

## Congress Considers Restrictions on E-Waste Exports

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Representative Gene Green (D-TX) and four co-sponsors have introduced a bill, H.R. 2595, that would ban shipments of listed electronic waste to countries that are not members of the Organization of Economic Cooperation and Development (“non-OECD countries”), subject to several exceptions. Shipments of restricted electronic waste destined for recycling operations in non-OECD countries would be prohibited. The Bill would allow exports of “used electronic equipment” for refurbishment and subsequent reuse, provided the exporter met a number of requirements. Additional exemptions to the export ban would include, for example, warranty returns and exports of used equipment or parts for reuse that meet testing requirements. The Bill defines the scope of covered equipment, but a number of other details are left for future development by the EPA Administrator.

### Covered Equipment

The Bill would ban shipments (subject to certain exceptions) of “restricted electronic waste,” which is defined as items of covered electronic equipment, whole or in fragments, that include, contain, or consist of --

- ◆ circuit boards, lamps, switches, or other parts, components, assemblies, or materials derived therefrom containing mercury or polychlorinated biphenyls;
- ◆ circuit boards, lamps, switches, or other parts, components, assemblies, or materials derived therefrom containing --
  - ◆ antimony in concentrations greater than 1.0 mg/L;
  - ◆ beryllium in concentrations greater than 0.007 mg/L;
  - ◆ cadmium, in concentrations greater than 1.0 mg/L;
  - ◆ chromium in concentrations greater than 5.0 mg/L; or
  - ◆ lead in concentrations greater than 5.0 mg/L;
- ◆ circuit boards, lamps, switches, or other parts, components, assemblies, or materials derived therefrom containing any other toxic material identified by the Administrator;
- ◆ cathode ray tubes or cathode ray tube glass in any form; or
- ◆ batteries containing lead, cadmium, mercury, or flammable organic solvents.

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## Congress Considers Restrictions on E-Waste Exports

The Bill defines “covered electronic equipment” as “used personal computers, servers, monitors, televisions, other video display products, printers, copiers, facsimile machines, video cassette recorders, digital video disc players, video game systems, digital audio players, personal digital assistants, telephones, image scanners, and other used electronic products the Administrator determines to be similar.”

### Scope of the Proposed Ban

The Bill would have implications for the following exports from the U.S. to non-OECD countries:

- ◆ ***Shipments for Recycling:*** Any shipment of “restricted electronic waste” would be subject to the export ban.
- ◆ ***Shipments for Reuse:*** Shipments of “used electronic equipment or parts” (“used equipment”) for use or reuse would only be permitted if (i) the shipment is destined to a country that will permit trade in such equipment, and (ii) the equipment has been tested prior to export and found to be functional for at least one primary purpose. In addition, the Bill would permit shipments of furnace-ready cathode ray tube glass, cleaned of phosphors, to be used as feedstock without further processing, provided the competent authority in the importing country has stated it is not a waste.
- ◆ ***Shipments for Refurbishment (and subsequent reuse):*** Shipments of used equipment for refurbishment can proceed, provided:
  - ◆ the Administrator confirms the country will permit the import;
  - ◆ the export is made by an original equipment manufacturer or its contractual agent that meets an independent standard, to be developed by the Administrator;
  - ◆ the exporter submits an annual notification to the Administrator prior to shipment that includes information as required in the Bill; and
  - ◆ the exporter meets certain recordkeeping requirements.
- ◆ ***Warranty returns:*** Warranty shipments are not subject to the export ban.

### Additional Provisions

The Bill would amend Subtitle C of the Solid Waste Disposal Act (42

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U.S.C. 6921 et seq.) by adding a new Section 3024. Significant implementation details have been left to the EPA Administrator, including development of: (i) testing protocols for equipment destined for reuse; (ii) procedures for identifying additional restricted materials; (iii) a survey (updated annually) of all non-OECD countries to determine which countries' laws will permit trade in equipment covered under the Bill; and (iv) provisions for an export control regime to ensure proper enforcement (in consultation with other key federal agencies). The Bill also would impose criminal penalties for "knowingly" exporting restricted electronic waste in violation of the requirements in the Bill.

### Next Steps

The lead sponsor, Representative Green, and co-sponsor Mike Thompson (D-CA), are the primary drafters of this initial Bill. Additional co-sponsors include Mary Bono Mack (R-CA), Anna Eshoo (D-CA) and Sheila Jackson-Lee (D-TX). The Bill has been referred to the House Energy and Commerce Committee for consideration. It is likely that the Bill will also prompt some further consideration within Congress and the Administration over the need for legislation to implement the Basel Convention on the Transboundary Movements of Hazardous Wastes and their Disposal, which is the international legal regime governing shipments of hazardous wastes.

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A copy of H.R. 2595 is available at [http://www.bdlaw.com/assets/attachments/HR\\_2595.pdf](http://www.bdlaw.com/assets/attachments/HR_2595.pdf).