

Television Equipment Recycling Stakeholder Meeting Summary

The summary below is broken into each of the grouped statute sections as they were discussed. Below the summary are the written comments received from stakeholders.

Discussion Group 1

Sections Covered:

Sec. 361.971. Definitions

Stakeholder Comments:

No questions/comments

Discussion Group 2

Sections Covered:

Sec. 361.972. Legislative Findings and Purpose

Sec. 361.973. Applicability

Sec. 361.974. Sales Prohibition

Sec. 361.975. Manufacturer's Labeling Requirement

Stakeholder Comments:

No questions/comments

Discussion Group 3

Sections Covered:

Sec. 361.976. Manufacturer's Registration and Reporting

Sec. 361.977. Television Recycling Account

Sec. 361.978. Manufacturer's Recovery Plan and Related Responsibilities

Stakeholder Comments:

- Several stakeholders commented about the use and source of funds by TCEQ for public outreach and what kind of outreach TCEQ is required to do (PSAs, billboards, etc). TCEQ staff clarified that the statute lists specific uses for the manufacturer registration fees collected.
- A question was raised about the initial registration date requirement for manufacturers.
- A discussion of establishing the first year baseline of market share amounts and recycling rate included:
 - Concerns about lack of incentive for manufacturers to recycle significant amounts the first year in an attempt to keep market share collection requirements low.
 - Interest in providing incentives to manufacturers to recycle more the first year and to continue recycling after meeting required amounts or to keep recycling rates high.
 - A possibility that manufacturers can establish and maintain a zero baseline without consequences.

- Suggestions to look at what other states have done to provide incentives and establish baselines for the first year.
- A suggestion that the TCEQ can reject a manufacturer's plan, keeping them off the online list, if they do not report their collection and recycling numbers.
- A comparison of recycling leadership program requirements and reporting and individual manufacturer requirements and reporting.
- A question from TCEQ about two statute sections: 361.976(b)(2) and 361.978(e)(2) resulted in statements including:
 - The two sections seem to be saying the same thing,
 - The inclusion of reuse in one statement may result in reporting different numbers,
- A discussion of mail-back program possibilities included:
 - The feasibility of mail-back of televisions for consumers and manufacturers.
 - A question about the possibility that a manufacturer would choose a mail-back option only, with a response from stakeholders that the statute provides three options that RLPs must offer.
 - The possibility that mail-back might provide more options for rural areas that are too far from the 200 RLP sites.
 - A concern about hazardous material leaking from improperly packaged TVs.
 - The suggestion that mail-back and haul away programs would each be counted as one of the 200 required sites/programs in an RLP and present less of an issue for this new program.

Discussion Group 4

Sections Covered:

Sec. 361.979. Manufacturer Recycling Leadership Program
 Sec. 361.980. Recycling Leadership Program Collection Report

Stakeholder Comments:

- The discussion moved to questions and comments about RLPs, including:
 - A comment that more than one RLP is necessary to be sure there are more than simply 200 sites/programs across the state, which might leave local governments to provide additional collection sites.
 - A suggestion that the rule encourage local governments to act as collection sites, or allow them to give local collections to manufacturers without a fee.
 - A statement that there is a mix of collection events offered across the country including single events, non-profit groups, and retailers.

Discussion Group 5

Sections Covered:

Sec. 361.981. Retailer Responsibility
 Sec. 361.982. Recycler Responsibilities

Sec. 361.983. Liability

Stakeholder Comments:

- A discussion of recycler responsibility included the following:
 - A suggestion to clarify the definition of recycler in rule, including whether a city collecting electronics would count as a recycler.
 - A statement suggesting that a recycler is defined by whether or not they require a fee. .
 - A suggestion to clarify whether taking a fee, but providing reimbursement, or paying a manufacturer to collect in another state would be included.
 - A comment regarding the need to keep recycling requirements simple for recyclers.
- A further discussion of the environmental standards required by the statute included:
 - A question about which certification criteria would be used: RIOS/R2/e-Stewards/3rd party auditing, and a concern that it be enforced.
 - A suggestion that TV recyclers be required to attain one of the abovementioned certifications.
 - A statement that the ISRI standards in the Computer-Equipment Recycling Program have been superseded by more recent standards and may be difficult for TCEQ to enforce .
 - A clarification by TCEQ that there is flexibility in the statute to consider updated standards.
 - A reiteration that recyclers should be required to be certified to insure proper downstream accountability.
 - A question about whether the materials management applies to everyone or just to TV manufacturers.
 - Another question about whether TVs would be just those collected under the program, or all material that meets the definition of covered TV equipment.

