

# Meeting Summary

**Tuesday, November 29, 2011**

DEQ Headquarters  
9:00 am – 12:00 pm  
Room 10  
811 SW Sixth Avenue  
Portland, OR 97204



State of Oregon  
Department of  
Environmental  
Quality

**Land Quality Division  
Oregon E-Cycles  
Program**

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*DEQ is a leader in  
restoring, maintaining and  
enhancing the quality of  
Oregon's air, land and  
water.*

## List of Attendees

Advisory Committee members:

Jim Craven, Tech America  
Mary Jacques, Lenovo (US) Inc  
Becky Jarvis, Electronics Unlimited  
Scott Klagg, Portland Metro Regional Government  
Jeff Kuypers, Hewlett-Packard Co  
Jason Linnell, National Center for Electronics Recycling  
Craig Lorch, Total Reclaim  
Betty Patton, Electronic Manufacturers Recycling Management  
Bailey Payne, Marion County  
Tim Rocak, Garten Foundation

DEQ staff: Wendy Wiles, Land Quality Administrator; Beth Woodrow, Fiscal Analyst; Jordan Palmeri, Waste Prevention Specialist; Loretta Pickerell, Solid Waste Manager; Kathy Kiwala, E-Cycles Specialist; Christie Nuttall, Solid Waste Support; Maggie Vandehey, Agency Rules Coordinator

Others:

Walter Alcorn, Consumer Electronics Association; Bill Peterson, IMS; Rick Vernam, Panasonic; Gregg Chason, Funai; Todd Irvine TRI; Devon Diaz, URT

## Welcome, Introductions, Goals

### *Welcome and introductions*

Wendy Wiles, Administrator, Land Quality Division, and meeting facilitator welcomed and thanked the Advisory Committee members and other attendees for coming. DEQ is beginning rulemaking to change the registration fees that electronics manufacturers pay for the E-Cycles program. This was the first meeting of the Advisory Committee formed to help DEQ evaluate options for revising these fees and develop a proposed fee structure that will cover DEQ's costs for administering the Oregon E-Cycles program.

Wendy recognized that the collaborative working relationships among manufacturers, service providers, other stakeholders and DEQ have been critical to the successful implementation of Oregon E-Cycles. DEQ greatly appreciates those continuing relationships and this groups' expert assistance with this effort.



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E-CYCLES**

Last Updated: 1/22/12  
By: Loretta Pickerell

The Advisory Committee and other attendees introduced themselves.

***Background, Goals, Key Assumptions*** (See: [Background, Goals, Key Assumptions](#))

Loretta Pickerell, DEQ Solid Waste Manager, provided an overview of the background, role of the Advisory Committee, goals, key assumptions for this rulemaking, outcomes for this meeting and the rulemaking timeline.

The legislature included a registration fee schedule in Oregon's Electronics Recycling Law, enacted in 2007. The original fee schedule was based on estimated costs and revenues for starting up and operating the new E-Cycles program. The legislature recognized that and authorized the Environmental Quality Commission (DEQ's governing commission) to revise the registration fees beginning in 2012, so that fee revenue covers DEQ's costs of administering the E-Cycles program. DEQ is initiating this rulemaking because the current fee structure does not generate sufficient revenue to cover DEQ's costs for the E-Cycles program.

The role of this Advisory Committee is consultative. The goal for this process is to develop a registration fee structure all parties can live with.

Key assumptions for this rulemaking are:

- Registration fees should cover DEQ's costs for administering Oregon E-Cycles.

This program should be self-supporting – at least from this point forward.

- DEQ will work within an established budget – no blank checks.

The Advisory Committee will discuss both the E-Cycles budget and revenue targets and fee structures to meet those revenue targets.

- DEQ will continue to work with manufacturers to streamline DEQ's and manufacturers' costs.

DEQ has pared costs as it committed to do when DEQ discussed program costs with stakeholders in spring/summer 2011. DEQ had planned to comprehensively review the program with stakeholders in 2011 to identify additional streamlining opportunities. DEQ did not do that, but is committed to reviewing the program with them in 2012.

- Registration fees should be based on – *but need not match* -- manufacturers' market share.

The existing statutory fee structure is based on relative market share. The Electronics Recycling Law simply requires DEQ to determine annual registration fees *using market share data*. ORS 459A.340(5). DEQ's costs for administering E-Cycles do not vary based on market share; and DEQ's costs for registering a manufacturer do not change based on the size of a manufacturer's market share.

- DEQ has an ongoing commitment to review the E-Cycles budget, revenue and expenditures with stakeholders.

