

**WAC 173-900-650 Performance standards for direct processors.**

(1) This section includes performance standards for environmentally sound handling and management of CEPs by direct processors to protect human health and the environment. There are two levels of performance standards:

- (a) Minimum standards (required);
- (b) Preferred standards (voluntary program).

(2) Ecology will list all registered direct processors on the agency web site and indicate which level of performance standards, minimum or preferred, the processor meets.

(3) Each registered direct processor used by a plan must meet the minimum performance levels in this section to provide processing services for a plan.

**Minimum performance standards for direct processors.**

(4) Minimum performance standards for direct processors include the following requirements:

- Responsible management priorities.
- Legal requirements.
- Environmental, health, and safety, management systems (EHSMS).
- Recordkeeping.
- On-site requirements.
- Materials of concern.
- Recycling, reuse, and disposal.
- Transport.
- Prison labor.
- Facility access.
- Notification of penalties and violations.
- Noncompliance with minimum performance standards.

**(5) Responsible management priorities.**

A direct processor must periodically evaluate its management strategies to assure it takes advantage of new more effective technologies and is otherwise continuously improving its practices and processes.

**(6) Legal requirements.**

(a) A direct processor must comply with all federal, state, and local requirements and, if it exports, those of all transit and recipient countries that are applicable to the operations and transactions in which it engages related to the processing of CEPs, components, parts, and materials and disposal of residuals. These include but are not limited to applicable legal requirements relating to:

- (i) Waste and recyclables processing, storage, handling, and shipping; and
- (ii) Air emissions and waste water discharge, including stormwater discharges; and
- (iii) Worker health and safety; and
- (iv) Transboundary movement of electronic equipment, components, materials, waste, or scrap for reuse, recycling, or disposal.

(b) Upon request by a covered entity, a direct processor must make available information to that covered entity about any financial penalties, regulatory orders, or violations the direct processor received in the previous three years. If the direct processor receives subsequent penalties or regulatory orders, the direct processor must make that information available within sixty days after any subsequent penalties or regulatory orders are issued.

**(7) Environmental, health, and safety management systems (EHSMS).**

(a) A direct processor must develop, document, fully implement, and update at least annually a written EHSMS that includes all of the following:

(i) Written goals and procedures that require the direct processor to systematically manage its environmental, health, and safety matters.

(ii) Utilization of a "plan, do, check, act" model that identifies environmental aspects, implements operational controls, and provides corrective action procedures. Elements of this model must include:

(A) **Plan**

(I) Identification of environmental impacts, and legal and regulatory requirements;

(II) Establishment of environmental goals, objectives and targets;

(III) Plan actions that work toward achieving identified goals;

(IV) Plan for emergency preparedness and response; and

(V) Commitment of management support.

(B) **Do**

(I) Establish roles and responsibilities for the EHSMS and provide adequate resources;

(II) Assure that staff are trained and capable of carrying out responsibilities; and

(III) Establish a process for communicating about the EHSMS within the business.

(C) **Check**

(I) Monitor key activities and track performance;

(II) Identify and correct problems and prevent recurrence; and

(III) Provide a measurement system that quantifies the application of the model.

(D) **Act**

(I) Conduct annual progress reviews;

(II) Act to make necessary changes to the EHSMS; and

(III) Create and implement an action plan for continual improvement.

(iii) A worker safety and health management plan that conforms to a consensus-based standard covering worker health and safety such as ANSI Z10 or to a similarly rigorous in-house standard.

(iv) A plan for responding to and reporting exceptional releases that could pose a risk to worker safety, public health, or the environment. Such releases include emergencies such as accidents, spills, fires, and explosions. The direct processor must submit this plan to all appropriate emergency responders, e.g., police, fire department, hospitals.

(v) A plan is conformable with ISO 14001, Institute of Scrap Recycling Industries' Recycling Industry Operating Standards ("RIOS"), the International Association of Electronic Recyclers' ("IAERs'") standard, or other standards designed at a level appropriate for processing at the facility.

(b) A direct processor must ensure all employees understand and follow the portions of the EHSMS relevant to the activities they perform.

(8) **Recordkeeping.**

(a) A direct processor must maintain documentation such as commercial contracts, bills of lading, or other commercially accepted documentation for all transfers of CEPs, components, parts, materials, and residual into and out of its facilities.

(b) A direct processor must retain the documents required in this subsection (8) for at least three years.

(9) **On-site requirements.**

(a) **General**

(i) Direct processors must take all practicable steps to maximize recycling.

(ii) A direct processor must have the expertise and technical capability to process each type of CEP and component it accepts in a manner protective of worker safety, public health, and the environment.