Discussion Group 6

Sections Covered:

Sec. 361.984. Commission Responsibilities
Sec. 361.985. Enforcement
Sec. 361.986. Financial and Proprietary Information
Sec. 361.987. Biennial Report to the Legislature
Sec. 361.988. Fees

Stakeholder Comments:

- A suggestion to insure that consumer education is included in the rulemaking, clarifying responsibilities.
- A discussion of establishing the recycling rate included:
 - Questions about the process to establish the rate.
 - Suggestions that the rate be set to provide meaningful targets.

- A suggestion to provide the recycling rate and market share requirements as early as possible to help manufacturers plan.
- A question regarding the TCEQ's plan to provide information to counties and municipalities led to the following statements:
 - A request for a per capita rate of recycling provided to local governments.
 - The greater the detail of the data, the greater the cost
 - A suggestion that manufacturers provide compensation for municipalities for collections.
 - A suggestion to provide information by city or COG level.
 - A comment that local recycling rates are difficult to compare because of disparity between independent programs, and that a regional comparison might work better.
 - A concern that if all TVs are included, not just those collected under the program, the cost of data maintenance could be expensive.

Discussion Group 7

Sections Covered:

Sec. 361.989. Consumer Responsibilities

Stakeholder Comments:

- A stakeholder concern was raised of how to inform consumers about the issue of liability regarding information left on TVs.
 - Possible resolutions include point of sale education, multiple efforts by manufacturers, retailers, TCEQ.
- A stakeholder supported that the collector and processor should hold no responsibility for any personal information left on TVs, especially as they become more advanced.

Discussion Group 8

Sections Covered:

Sec. 361.990. Management of Collected Television Equipment

Sec. 361.991. State Procurement Requirements

Sec. 361.992 Federal Preemption, Expiration

Stakeholder Comments:

- A concern was raised about the length of the time period established in the statute to calculate the first state recycling rate. The dates in the statute allow for less than a year of data to be collected.

Written Stakeholder Comments

Julie Winchell, City of Cleburne

Thank you for serving as our resource to forward comments on the new TV Take Back program. The passage of the legislation may provide a real service especially to rural Texans if the program is set up in a manner beneficial to all Texans.

Our rural highways, creeks, drainages are subject to a vast amount of illegal dumping of Televisions and other items (still including computer components) due to the ability of people being able to go unseen when dumping materials. Additionally rural communities have even fewer resources to combat illegal dumping and dump site clean up because fewer people bring in a lower tax base. However, the current state of take back programs provides limited capacity for proper recycling of materials in rural communities.

In order for the TV take back program to work for all Texans a take back program should insure a mechanism for at least one convenient drop off locations in each county within Texas. Under the computer take back program, there has been no concerted effort to serve communities outside of the large metropolitan areas. Some manufacturers require citizens to pay fees to be able to mail back components which in turn require that person not only to order the shipping labels or boxes but to also arrange a time for pick up. In rural areas this is not always a valid option. Many areas of Texas still do not have readily available or cost effective internet access to go on line to seek out the 'take back' program of the manufacturer. In addition, rural pick up of an item as large as a computer CRT or TV can be difficult to arrange.

Municipality and county governments (especially those in rural areas) do not have the resources to accept, stockpile, sort, itemize and ship these components to an often times distant processing facility. Processors who are currently accepting computers are not normally willing to pick up at locations more than 40-50 miles from their location, and often times have a cost associated (either per item or per pound) with any pickup that is arranged. In many instances they want assurance of a high volume of materials to make it worth their time. Rural communities are often not able to enter into these types of agreements because they cannot guarantee what will show up at collection events and do not have controlled drop off/storage areas for long term collections. Therefore small entities are reluctant to hold events for fear that they could be billed for transportation costs if the minimum is not met, or even worse be billed more than expected if the event brings in more materials than budgeted for.

