

Electronic Device Recycling Task Force

2009 Report to the Health and Human Services Committees of the Colorado General Assembly

Members of the Task Force

Representative Randy Fischer, Chair
Senator Pat Steadman, Vice Chair

Dag Adamson	Jeffrey Kuypers
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Senator Dan Gibbs	Karn Stiegelmeier
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Representative Jim Kerr	Mike Wright

NOTE: This document was prepared in accordance with the statutory requirements of House Bill 09-1282. HB09-1282 required the EDRTF to prepare and submit a report that describes the task force's activities and recommendations related to the recycling of electronic devices in Colorado. This statute also requires that this report fairly and accurately represent the areas of consensus, majority opinion, and minority opinion among EDRTF members on the subject of e-waste recycling. To meet this statutory requirement, this report intentionally reflects areas of consensus in addition to the diversity of opinions among EDRTF members. Therefore, any quotes taken out of context from this report may not necessarily represent the EDRTF's consensus or even majority opinions about any aspect of e-waste recycling.

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Final Report
December 7, 2009**

I. Introduction

This report is prepared and submitted to the House and Senate Health and Human Services Committees of the Colorado General Assembly by the Electronic Device Recycling Task Force (EDRTF) in fulfillment of its statutory requirements under House Bill 09-1282 (See Appendix One).

A. Task Force Membership and Charge

The EDRTF was established by the Colorado General Assembly through the passage of HB09-1282, which was signed by Governor Bill Ritter, Jr., on June 1, 2009. The purpose of the EDRTF as stated in HB09-1282 is to gather input regarding the benefits and consequences of establishing a landfill disposal ban for electronic devices, and the best way to (I) increase diversion rates for electronics, (II) promote new nontoxic designs for electronics, (III) create jobs in CO, and (IV) build on, not supplant or undermine, the existing private sector infrastructure currently diverting electronic waste in CO.

The EDRTF consists of 16 members in accordance with the legislation. Task force membership and the affiliations of the members are presented in Appendix Two.

The EDRTF was charged with the following specific tasks—HB09-1282:

1. Identify potentially viable means of gathering and recycling consumer electronic devices in Colorado;
2. Address the elimination of environmental risks posed by landfill disposal or incineration of electronic waste;
3. Gather input regarding the benefits and consequences of establishing a landfill disposal ban for electronic waste;
4. Investigate opportunities to increase electronic-waste diversion rates;
5. Investigate ways to promote new non-toxic and more readily recyclable designs for electronic devices;
6. Develop ways to create jobs and promote economic development through the recycling of electronic waste by building on Colorado's existing infrastructure for electronic-waste recycling;
7. Investigate methods of preventing the export of electronic waste containing toxic materials to countries with insufficient environmental controls to ensure safe recycling;
8. Prepare and submit a written report to the Health and Human Services Committees of the Colorado General Assembly by December 15, 2009.

B. Task Force Activities

The EDRTF members were appointed by their respective organizations during May and June of 2009. In early June, the Colorado Association for Recycling received a grant from the Pollution Prevention Advisory Board to staff and provide logistical support for the task force's meetings and activities. The EDRTF's initial organizational meeting was convened on June 25, 2009, at the Colorado State Capitol. Representative Randy Fischer was elected chairman and Senator Pat Steadman was elected vice-chairman. Subsequent meetings were held on July 23, August 24, October 2, October 28, and November 30, 2009.

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According to HB09-1282, one of the EDRTF meetings was required to be held outside the Denver metro area. This meeting was held in Summit County, Colorado, on August 24. All other meetings were held in Denver. All meetings were open to the public. Meeting minutes and presentation materials from the task force meetings are available for public review on the CAFR website at: <http://www.cafr.org>.

At the October 2, 2009, meeting, EDRTF members presented their preferred models for potential statewide electronic waste (e-waste) recycling programs. During this meeting, **the EDRTF agreed on a vote of nine to four that the task force proceed to integrate the various recommended models with the goal of developing the basis for legislation that would create a statewide program for e-waste recycling.** The results of the process of integrating the task force members' preferred program model is presented in Section II of this report.

