

# Guidance on determining what meets obligation in select circumstances under the Minnesota Electronics Recycling Act

## Purpose

This document provides guidance to registered recyclers and manufacturers on determining whether materials derived from eligible electronic devices that are sent for disposal are eligible to meet manufacturer obligation in select circumstances under the Minnesota Electronics Recycling Act.

## Background

[Minnesota's Electronics Recycling Act](#) (Minnesota Statute §§ 115A.1310 to 115A.1330) created a manufacturer-funded recycling program for several types of electronics from households.

Under 115A.1312, a manufacturer of video display devices (VDDs)—which include TVs and computer monitors—must register annually with the Minnesota Pollution Control Agency (MPCA) and meet an annual recycling obligation, based on the weight of VDDs the manufacturer sold in the state the previous program year. Recyclers working on behalf of manufacturers must register with the MPCA and be certified by an ANSI-ASQ National Accreditation Board-accredited third-party certification body to an environmentally sound management standard.

Under Minn. Stat. 115A.1310, subd. 15, “recycling means the process of collecting and preparing video display devices or covered electronic devices for use in manufacturing processes or for recovery of usable materials followed by delivery of such materials for use. Recycling does not include the destruction by incineration or other process or land disposal of recyclable materials nor reuse, repair, or any other process through which video display devices or covered electronic devices are returned to use for households in their original form.”

Recent studies and developments have indicated that e-waste plastic can contain flame retardants (FR) that are linked to a myriad of health effects including mental and physical development, reproductive development, and cancer ([2017 Toxics and Pollution Prevention Evaluation Report](#)). If sent for recycling, the FR plastic could potentially make its way back into products like cookware and children's toys. In addition, recyclers are reporting end markets for the FR plastic are rare.

## Meeting Minnesota Electronics Recycling Act obligation

In real world practice, not all material derived from eligible electronic devices may be recyclable. The recycling process creates a certain amount of residual material that may need to be disposed of if there are no recycling or reuse markets available. The MPCA has determined that, if material has been deemed “not recyclable” after processing and is therefore disposed of, it may still be eligible to count toward a manufacturer's recycling obligation.

MPCA has developed criteria for determining when materials that are not recycled may still count towards a manufacturer's obligation.

## Materials considered not recyclable as of July 1, 2021

As of July 1, 2021, the MPCA believes there are not widespread, legitimate recycling markets for plastics containing flame retardants or other “sink” plastic from sink/float sorting systems or other sorting methods. If a recycler can demonstrate to the MPCA that it has made a reasonable effort to separate these materials from recyclable materials, the weight of these materials sent for disposal can be counted towards a manufacturer’s obligation, as long as the total weight of any materials sent for disposal does not reach greater than 15% of the total covered electronic devices recycled. If exceeding 15%, then the material may not be disposed of unless approval is granted by the Commissioner as required under [Minn. Stat. § 115A.95](#) Recyclable Materials.

To determine whether plastics containing flame retardants or other “sink” plastic from sink/float sorting systems or other sorting methods from eligible electronic devices is not recyclable, while remaining eligible to count toward a manufacturer’s program year weight recycled under Minn. Stat. 115A.1318, subd. 1, you must contact the MPCA and be prepared to discuss the following:

- Current end markets for the material.
- The technology a registered recycler is using to separate recyclable from non-recyclable components or materials.
- The type and what percentage, by weight, of a device the component or material represents.
- Disposal method for each material and where will it be disposed.

After discussion, if the MPCA determines the weight may count towards a manufacturer’s annual obligation, then the recycler:

- Will report on annual recycled weight as usual.
- Must keep records available for MPCA review that includes data on the percent of Minnesota household e-waste disposed of by disposal method.

One of the MPCA’s primary goals in applying these criteria will be to ensure as much consistency as possible among registered recyclers and maintain a level playing field.

You must contact the MPCA before disposing of select material noted above and to determine whether it can count toward obligation. Call 651-296-6300 or 800-657-3864 and ask for the E-waste Coordinator if you have questions.