The TV take back program could allow for all Texans to benefit from the program by providing for at least one entity in each county to become an authorized drop off location for TVs (and hopefully computers and other electronics) and for that entity to be promptly reimbursed for actual costs associated with receipt, storage, and transportation to recycling facilities. My recommendation would be to allow either a municipality, county, or non-profit organization whose primary mission is environmental improvement to serve as a county's entity for the Take Back Program. A mechanism for easy reimbursement to the entity based on actual costs accrued could be developed. No requirements for tracking of individual manufacturer's makes and models by the locality should be required. If the manufacturers need that information the recyclers who perform the testing and breakdown of components for reuse and recycling should maintain and provide those records.

Thank you again for requesting our input and considering our ideas while developing the TV take back program.

Maia Corbitt, State of Texas Alliance for Recycling (STAR)

Date: July 13, 2011

Attn: Shannon Herriott

Pollution Prevention & Education Section

Texas Commission on Environmental Quality

Subject: Comments regarding SB329 rulemaking

A. Data reporting – STAR continues to advocate for recycling rate data collection as a necessity for informed planning and effective resource allocation.

The Commission made reference to updating Sec.A361.990(b) to utilize the RIOS/R2 and/or eStewards standards for electronic recycler certification. Both of these certifications require chain of custody recordkeeping that would allow regional data aggregation by weight or commodity. A recordkeeping metric already required by both standards could be provided to the Councils of Governments (COGs) to assist in the regional solid waste planning process. Depending on methodology, costs could be minimal with the potential benefits outweighing the potential burden.

B. Education – STAR contends educational outreach must utilize multiple communication strategies and outlets.

Through a stakeholder process regarding recycling policy in Texas, STAR learned that a substantial area of the state is without high-speed internet access. This limits a mostly rural population's ability to access online information. Multiple modes of communication must be included in the program portfolio, including print and TV/radio media.

C. Toll-free telephone and website hosting – Clarification need

Sec.A361.9849(d) allows TCEQ to designate a host for these public education services. Please clarify if Sec.A361.977 allows fees collected under Sec.A361.976 to be used to contract these services.

Thank you for the opportunity to lend comment. Please let me know if you have any questions or need clarification on any of the above.

Texas Campaign for the Environment

To: TCEQ
Fr: Texas Campaign for the Environment
Re: Comments for Rule-Making on the TV TakeBack Recycling Law (SB 329)

July 14, 2011

Summary of Rule-Making Recommendations for SB 329

The Television TakeBack Law (SB 329) has the potential to be more effective than the Computer TakeBack Law, but there are a number of provisions that must be clarified in rule-making to create a well-functioning program. What follows are initial recommendations.

1. Under Section 361.990, relating to the environmentally sound management of covered television equipment, the Texas Commission on Environmental Quality (TCEQ) is directed to adopt the “Electronics Operating Practices” approved by the Institute of Scrap Recycling Industries (ISRI) in 2006. However, these standards are outdated and no longer in wide use.

In the same section, the law provides TCEQ discretion during rule-making to adopt **“other standards from a comparable nationally recognized organization.”** At this time, the two accredited certifications nationally recognized as environmentally sound standards for electronics management are the Responsible Recycling Practices (R2)/RIOS and e-Stewards. **TCEQ needs to update the environmentally sound management section of the law by adopting the R2/RIOS and e-Stewards accredited recycling standards.**

2. Read carefully, Section 361.990 (b) instructs TCEQ to apply its adopted standards for environmentally sound recycling and reuse to all covered television equipment in Texas (**“The commission shall adopt as standards for recycling or reuse of covered television equipment in this state...”**), **not exclusively television equipment collected under this law.** TCEQ rules should reflect this instruction.

3. In Section 361.976 (b), the law instructs market share manufacturers to submit their reports on the weight of TVs sold, collected and recycled no later than January 31st of each year. However, in Section 361.978 (e)(2), market share manufacturers are instructed to submit these reports beginning with the second year of registration, meaning they would be due on January 31st, 2014. In addition, SECTION 3 (d) of the statute gives TCEQ discretion to require market share manufacturers to submit their recovery plans on or after January 31st, 2013.