Outcomes for this meeting were to:

- Get comments on target revenues for registration fees

- Get comments on concepts for fee models
- Identify issues, questions, and additional information needed to support evaluation and recommendations for a fee proposal

Rulemaking process and timelines:

DEQ expects to hold two-three Advisory Committee meetings between now and late January or early February, to propose rules for formal public comment in February or March *at the earliest*, and to recommend adoption of proposed rules at the EQC's June 2012 meeting.

During this fee development process, DEQ welcomes feedback at any time by email or phone. Once formal public comment on proposed rules begins, DEQ will request comments be in writing or at a public hearing; they will become part of the rulemaking record.

## **Review and discuss the need for registration fee changes**

Beth Woodrow, Land Quality Fiscal Analyst, presented the need for additional revenue for the E-Cycles program – why and how much. She described the program costs incurred to date, estimates of future costs, and revenues the existing fee schedule has generated. Her presentation with talking points is [Why Does E-Cycles Need Additional Revenue?](#)

### **Comments, questions, and discussion:**

- When did the E-Cycles program deficit begin accumulating (Slide 4)?
  - DEQ: The deficit covers operating costs July 2008 – June 2011 and projected through June 2012. It also includes an initial estimate of total database costs. It does not include DEQ's start up costs from July 2007-June 2008.
- Will DEQ put its plan for further reducing costs in writing?
  - DEQ: DEQ will summarize the plan for further reducing costs following discussions with the E-Cycles recycling programs and other stakeholders during 2012.
- Has DEQ benchmarked the costs for developing the E-Cycles database against database costs for other states?
  - DEQ has not “benchmarkd” costs. DEQ evaluated potentially comparable databases from other state programs, particularly for E-Cycles Washington, but differences in programs made comparisons difficult.
- The costs for developing the database are a large portion of the program's cost. Committee members would like more information about the database (e.g., what it will do, development costs, future plans for the database, how database costs will be controlled).
  - DEQ: DEQ will present/discuss the database either in a separate meeting or as part of the next Advisory Committee meeting.
- Is DEQ seeking fee increases to generate the total funding (Slide 7, \$500K) over five years?
  - DEQ: No. DEQ is seeking fee revenue to cover annual operating costs plus 50% of “other needs” as shown on Slide 8. Solid waste disposal fees would fund the balance of “other needs.”
- Do the expenses and revenues include the addition of printers and peripherals (registration for these new devices begins in 2013 and collection begin in 2015).

- DEQ: DEQ estimates that additional revenue from the adding new devices will approximately equal the increased costs of managing them. However, the revenue target will need to increase when the devices are added. DEQ will present estimates of the costs and revenue from adding these new devices in future meetings.
- The law says the E-Cycles program is to be self-supporting. How much of the program costs can the solid waste disposal fees fund? Is that amount arbitrary?
  - DEQ: The solid waste disposal fee has not changed since the early 90's; revenue from that fee has declined roughly 25% over the past few years. The proposal to use the disposal fee to cover half of "other needs" is the maximum amount the solid waste program can afford to invest in the E-Cycles program. While that is a legitimate use of disposal fee revenue, the E-Cycles registration fees should be structured to fully support program costs in future years. This rulemaking will help establish what those costs will be.
- Registration fee revenue target of \$433,000 would be a 48% increase over the last year's \$293,000 in fee revenue.
  - DEQ: DEQ has measured the increase against the average revenue of \$338/year. But yes, the increase over revenue collected in 2011 is much greater because revenue collected from the fee schedule has declined and was below average in 2011.
- How actively is DEQ looking for small manufacturers (e.g., searching Craig's list) and following up to ensure the register?
  - DEQ/others: DEQ considers pursuing small manufacturers in setting program priorities, including the costs and effectiveness of these activities. The costs for searching for and contacting manufacturers, sending notices and tracking and getting payment can quickly exceed the \$40 registration fee.

## **Review and discuss options for fee changes**

Jordan Palmeri, Waste Prevention Specialist, presented the current fee model and an analysis of the revenue generated. He presented eight conceptual tier models for discussion. His presentation with talking points is [Oregon E-Cycles: An Analysis of Existing and Conceptual Registration Fee Models](#).

Key issues for discussion were:

- Are we considering the appropriate criteria to develop fee models?
- How closely should the fee match market share?
- What other models should be considered?
- Which models do you like or dislike? Why?