A report-writing subcommittee was appointed at the October 2 EDRTF meeting. The subcommittee was tasked with preparing and submitting the report of the EDRTF's activities by December 15, 2009, as required by statute. The subcommittee prepared a draft report for review and comment by the EDRTF as a whole. Revisions and comments on the draft report were discussed by the EDRTF during two teleconferences on November 30 and December 7, 2009. The revised report was approved for submittal to the joint House and Senate Health and Human Services Committees by a majority vote on December 7, 2009.

C. Statement of the Problem

The increase in purchase and use of electronic devices in the past decade has yielded a corresponding stream of discarded and obsolete electronic devices. The Consumer Electronics Association's 2009 research found an average of 24 consumer electronic devices per household in 2008¹. The EPA estimates that in 2005, the U.S. generated over 2.63 million tons of electronics waste², of which 12.5% was recycled. It is the perspective of some task force members that:

- The electronics we buy have a limited life span;
- Consumers may perceive that it is easier to replace electronics than to repair electronics;
- Constant innovation causes consumers to constantly upgrade, creating 'obsolete' equipment that must be disposed of; and
- Toxic components and poor "end-of-life" design make electronics hard to recycle.

When discarded improperly, old electronics, which contain hazardous materials such as lead and cadmium, can negatively impact the health and environment of the citizens of Colorado by polluting soil and groundwater³. When recycled irresponsibly, old "e-waste" is often exported; this may violate international law and the principles of environmental justice and may cause major environmental and human health problems in developing nations.

At the time of this report, 19 states and one city have passed producer responsibility (PR) legislation for e-waste and one state, California, has passed an "advance recovery fee" (ARF) model. Producer responsibility is a model in the world of waste management, whereby the producer of a product basically pays for the final responsible disposition of its product called end-

¹ "Trends in CE Reuse, Recycle, and Removal" Parker Brugge, Consumer Electronics Association, presented at E-Scrap Conference, September 2008.

² "Fact Sheet: Management of Electronic Waste in the United States," US EPA, August, 2008.

³ For related hazardous waste information, see the University of Florida study "RCRA Toxicity Characterization of Computer CPUs and Other Discarded Electronic Devices", Townsend et al, July 15, 2004.

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of-life management (EOL). Putting the responsibility in the hands of the producers has several benefits:

- In some cases, local governments seeking to “do the right thing” are often bearing the cost for recycling e-waste. In such cases, the cost of EOL management falls on taxpayers and local governments. EDRTF members representing local governments cited examples from their communities in which the cost of e-waste recycling is shifted to taxpayers or to other programs. Some Colorado government entities do not wish to use tax revenues to support recycling of electronics or address potential long-term adverse impacts of toxic electronics in landfills. PR can reduce these costs for local governments.
- Many manufacturers already offer take back programs in CO, and they and other manufacturers can build upon these programs to meet take back needs in the state.
- It keeps the costs of EOL management tied to the product.
- There are no taxes or visible fees for consumers or for state government to levy and administer.
- A key purpose of the PR model for EOL management is to promote changes in product design to facilitate ease of recycling and to reduce toxicity.

II. Task Force Recommendations for Elements of Legislation

This section describes the EDRTF's recommendations for a statewide e-waste recycling program in Colorado. Areas of agreement concerning the elements of a state program were achieved through a consensus-building process and are presented in this section. Some areas of disagreement among EDRTF members about program elements remain unresolved, as noted in this section.

A. Covered Electronic Devices (CED)

One of the key elements of any of the 20 existing statewide, and one city, e-waste recycling policies in the U.S. revolves around which electronic devices should be covered under their program. The definition of “covered electronic devices” or “CEDs” establishes the direction and intent of a state program. The majority of the EDRTF members agreed that Colorado's program should focus on consumer information technology equipment and televisions that are not addressed under existing universal waste regulations (RCRA), that contain toxic materials considered inappropriate for land disposal, and that contain salvageable quantities of valuable metals and other recyclable materials that help offset some of the recycling costs. Based on the majority, the EDRTF reached consensus on a narrow subset of electronic devices that it believes merit inclusion as CEDs under any Colorado program, including the following:

- Computer monitors, including cathode ray tube (CRT) and flat-screen types;
- Computer central processing units (CPUs);
- Laptop computers, provided they contain screens of a specified size;
- Televisions, including CRT and flat-screen types.