Sections 361.984 (f) and (g) direct TCEQ to establish the state recycling rate and market share allocation for each manufacturer based on data contained within these reports. However, the law instructs TCEQ to calculate and establish these ratios for the first time on November 1st, 2013 and December 1st, 2013. If TCEQ adopts rules that enforce Section 361.976 (b), market share manufacturers will be required to submit reports on the weight of TVs sold, collected and recycled in Texas during 2012 – a period during which no statewide recycling plans or requirements (other than a few voluntary

programs) were in effect. The TCEQ would then use these reports to determine a recycling rate and assign market share allocations. This is clearly untenable.

If, instead, TCEQ adopts rules that enforce Section 361.978 (e)(2), market share manufacturers would be required to submit their reports on the weight of TVs sold, collected and recycled on January 31st, 2014. However, Sections 361.984 (f) and (g) still direct TCEQ to establish the state recycling rate and market share allocation for each manufacturer based on data contained within these reports on November 1st, 2013 and December 1st, 2013 – two months before the reports are due. How can TCEQ possibly set a recycling rate and assign each manufacturer its market share allocation on this timeline? How can a manufacturer in its second year of registration, collect, reuse and recycle the quantity of covered televisions computed by TCEQ, as required by Section 361.978 (c), if TCEQ has not yet computed said ratios? This is also untenable.

TCEQ should not require market share manufacturers to submit their reports on the weight of TVs sold, collected and recycled until January 31st, 2014. TCEQ must use another method to determine the state recycling rate and market share allocations by November 1st, 2013 and December 1st, 2013, respectively. National sales rates and market share allocation ratios used by other states could be a viable option.

4. Under Section 361.976, market share manufacturers are instructed to include reports on the total weight of covered televisions sold, collected, recycled and reused during the previous year in their annual registration with TCEQ. However, Section 361.978, relating to manufacturer recovery plans, does not clarify that reports on weight sold during the previous year must be incorporated in the recovery plans submitted to the TCEQ (beginning the second year of registration, of course). **Rule-making should clarify that the market share companies must submit new recovery plans again on January 31st of each subsequent year.**

5. **TCEQ needs to clarify specific penalties in the case of a market share manufacturer that fails to collect its assigned market share allocation.** Does SECTION 2: Water Code Section 7.052 (b-2), which outlines \$1,000/\$2,000 fines for second/subsequent violations, apply to companies that fail to meet their market share obligation? Are violators allowed to continue selling covered television equipment in Texas? Can retailers sell covered television equipment from brand owners that are in violation of the law? Do fines for violating the law apply on a *per diem* basis?

TCEQ should specify penalties for both market share and Recycling Leadership Program (RLP) manufacturers that violate the statute. Furthermore, TCEQ must clarify for retailers whether or not brands owned by violators may be sold.

6. Under Section 361.984, TCEQ is responsible for ensuring the public education programs of market share companies are in “full compliance” with the law; however, the law does not list public education program requirements for companies that comply with the law via the market share option. **TCEQ could simply recommend that the requirements spelled out in Section 361.979 (g) for RLP companies also be**

enforced for the market share companies in order to determine “full compliance.”

7. TCEQ must clarify the responsibilities of the RLPs to provide information to the agency on RLP-sponsored collection sites and other collection opportunities in advance of their biannual reports. The first such report is not due until 2015, but the RLP companies are required to tell the TCEQ which manufacturers are participating in the RLP as of January 31st, 2013. Section 361.979 (g) lays out many specific public education requirements for the RLP manufacturers, but does not assign dates and timelines for when those requirements must be met. **TCE recommends that the public education requirements be enforced as of January 31st, 2013.**

8. TCEQ needs to clarify that Recycling Leadership Program public education programs shall not direct consumers to recyclers that are not registered under Section 361.982 or recyclers that do not meet the environmentally sound recycling and reuse standards adopted under Section 361.990 (see Recommendation 1). Furthermore, TCEQ should clarify that Recycling Leadership Program reports submitted under Section 361.980 (d), relating to the listing of recyclers, repair shops, reuse organizations not participating in the RLP, shall not list electronics recyclers that are not registered under Section 361.982 or recyclers that do not meet the environmentally sound recycling and reuse standards adopted under Section 361.990 (see Recommendation 1).