(iii) A direct processor must use materials handling, storage and management practices, that assure that all work and storage areas are kept clean and orderly.

(iv) Speculative accumulation:

(A) "Speculative accumulation" means holding, storing or accumulating CEPs, components, parts, materials, or residual derived therefrom for more than one hundred eighty days.

(B) Generators and facilities holding, storing, or accumulating CEPs, components, parts, materials, or residual derived therefrom for more than one hundred eighty days will be considered holding, storing, accumulating solid or hazardous waste and subject to applicable treatment, storage or disposal regulations or equivalent.

(v) A direct processor must use a certified scale to weigh CEPs and components counted towards a plan's equivalent share.

(b) **Storage**

A direct processor must store materials of concern removed from CEPs, components, parts, materials, or residuals in accordance with subsection (11) of this section in a manner that:

(i) Protects them from adverse atmospheric conditions and floods and, as warranted, includes a catchment system;

(ii) Is secure from unauthorized entrance; and

(iii) Is in clearly labeled containers and/or storage areas.

(c) **Exceptional releases posing risks**

A direct processor must be prepared to immediately implement the practices set forth in its EHSMS for responding to and reporting exceptional releases that could pose a risk to worker safety, public health, or the environment, including emergencies such as accidents, spills, fires, and explosions.

(10) **Materials of concern.**

Materials of concern must be handled according to the standards in this section. "Materials of concern" are any of the following:

(a) Any devices, including fluorescent tubes, containing mercury or PCBs;

(b) Batteries;

(c) CRTs and leaded glass; and

(d) Whole circuit boards.

(11) **Recycling, reuse, and disposal.**

(a) **Recycling**

(i) A direct processor must remove from CEPs and components destined for recycling any parts that contain materials of concern that would pose a risk to worker safety, public health, or the environment during subsequent processing.

(ii) A direct processor must remove any parts that contain materials of concern prior to mechanical or thermal processing and handle them in a manner consistent with the regulatory requirements that apply to the items, or any substances contained therein. Circuit boards

and materials derived therefrom will be allowed to be shredded prior to separating.

(b) **Reuse**

(i) "Reuse" means any operation by which an electronic product or component of a covered electronic product changes ownership and is used, as is, for the same purpose for which it was originally purchased.

(ii) For a CEP, component or part to be put to reuse it must be fully functioning.

(iii) CEPs, components and parts gleaned for reuse shall not be included in the weight totals submitted to a plan for compensation.

(c) **Disposal of residuals**

(i) "Residuals" are leftover materials from processing CEPs, components, parts and materials. Residuals cannot be used for their original function or cannot be recycled and are sent by a processor to a disposal facility.

(ii) Residuals must be properly designated and managed under applicable solid waste and hazardous waste laws at the location where disposal occurs.

(iii) A direct processor must not send residuals containing materials of concern to incinerators or solid waste landfills if doing so will pose a higher risk to worker safety, public health, or the environment than alternative management strategies.

(iv) Residuals from processing of materials of concern must not be mixed with other residuals for the purpose of disposal.

(12) **Transport.**

A direct processor must ensure that all CEPs, CEP components and materials to be transported are packaged in compliance with all applicable transport laws and rules.

(13) **Prison labor.**

Direct processors may not use federal or state prison labor for processing.

(14) **Facility access.**

Direct processors must allow access to the facility and the documentation required in this section for the purposes of assessing compliance with the requirements in this chapter and for sampling to:

(a) Ecology and ecology's designee(s);

(b) Third-party observers for the purposes of sampling;

(c) For processors used by the standard plan:

(i) The authority;

(ii) The authority's designee(s);

(d) For processors used by an independent plan:

(i) That plan's authorized party;

(ii) The authorized party's designee(s) for that plan.

(15) **Notification of penalties and violations.**

Each direct processor must notify ecology within thirty days if the direct processor receives any penalties, violations or regulatory orders related to processing activities.

(16) **Noncompliance with minimum performance standards.**

A direct processor may not comply with a specific minimum performance standard in this section when the national, state, or local laws or rules where the processor is located and a performance standard conflict. When a conflict exists, the processor's audit report must document the conflict and processor's compliance with the corresponding laws or rules (see WAC 173-900-365).

**Voluntary preferred performance standards.**

(17) In addition to meeting the minimum performance standards in this section, a processor may receive preferred status from ecology if the processor conforms with the voluntary performance standards in ecology's "*Environmentally Sound Management and Performance Standards for Direct Processors.*"

[Statutory Authority: Chapters 70.95N, 70.105, and 70.105D RCW. WSR 07-21-013 (Order 07-05), § 173-900-650, filed 10/5/07, effective 11/5/07.]