



How to Ensure Your Products Meet Environmental Requirements in North America

A White Paper Developed for
Electronics Companies

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Produced by EIATRACK and the Telecommunications Industry Association (TIA)

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Electronic products marketed in North America are subject to an expanding patchwork of complex product-based environmental legislation. In both the U.S. and Canada, provincial, state and local governments have taken the lead and passed numerous product-based environmental and safety measures, creating new compliance and marketing challenges for global companies. In some instances, these requirements may exceed comparable mandates in Europe or Asia.

New U.S. federal and state requirements limit market access for certain electronic products by prohibiting the sale of products containing a growing list of hazardous substances. New energy efficiency and green procurement mandates are creating market opportunities for companies that are informed and prepared to meet new requirements. Many U.S.

states and Canadian provinces have implemented new mandates for the management of end-of-life products and many more are expected to enact such legislation in the near term. Nearly three hundred bills related to product stewardship were considered during 2008 alone.

In response to these and similar developments world-wide, [EIATRACK](http://www.eiatrack.org) (www.eiatrack.org) was developed to provide an online regulatory tracking service for the electronics industry. EIATRACK provides comprehensive coverage of product-based environmental measures impacting the design, marketing and end-of life management of products in North America and in key markets across the globe. The service allows companies to quickly and cost-effectively navigate the increasingly complex maze of environmental regulations and legislation targeting electronic products. This white paper provides an overview of the challenging regulatory landscape in North America that companies must address in connection with the design, marketing, distribution and recycling of electronic products.

Are your products compliant? How ready is your business for the legal mandates that lie ahead? Consider the following examples that may affect your company.

Material Restrictions

More than half of U.S. states, as well as the Canadian federal government, have enacted regulations that restrict the sale or the disposal of mercury-containing products. Nearly a dozen states and Canada restrict or ban products that contain polybrominated flame-retardants.

California already prohibits the sale of certain electronic products that are not RoHS compliant, and New Jersey and Minnesota adopted new

RoHS-like materials restrictions in 2008. Over twenty state legislatures considered materials-restriction bills during the 2007-2008 legislative session. The majority of these bills focused on products containing mercury; others concerned lead, polybrominated flame-retardants, heavy metals, and other chemicals. Many of these bills call for prohibiting or restricting the sale, manufacture, and distribution of products based upon their chemical content.

In Canada, federal law authorizes Health Canada to restrict or “virtually eliminate” the use

of persistent, toxic, or bioaccumulative chemicals. The government has placed restrictions on the amount of lead, cadmium, mercury, and polybrominated flame-retardants contained in products.

Labeling Requirements

In addition to restrictions on the products themselves, jurisdictions may also impose labeling requirements. For example, California's Proposition 65 presents a sweeping legal regime aimed at identifying and providing warnings about chemicals known to cause cancer or reproductive toxicity. Companies operating or selling products in California must appropriately label products that contain listed chemicals. Many other states also impose material-specific product or package labeling requirements. During the 2007-2008 legislative session, more than 65 bills related to product labeling were considered by twenty-two states and the New York City Council.

CALIFORNIA'S PROPOSITION 65
INCLUDES LABELING
REQUIREMENTS DISCLOSING LISTED
CHEMICALS CONTAINED WITHIN THE
PRODUCT.

Consumer Product Safety Standards

U.S. federal and state consumer product safety standards establish additional material restrictions and product safety requirements that may affect the electronics industry. For example, the recently passed U.S. Consumer Product Safety Improvement Act imposes new product safety requirements for a wide range of consumer products. In addition to imposing product certification and testing requirements, the law includes limits and bans on lead, phthalates, and other substances in products directed towards children. Finally, the law expands identification and record-keeping obligations that apply to manufacturers, importers, distributors, and retailers by allowing the Consumer Product Safety Commission to request the identification of subcontractors, manufacturers, distributors, and retailers involved in a product's supply chain.

Product Recycling and Take-Back Laws

A global regulatory trend that has spread to North America places responsibility for the reuse and recycling of electronic products on manufacturers. Most activity with respect to product take-back programs has been at the state or provincial level. Eighteen states have enacted product take-back and recycling laws based on a producer-responsibility or advance recovery fee models.

Each year, dozens of remaining states consider proposed legislation to address e-waste or to create electronics recycling programs, and a number have passed legislation requiring state agencies to study recycling and product take-back options. During the 2007-2008 legislative session, thirty-two states considered legislation that would impose producer responsibility requirements, advance recovery fees, disposal restrictions, requirements on retailers to disseminate end-of-life recycling information; or bills that would require a state agency to study electronics take-back and recycling.