9. The Recycling Leadership Program needs to be incorporated into the penalty structure outlined in SECTION 2 regarding the requirement to label products, the list for retailers as to what is qualified to be sold, etc. (see below for details).

[Detail on the Issues with TV TakeBack Law](#)

Recycling Standards

The stated purpose of the law, “to establish a comprehensive, convenient, and **environmentally sound program** for the collection and recycling of television equipment” have been undermined because the Environmentally Sound Management Guidelines in Section 361.990 were changed from previous versions of SB 329 and HB 1966 to reflect the now outdated recycling standards included in the Computer TakeBack Law. The law cites the “Electronics Recycling Operating Practices” passed by the Institute for Scrap Recycling Industries (ISRI) on April 25, 2006, instead of the nationally recognized and accredited Responsible Recycling Practices (R2) and e-Stewards certifications, which were included in earlier versions of the legislation but changed during the committee process. ISRI recently communicated with TCE to confirm that the April 25, 2006 standards have been superseded by R2 and e-Stewards. In fact, a thorough search of the ISRI website could not come up with the language of the 2006 standards referenced in the statute and a search of the websites of electronics recyclers in Texas found no references to those standards. However, many Texas electronics recyclers do tout their status with regards to R2 and/or e-Stewards certification.

Recommended language for rule-making:

For the purposes of recycling, reusing, or otherwise disposing of collected covered television equipment, a television manufacturer must follow the standards established under "Responsible Recycling Practices for Use in Accredited Certification Programs for Electronic Recyclers" or "e-Stewards Standard for Responsible Recycling and Reuse of Electronic Equipment."

Penalty Policy

The law states:

Sec. 361.978. MANUFACTURER 'S RECOVERY PLAN AND RELATED RESPONSIBILITIES.

(c) the individual television manufacturer shall collect, reuse, and recycle the quantity of covered television equipment computed by the commission as the television manufacturer 's market share allocation

(d) the group of television manufacturers shall collect, reuse, and recycle a quantity of covered television equipment equal to the sum of the combined market share allocations of the group 's participants.

The fines for manufacturers apply if they fail to affix a brand label on covered televisions or if they fail to "adopt and implement" a recovery plan. Does implementing the plan require meeting the market share allocations or not? If not, what are the penalties for not meeting the market share allocation?

Failure to meet the market share allocation (the required collection amount) does not appear to take a company off the list of companies that are in compliance with the law because the list of requirements for being listed does not include meeting one's required collection goal:

Sec. 361.984. COMMISSION RESPONSIBILITIES. (a) The commission shall publish on a publicly accessible Internet website a list of television manufacturers:

(1) whose recovery plans have been approved by the commission;

(2) whose public education programs are in full compliance with this subchapter; and

(3) who are in compliance with the registration and fee requirements of this subchapter, if applicable.

The TCEQ is supposed to approve or reject the required public education programs, but the statute does not detail public education requirements for manufacturers using the market share approach. If the market share allocation was set to drive substantial collections and penalize companies that don't achieve them, that might be fine. However, the market share allocation is based on what the companies voluntarily collect in the first year without submitting a collection plan and without public education

requirements. The penalty policy for companies that fail to meet the allocated collection goals is unclear.

Sec. 361.985. ENFORCEMENT. (a) The commission may conduct audits and inspections to **ensure compliance** with this subchapter and rules adopted under this subchapter.

(e) A retailer who receives a warning notice from the commission that the **retailer's inventory violates this subchapter because it includes covered television equipment from a television manufacturer that is not in compliance with this subchapter** must bring the inventory into compliance with this subchapter not later than the 60th day after the date the warning notice is issued.

In the law, retailers cannot sell covered television equipment if it does not have a brand label affixed or if the brand is not on the TCEQ's list of compliant manufacturers on the Internet site.

Other states impose a penalty based on weight for any shortfall in their collection obligation. As outlined, the penalty policy does not appear to contemplate this.

The amount of the penalty assessed against a manufacturer that does not label its computer equipment or covered television equipment or adopt and implement a recovery plan as required by Section 361.955, 361.975, or 361.978, Health and Safety Code, as applicable, may not exceed \$10,000 for the second violation or \$25,000 for each subsequent violation.

