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ONE HUNDRED TENTH CONGRESS

**U.S. House of Representatives**  
**Committee on Energy and Commerce**  
**Washington, DC 20515-6115**

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CHAIRMAN

November 18, 2008

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The Honorable Stephen Johnson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

Dear Administrator Johnson:

Under Rules X and XI of the Rules of the United States House of Representatives, the Committee on Energy and Commerce and its Subcommittees on Environment and Hazardous Materials and Oversight and Investigations are investigating the adequacy of the Environmental Protection Agency's (EPA) efforts to implement and enforce regulations governing the export of electronic waste. Electronic waste (commonly referred to as "e-waste") often contains lead, cadmium, mercury, chromium, and other hazardous substances.

Only cathode ray tubes (CRTs), the glass video display components of electronic devices, are regulated when exported for reuse and recycling. Overall, much of the exported e-waste stream is unregulated because EPA applies a standard of toxicity intended for landfill disposal, rather than the disassembly and recycling practices used in many nations.

Used CRTs contain an average of 4 pounds of lead, depending on their size. According to EPA, lead is a toxic metal that can cause delayed neurological development in children and other adverse health effects in adults, including increased blood pressure, nephritis, and cerebrovascular disease and is reasonably anticipated to be a human carcinogen. The CRT regulations require notice and consent requirements for all used CRTs (whether broken or intact) that are exported for recycling and a one-time notification requirement to EPA for used CRTs that are exported for reuse.<sup>1</sup> The regulations also prohibit the speculative accumulation of used, intact, and broken CRTs that are exported for recycling. If these conditions are not met, CRTs which fail the EPA tests for toxicity would be considered hazardous waste. Exporters in violation of one or more of these conditions are subject to an enforcement action and civil or criminal

<sup>1</sup> Hazardous Waste Management System; Modification of the Hazardous Waste Program; Cathode Ray Tubes, 71 FR 42928 (July 28, 2006)

penalties.

The Committee is concerned about the health, safety, and environmental implications posed by the vast amount of e-waste that is exported from this country to developing nations for recycling. In 2005, EPA estimated that Americans generated 1.9 to 2.2 million tons of unwanted or used electronics and 18 percent of this total (345,000 to 379,000 tons) was collected for recycling. We understand that most of the e-waste that is collected in the United States for recycling is exported, and a significant amount of this waste is sent to developing countries that do not have sufficient laws in place to protect workers or the environment. The gravity of this problem is evidenced by the findings of a 2007 study in the journal *Environmental Health Perspectives* that found that children in Guiyu, a Chinese village where discarded electronics are dismantled, have elevated blood lead levels.<sup>2</sup> The mean blood lead level of the 165 children that were tested is 50 percent higher than the limit for lead exposure set by the Centers for Disease Control and Prevention. The CBS television program “60 Minutes” aired a story about Guiyu on November 9, 2008, “Following the Trail of Toxic E-Waste.” It portrayed the town as an electronic wasteland with acrid smoke, noxious smells, and workers dismantling computer components by hand or melting them down over coal fires to remove valuable metals. To establish the often illegal connection of United States e-waste to Guiyu, 60 Minutes tracked a container of CRTs from a recycling facility in Englewood, Colorado, that was shipped to Tacoma, Washington, and then illegally exported to Hong Kong without consent.

Unfortunately, the episode exposed by 60 Minutes is not an isolated incident. The General Accountability Office (GAO) conducted an investigation on the illegal exports of CRTs and issued a report on EPA’s failure to ensure that CRTs, and the broader universe of potentially toxic electronic devices, are exported in a manner that does not harm human health and the environment.<sup>3</sup> In a particularly glaring failure, GAO’s investigation determined that since the CRT rule took effect in January 2007, 26 shipping containers of used CRTs were intercepted and returned to the United States by Hong Kong. In each instance the U.S. exporters neither notified EPA nor received consent from Hong Kong as required by the CRT rule. In at least one case, EPA apparently advised the Customs and Border Protection agents not to inspect the container due to its potential toxicity, but allowed the container to be illegally exported again.

As part of its investigation, GAO also set up a sting operation and posed as foreign buyers searching for nonworking CRTs from Hong Kong, India, Pakistan, and other countries. Unbelievably, they found 43 U.S. electronics recyclers that were willing to export broken CRTs to a GAO front company in apparent violation of the CRT rule. In communications with GAO, several recyclers expressed knowledge of EPA’s CRT rule and attested to the lack of enforcement. Over a three month period, GAO observed more than 50 United States companies

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<sup>2</sup> “Elevated Blood Lead Levels in Children in Guiyu, an Electronic Waste Recycling Town in China,” *Environmental Health Perspectives*” Xia Huo, vol.115, no. July 2007

<sup>3</sup> *Electronic Waste: EPA Needs to Better Control Harmful Exports through Stronger Enforcement and More Comprehensive Regulation*, GAO-08-1044, August 2008

selling close to 1.3 million CRTs on two Internet e-commerce trade sites. Several recyclers actively promoted a green (environmentally responsible) public image, with at least three holding "Earth Day" recycling events, while apparently violating the existing regulations applicable to e-waste exports in the United States.