While there is no U.S. federal law that governs electronics take-back and recycling, recent activity signals that this is an issue likely to receive increased federal attention. During 2008, a Congressional Working Group released a proposed framework for a federal electronics recycling law, Congress passed resolutions expressing concern over the practice of exporting e-waste to developing countries, the Government Accountability Office issued a report on the need to control e-waste exports and presented it to Congress, and the Environmental Protection Agency released Responsible Recycling Guidelines.

In Canada, five provinces have regulations in place that increase producer responsibility over e-waste, and Quebec is currently developing a framework for electronics recycling.

Design for the Environment and Energy Efficiency Standards

Design-for-Environment (DfE) legislation places sustainability requirements on electronic products and appliances throughout their entire lifecycle. Globally, DfE regulations require companies to manufacture products that are more easily recycled and have less of an environmental impact throughout their lifespan. Within the United States and Canada, design-for-environment and energy efficiency standards may be established by federal law.

As required by existing federal legislation, the United States Department of Energy continues to develop energy efficiency standards for a number of products and appliances. Additionally, many states have passed energy efficiency standards for products and appliances not covered under federal law. During the 2007-2009 legislative sessions, twenty-four states considered a total of forty-one bills that would establish energy efficiency standards, programs to promote improved energy efficiency, tax incentives for energy-efficient products and appliances, and/or limitations on the sale or manufacture of certain lighting in the state.

Increasingly, the federal government and a number of state governments are wielding their purchase power to promote design-for-environment and energy efficiency through their procurement policies. Executive Order 13423 and associated implementing regulations require U.S. federal agencies to meet 95% of their procurement requirements with Electronic Product Environmental Assessment Tool (EPEAT) registered products. EPEAT is a procurement tool that registers and ranks electronic products based upon performance criteria related to the reduction or elimination of toxic materials, energy efficiency, recycled content, end-of-life recycling and management, product longevity, corporate performance, and packaging. Companies that wish to do business with the U.S. federal government—the single largest purchaser of electronics in the world—

must ensure that their products meet the necessary criteria. A number of states have adopted EPEAT criteria and/or Energy Star specifications into their procurement policies, or are considering legislation that would do so. Other states, including Hawaii and Illinois, have incorporated product take-back provisions into their procurement policies.

EIATRACK—Enabling You to Stay Current With Legislation and Regulation

Where does all this leave the manufacturer? From the early stages of planning and design, a product manufacturer must ensure that all components and materials being used to create the product, and the packaging and labeling of the product, specifically adhere to the various regulations depending on where the product may end up.

It can be bewildering and challenging to comply with the varied approaches taken by the states and provinces and even city by city in the United States and Canada. The emergence of sub-state

laws (e.g. New York City) will further complicate this patchwork of product stewardship regulations. Just as importantly, hundreds of new product stewardship laws are proposed at the state and federal level each year.

EIATRACK presents an excellent tool to help manufacturers, retailers, distributors, and recyclers identify important proposed laws and keep up with newly-enacted requirements in North America. Within a company, those that must be familiar with these requirements include sales, marketing, legal, engineering, design and environmental departments. EIATRACK was created with the assistance of electronics companies to help their personnel meet the challenges. With the law firm of Beveridge and Diamond tracking legislative actions throughout North America, EIATRACK stays current with changes in regulations that may affect the way

DESIGN-FOR-ENVIRONMENT
LEGISLATION PLACES
SUSTAINABILITY REQUIREMENTS
ON ELECTRONICS AND
ELECTRICAL EQUIPMENT
PRODUCTS THROUGH THE ENTIRE
PRODUCT LIFECYCLE.

your product is made or what markets it can enter.

In addition to North America, EIATRACK covers regulations the world over with the help of

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regional legal and technical experts. Users of EIATRACK also participate in regional councils to provide up-to-date information on necessary additions and changes.

EIATRACK

EIATRACK, the global benchmark in environmental intelligence and product-oriented regulatory tracking, is owned by the Telecommunications Industry Association (TIA). www.eiatrack.org.

About TIA

The Telecommunications Industry Association (TIA) represents the global information and communications technology (ICT) industry through standards development, advocacy, tradeshow, business opportunities, market intelligence and world-wide environmental regulatory analysis. With roots dating back to 1924, TIA enhances the business environment for broadband, mobile wireless, information technology, networks, cable, satellite and unified communications. Members' products and services empower communications in every industry and market, including healthcare, education, security, public safety, transportation, government, the military, the environment and entertainment. TIA co-owns the [SUPERCOMM®](#) tradeshow and is accredited by the [American National Standards Institute](#) (ANSI).

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