For any other violation, the penalty may not exceed \$1,000 for the second violation or \$2,000 for each subsequent violation.

Would failure to meet the market share allocation qualify as a violation? If the fine is capped at \$2,000, this fine is less than the registration fee.

Public Education

The TCEQ is supposed to make a determination on the sufficiency of the public education programs of the market share programs, but there are no public education requirements spelled out for companies choosing the market share option.

5. The Recycling Leadership Program does not officially have to provide an inventory of its sites and events inform the state of its locations its first collection report, which could be as late as 2015.

Recycling Leadership Program will tell the TCEQ annually by January 31st which companies are participating in the RLP. The RLPs must inform consumers about recycling opportunities. However, the RLPs don't have to report their inventory of collection sites to the state until its first RLP Collection Report, which could be as late as

2015. The TCEQ needs to clarify what is expected of the RLPs and when they must comply with various provisions where it is not clearly demarcated within the law. RLPs should provide information on its recycling collection locations to the state annually along with website links and toll-free numbers for the RLP recycling opportunities.

6. The Recycling Leadership Program report should not include information about recycling that does not meet the environmentally sound recycling standards.

Section 361.980 spells out that the Recycling Leadership Program Collection Report must include:

1. Inventory or map of covered television equipment collection, reuse, and recycling opportunities that are currently available to consumers through the individual television manufacturer or the recycling leadership program in this state
2. Rural access for recycling and purchasing TVs
3. Amount by weight collected
4. Documentation of responsible recycling

The law says that the report “may also include a listing of other existing collection and recycling infrastructure.” However, this does not require that the other infrastructure listed meet the responsible recycling guidelines of Sec. 361.990.

Recycling Leadership Programs

The TCEQ needs to clarify that the RLP companies must label their products and implement a recovery plan. Sec. 361.979 should be applied to both the market share and RLP companies. See SECTION 2: Sections 7.052(b-1) and (b-2), which amended the Water Code.

361.978 used to refer to the Recycling Leadership Program, but now that is Section 361.979.

C. The RLP companies need to be on the TCEQ’s list spelled out in Sec. 361.984(a) so that retailers know that they are allowed to purchase those brands. This could be addressed with language such as:

The commission shall publish on a publicly accessible Internet website a list of television manufacturers:

“who are participating in a Recycling Leadership Program that is in full compliance with this subchapter.”

Richard Abramowitz, Waste Management Recycle America

Re: Comments regarding SB 329 – Television Equipment Recycling Program

Sent via e-mail – Shannon.herriott@tceq.texas.gov

Dear Ms Herriott:

This letter provides you with WM Recycle America's comments with regard to drafting rules for the recently passed Television Equipment Recycling Program.

Since many companies that are involved in computer equipment recycling will be involved in television recycling, it would be incumbent upon TCEQ to make the rules as consistent as possible and as such WM Recycle America recommends that Texas Administrative Code Title 30, Part 1, Chapter 328, Subchapter 1 Computer Equipment Recycling Program be amended to accommodate the new TV law.

Regarding specifics of SB329 WM Recycle America has the following comments/questions:

Sect 361.976. Manufacturers' Registration and Reporting (b) (1 & 2) - (1) the total weight of covered television equipment for which the television manufacturer is responsible that was sold in this state during the preceding calendar year or, if the manufacturer does not track the weight of covered television equipment it sells by state, the television manufacturer may report the total amount of covered television equipment the television manufacturer sold nationally in the preceding calendar year; and (2) the total weight of covered television equipment the television manufacturer collected and recycled in this state during the preceding calendar year.

How will TCEQ use the national sales data provided by a manufacturer? What calculation will be used to get the state info – per capita calculations based on 10-year census reports or based on annual census estimates?

Sect 361.979. Manufacturers Recycling Leadership Program (b) - (b) A recycling leadership program must provide at least 200 individual collection sites or programs in this state in a manner described by Subsection (d) where a consumer may return covered television equipment for reuse or recycling.