### **Comments, questions, and discussion:**

- The E-Cycles program is now a mature program; it seems like DEQ's oversight costs should be decreasing.
  - DEQ: This is a product stewardship program, so DEQ's oversight should be lower than for other types of programs. As noted earlier, DEQ is committed to working with manufacturers and other stakeholders to find opportunities to further pare costs, including changes in operations or the law.
- Has DEQ considered dropping Tiers 3 and 4 (existing fee schedule), so we do not bill small manufacturers if those costs exceed revenue?

- DEQ: DEQ has discussed this idea with the E-Cycles Working Group in the past, but that group has resisted free rides for small manufacturers. DEQ will present estimates of the costs for registering a manufacturer at a future meeting for consideration in proposing a fee model.
- The work DEQ does to register, bill, and track fee payment is not dependent on the size of a manufacturer. Ability to pay (market share size) should not be the only basis for the fee structure.
- Of the roughly 170 E-Cycles manufacturers, about 120-130 pay the minimum fee (current fee schedule); only 40-50 pay more than the minimum.
- Has DEQ studied the trends in registrations to help address the stability of the fee structure?
  - DEQ: The number of manufacturers registering each year has remained fairly stable, but the market share distribution among those manufacturers has changed. DEQ has not found reliable information on trends in market share distribution among manufacturers of covered devices. A fee structure that generates the target revenue regardless of how market share is distributed among manufacturers will provide more stability in fee revenue, both now and as new devices are added to the program.
- One option to address “equity” would be to include in the registration fee a surcharge on the return share weight (minimum recycling obligation) of a manufacturer, so that registration fees were not based solely on market share.
  - DEQ: That could be an option, although recycling tonnage does not affect DEQ’s E-Cycles administrative costs or costs to register a manufacturer. The statute directs DEQ to use market share to determine registration fees, but without specifying how market share must be used.
- The existing fee structure was arbitrary; the legislature did not specify program costs must be spread based on market share, so return share weight might be a consideration.
- Market share could be based on weight vs. number of units to factor in the weight of products sold (e.g., tablets under a pound count the same as large TVs on a unit basis) and more closely track recycling costs.
- Oregon currently determines market share based on units; states using market share are mixed in basing it on weight or units. Market share based on weight vs. units can be calculated using manufacturer-provided sales based on weight or national sales data converted to weight/product category.
  - DEQ: DEQ could calculate market share based on weight as described, probably without significant additional cost. We will evaluate those cost for future meetings.
- \$360K model with surcharge is appealing because it includes a baseline fee schedule (all manufacturers pay a certain amount) combined with ability to pay (surcharge is spread over higher tiers).
- What different models might we use to determine fees? For example the paint product stewardship program.
  - DEQ: Oregon’s paint product stewardship program uses eco fees assessed on each can of paint sold in Oregon. That type of fee assessment is much different than the model used for E-Cycles, so moving to that model would require an amendment to the law.
- Tiers inherently involve a dart throw, including the current tier structure. We should not try to precisely assign fees to achieve “fairness” or other goals. Consider how

disruptive to the current model or how costly a more complicated fee structure would be to administer. The model should be simple to implement so it meets financial goals without adding to overhead or database costs.

- DEQ:
  - Market share and tier assignments are calculated outside of the current and proposed database, so none of the models affects the proposed database.
  - The 6-tier systems with a cap is the most complicated to calculate and explain to manufacturers (since fees over the cap must be redistributed to lower tiers).
  - Adding more than 6 tiers means a few more manufacturers may be just above cut off points so a few more may challenge their market share/tier assignments.
  - DEQ will continue to consider costs to administer the various fee models.
- Provide for a reduced fee payment for paying on time vs. adding interest.
- Knowing the number of manufacturers in each tier would be helpful in understanding the models.
  - DEQ: DEQ will provide this information at a future meeting.
- Having a fee structure that always meets target revenue, such as Washington State's, will provide needed program stability.
- We may not want to eliminate the 6 tier with a cap model. People pay attention if their fees increase over a certain amount; caps may help move the discussion forward.
- Tie target revenue to incentives to reduce DEQ's costs.

**Additional information needed:**

- More description and discussion of the proposed database (e.g., functions it will support, development costs, future plans for the database, how database costs will be controlled).
- More specificity on the terms for the fee increase (e.g., target revenue, timeframe for revisiting/revising the fees).
- The number of manufacturers in each tier.
- Estimated costs for calculating market share based on weight vs. units.
- Ways the surcharge might be distributed to provide incentives to reduce costs.

**Next meetings**

DEQ will schedule a meeting/conference call to discuss the E-Cycles data either in mid-December or as part of the next Advisory Committee meeting to be scheduled in January.