We are alarmed to find out that EPA did not issue its first administrative penalty complaint against a company for potentially illegal CRT shipments until July 2008 and that this occurred only after GAO identified the company to EPA five months earlier in February 2008. Perhaps one of the most shocking findings of GAO's investigation is that EPA has not developed the basic components of an enforcement strategy for the CRT rule, such as enforcement targets, monitoring, follow-up of suspected violations, and prosecution and apparently failed to implement GAO's recommendations.


As the collection of e-waste in the United States increases, exports to developing Nations will increase, especially exports of lead-laden analog CRTs due to the upcoming nationwide transition from analog to digital television next February. We are concerned that increased exports to these nations could lead to more adults and children being exposed to harmful toxins. We are also concerned that the EPA's lax enforcement of hazardous waste export requirements portrays our country as turning a blind eye to illegal exports that are not only in violation of the CRT rule but also in violation of other countries' obligations under international law. The Basel Convention, ratified by 170 countries and all industrialized Nations except the United States, prohibits the movement of hazardous wastes or other wastes (as defined in Articles I and II of the Convention) between parties to the Convention and non-parties, except when these movements occur under an equivalent bilateral or multilateral agreement. China and many other developing Nations that are dumping grounds for e-waste are parties to the Convention and the United States does not have a bilateral or multilateral agreement with these Nations for such exports.

To assist the Committee in its investigation of this matter, please provide information and records requested in the attachment to this letter no later than December 1, 2008. If you have any questions, please contact us or the Committee staff, Caroline Ahearn or John Arlington, at (202) 225-2927.


Sincerely,



John D. Dingell  
Chairman



Gene Green  
Chairman  
Subcommittee on  
Environment and  
Hazardous Materials



Bart Stupak  
Chairman  
Subcommittee on Oversight  
and Investigations

The Honorable Stephen L. Johnson  
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cc: The Honorable Joe Barton, Ranking Member  
Committee on Energy and Commerce

The Honorable John D. Shadegg, Ranking Member  
Subcommittee on Environment and Hazardous Materials

The Honorable John Shimkus, Ranking Member  
Subcommittee on Oversight and Investigations

Request for Information and Records

1. How much e-waste of all kinds, including cell phones, laptops, printers, and Blackberries, has been exported from the United States since January 1, 2007? Please list volumes by month, if known.
2. What steps, if any, has EPA taken to enforce the CRT rule since January 29, 2007? What volume of used CRTs has been exported from the United States since January, 29, 2007? Please list volumes by month, if known.
3. Section 3017 of the Solid Waste Disposal Act requires notification to EPA when any person exports “any hazardous waste identified or listed” under RCRA Subtitle C unless there is a bilateral agreement between the United States and the receiving country governing such shipments. What materials or component parts of various electronic devices have been identified or listed as hazardous waste under RCRA Subtitle C and therefore fall within the notification requirements of Section 3017?
4. Do some laptops and cell phones meet the RCRA regulatory definition of hazardous waste, i.e. fail the Toxicity Characteristic Leaching Procedure (TCLP) and are subject to the notification requirements of Section 3017 and the 40 CFR Part 262, Subparts E and H, regulations? If not, please explain why not.
5. With regard to EPA’s enforcement and compliance activities related to the CRT rule from January 29, 2007, to the present, please provide copies of all formal and informal enforcement actions, including notices of violation, consent agreements, settlement agreements, compliance orders, complaints, consent decrees and criminal indictments, if any.
6. What steps is EPA taking to implement the following recommendations for executive action made by GAO in its report *Electronic Waste: EPA Needs to Better Control Harmful Exports through Stronger Enforcement and More Comprehensive Regulation*, GAO-08-1044, August 2008?
  - a. Develop options on how the agency could broaden its regulations under existing RCRA authority to address the export of used electronic devices that might not be classified as hazardous waste by current U.S. regulations but have a high likelihood of threatening human health and the environment when unsafely disassembled, as often occurs overseas. Among the options that should be considered is expanding the scope of the CRT rule to cover other exported used electronics and revising the regulatory definition of hazardous waste.

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- b. Cooperate with other Federal agencies to improve the tracking of exported used electronics, which could be accomplished by implementing specific harmonized tariff codes for these devices.