



December 5th, 2005

Mr. Fareed Ferhut
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Dear Mr Fehut:

Thank-you for your Nov 17th response to Xerox's comments on California's proposed environmentally preferable product standard for printer and duplication cartridges. We support the following changes:

- Clarification of the definition of a toner cartridge.
- In benchmark 3, attempts to refine the distinction between remanufactured cartridges and other, less rigorous, forms of reuse.

After a review of all comments and your responses to date, we have serious remaining concerns about this standard. We support the State's goal of reducing waste to landfill but feel this standard, in its current form, does not advance a simple, practical and verifiable solution to reach this goal.

In fact, OEMs like Xerox – one of the largest and most successful remanufacturers of office supplies and products in the world -- may not be able to sell its cartridges with California's EPP designation under the standard's current form. We believe the standard fails to recognize the practical aspects of design, manufacturing, remanufacturing, distribution and marketing of supply items in today's world. As illustrated below, the standard clearly favors third-party remanufacturers and penalizes OEM's who are responsible for the cartridge designs that make remanufacturing possible in the first place. We want to take this opportunity to educate the State on these matters in order to contribute to an effective solution.

An illustration of the challenges posed to OEMs by the standard in its current form is as follows:

- Consider a situation in which an OEM launches a new product whose cartridge has been specifically designed for remanufacturing and for which formal return programs are in place to encourage return of the cartridge. Early in the life of this new product, all the cartridges will be newly built. As Xerox currently interprets this standard, this means that the OEM would have to rely on either benchmark 2 or benchmark 4 to obtain EPP designation. Benchmark 2 is problematic because of challenges associated with procuring PCW plastics of sufficient quantities and purity to use in xerographic applications. Benchmark 4 – in practice – cannot be applied for several reasons:
 - Customers discharge the "new" cartridges prior to returning the spent cartridge to the OEM or a third party for remanufacturing. Depending on the customer's usage rate, it could take 1-2 years before the expected return rate is reached. OEM and third

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party remanufacturing rely on returned “hulks” and they are not available until customers “use up” the newly built cartridges.

- Xerox can only calculate a return rate for cartridges returned to us. We have no way of knowing the volume of returns to third party remanufacturers, cartridge brokers, Office Superstore collection programs, etc.

Under the State’s current standard, this cartridge -- which clearly meets the intent – could not be designated as EPP. Further, this dilemma only applies to the OEM – who made the initial investments in designs that allow remanufacturing. In contrast, the third party remanufacturer can always rely on benchmark 3 to achieve EPP status.

- This dilemma is exacerbated by the fact that the distinction between “new build” vs “remanufactured” cartridges is transparent to Xerox customers. Our processes for new build and remanufactured cartridges are fully integrated and we provide assurance to our customers that reprocessed parts will meet performance standards of new parts. This approach means that Xerox has no way of distinguishing and delivering individual cartridges that are remanufactured to our customers. In practice, we can never use benchmark 3!
- In addition, there are several areas in the standard that suffer from reliance on self-interpretation and many requirements that are easy to claim but would be difficult to “prove”, if challenged. Examples include the requirement that the “failure rate of such a remanufactured cartridge must be comparable to that of a similar new cartridge” and the requirement to “responsibly manage” collected cartridges.

Consistent with the goals of the state’s standard, Xerox cartridges are designed to be reused and remanufactured and Xerox actively supports their reuse as fully described in our August 29th comments. Xerox is concerned that the State’s standard as written does not recognize the efforts of OEMs in this area and may in fact serve to discourage future efforts to design for reuse. We offer these comments in the spirit of contributing to the State’s understanding of the practical aspects of the office equipment industry.

We are encouraged by California’s planned workshop on December 12th. We hope the forum will serve as an opportunity to rethink the State’s approach with input from knowledgeable stakeholders to achieve a workable and fair solution that balances the concerns of all parties. If you have any questions about these comments or seek further information, please direct them to Anne Stocum, 585-422-1655, anne.stocum@xerox.com.

Sincerely,

Patricia A. Calkins, Vice President
Environment, Health and Safety

PAC/as