Note that even if a 2-person crew were able to pick up from 4 locations per hour, the direct collection cost would be **\$1.19 per pound**.

Estimate Number Two

The second estimate is constructed utilizing an estimate of current costs for collection of used televisions during delivery and installation of new televisions. Various industry sources cited a standard cost of \$150 per residence for this service. Assuming two-thirds of this cost is directly attributable to delivery and installation of the new product, and assuming one-third of the cost is attributable to take-back of the old unit, then the average price per residential pickup is \$50 per event. This result is very similar to the “bottoms up” approach used above in which the average cost per pickup is estimated at \$52.40.

A simple model using current direct collection costs results in an estimate of **\$0.90 per pound, or \$63 million annually**.

Using these two methodologies, the cost for complying with the proposed DSNY regulations is estimated at between \$0.90-0.94/lb.

Additional Costs

These estimates may actually underestimate total collection costs for electronics manufacturers to comply with the proposed regulations. For example, these estimates do not capture additional costs for collection vehicles to either find a place to park or to receive summonses from the city for illegal parking. A recent press report documented this challenge:

Commercial delivery companies such as UPS, FedEx and others pay a steep price for doing business in New York City, getting an average of 7,000 parking tickets every day and paying more than \$102 million in fines.

(see <http://www.cbsnews.com/stories/2006/09/01/ap/business/mainD8JS9TL85.shtml>).

Conclusion

These costs are more than an order of magnitude more expensive than collection costs typically incurred in an electronics recycling program.