Does this mean that if 10 manufacturers band together to form a leadership program they have to provide 200 collection sites or programs in total or 2,000 (200 x 10)? If a manufacturer decides to form a leadership program as provided under the law by them self, does it have to provide 200 collection sites or programs? This seems like a disincentive for manufacturer's that would like to form a leadership program by them self. What is the definition of "collection sites or Programs"? Once a manufacturer reaches their required tonnage during the plan year, do they have the right to close those sites or programs? In some states OEMs are allowed to stop collections or move from a permanent site to mail back programs. This puts recyclers and the middle of the collection crosshairs and could be left holding the bag.

Sect 361.979. Manufacturers Recycling Leadership Program (d)(2) - (2) a system by which the television manufacturer, an entity designated by the television manufacturer, or another private or public sector entity associated with the television manufacturer offers the consumer a method for returning covered television equipment by mail; and...

How will a mail back program be counted toward the 200 collection site or program quota – 1 statewide mail back = 1 program or some other method? This is also related to question above as there is no definition for collection site or program.

Sect 361.980. Recycling Leadership Program Collection Report (d) - (d) *The collection report may include a listing of other existing collection and recycling infrastructure for covered television equipment not associated with the recycling leadership program, including electronic recyclers and repair shops, recyclers of other appropriate commodities, reuse organizations, not-for-profit corporations, retailers, and other suitable operations, including local government collection events, if available.*

Do these "other" existing collection and recycling opportunities count toward the leadership program's 200 collection sites and programs quota?

Sect 361.982. Recycler Responsibilities (b)(4) - (4) *maintain a written log recording the weight of all covered television equipment received by the person and the disposition of that equipment;*

Can TCEQ further define this requirement? This is nearly impossible to do for collection events. In other states we take the products from events to our sites and weigh at that time. Matching generator and end disposition is nearly impossible. It can be done on event basis, but not for individual generators to those events.

Sect 361.984. Commission Responsibilities (b) - (b) *The commission shall remove television manufacturers no longer in compliance under Subsection (a) from the Internet website once each fiscal quarter.*

Does this mean TCEQ has to pick a date during the quarter and only on that date can they remove all manufacturer's that are no longer in compliance or does it mean something else?

Sect 361.984. Commission Responsibilities (g) - (g) *Not later than December 1 of each year, the commission shall compute and provide to each registered television manufacturer submitting a recovery plan under Section 361.978 the television manufacturer's market share allocation for collection, reuse, and recycling for that year.*

What is the meaning of "that year" in this section? Is the program year the state's fiscal year or calendar year?

Sect 361.984. Commission Responsibilities (i) – (i) *The commission shall provide to each county and municipality of this state information regarding the legal disposal and recycling of covered television equipment. The information must be provided in writing.*

Does TCEQ interpret this to mean that each county and city must get a report on what is recycled in their jurisdiction or state-wide information?

Sect 361.990 Management of Collected Television Equipment (b) - (b) *The commission shall adopt as standards for recycling or reuse of covered television equipment in this state the standards provided by "Electronics Recycling Operating Practices" as approved by the board of directors of the Institute of Scrap Recycling Industries, Incorporated, April 25, 2006, or other standards from a comparable nationally recognized organization.*

The standard referenced here no longer exists and ISRI now refers to its own general Recycling Industry Operating Standards (RIOS) or the e-waste specific Responsible Recycle (R2). In fact many e-waste recyclers are doing R2 and RIOS in combination for a R2/RIOS certification. The US Environmental Protection Agency suggests e-waste recyclers operate to either R2/RIOS or e-Stewards standards. TCEQ has the ability under this statute to adopt either the R2/RIOS and/or the e-Stewards certification process as the state standard. WM Recycle America recommends that TCEQ adopt a position that a Television Recycler must be certified by one or the other (or both). We further recommend that current Texas Administrative Code 328.149 Sound Environmental Management (b) of the Computer Recycling program also be amended to this same standard.

In addition to the above comments, WM Recycle America has the following questions/comments:

1. Are manufacturer's able to stop collection once they have met their obligation for the year?
2. We are concerned with the lack of definition regarding what a collector is and what a recycler is. There is a growing concern among recyclers/processors that collectors are cannibalizing collected equipment for valuable parts and sending these cannibalized shells onto recyclers for processing. Can TCEQ add a definition of collector that would prevent such actions by collectors? WM Recycle America would be happy to provide TCEQ with suggested language.