The majority of the EDRTF further agreed that Colorado's program should not include telephones, cell phones, or hand-held devices, such as PDAs, large or small appliances (other than TVs and IT equipment), and commercial electronic equipment, such as laboratory-diagnostic or testing equipment.

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Despite engaging in extensive discussions, EDRTF members did not reach consensus on whether other electronic equipment, such as but not limited to mice, keyboards, printers, or modems, or other TV-related equipment, such as DVD players and VCRs, should be CEDs in Colorado's program. Some members pointed out that it seems unfair to continue to target a limited sector of the electronics industry, and that fair, objective criteria must be developed before the scope is expanded beyond computer monitors and televisions. There was concern expressed among some task force members that there will be ongoing costs to local governments to recycle devices that are not covered.

B. Covered Entities

Another critical decision for any state policy on e-waste involves which entities should be covered or eligible for participation in the program. The EDRTF agreed that Colorado's program should be limited to household consumers and small home offices and not include businesses. The EDRTF members further agreed that Colorado's program should exclude commercial entities already subject to RCRA's universal waste laws. However, it was recognized that e-waste collectors cannot be expected to determine which customers may represent eligible entities and which may be ineligible. Therefore, it was agreed that any Colorado person submitting a specified number of CEDs or fewer at one time would be considered a covered entity and would be eligible to participate in Colorado's program. EDRTF members chose not to recommend a specific number of CEDs for determining eligibility at this time.

Although public schools and hotels/motels are not covered under RCRA's universal waste regulations, the EDRTF did not reach consensus regarding whether to include these entities under the "covered entity" definition.

C. How CEDs are Collected, Transported, Processed; Roles of Collectors, Processors, Transporters; Manufacturers' Relationship with Processors

This section summarizes the EDRTF's deliberations regarding how CEDs might be collected, transported, and processed for recycling under a statewide program. This discussion centers around the roles and interactions envisioned between the various entities involved in the process of electronics EOL management.

a. Manufacturers' Roles and Interactions

The consensus of the EDRTF is that manufacturers currently selling CEDs in Colorado would register with the State and pay a program administration fee as a condition for selling CEDs in Colorado. The EDRTF agreed that each registered manufacturer would cover reasonable recycling costs for Colorado consumer CEDs. Covered entities may not be charged an EOL fee for CEDs unless a financial incentive of equal or greater value, such as a coupon, is provided. It was also agreed that manufacturers should retain the freedom to enter into contracts with their preferred collectors, transporters, or processors and that manufacturers would be free to conduct their own due diligence or processor certification under these contracts. Most believed that manufacturer-run programs should be certified by the State and that they should report their collection activities to the State.

The EDRTF agreed that IT manufacturers would be required to take back their own brand, but also could accept other brands and types of consumer electronics—at their discretion—and count it in any state reporting. TV manufacturers would be required to take back their own brand, but also could accept other brands and types of consumer electronics—at their

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discretion—and count it in any state reporting. After year one, TV manufacturers are obligated to accept their market share portion of the TV waste stream based on last year's numbers (in year one, the TV manufacturers are obligated to collect but not meet any pound requirement; all subsequent pound requirements are based on the prior year's numbers).

There was a divergence of opinion on other aspects of the roles and interactions of the manufacturers under a Colorado program.

- Some members preferred that if manufacturers run their own adequate take-back programs they should not be required to pay other state recyclers that the manufacturer has not freely chosen and entered into an agreement with for services. Under this model collectors and processors could operate their own businesses but would not be able to recover their costs for recycling CEDs from the manufacturers unless the manufacturers or their chosen recyclers entered into agreements with them.
- Other members envisioned a statewide program in which the manufacturer would be allowed to run take-back programs, but the manufacturer would also be required to pay Colorado-certified collectors and processors based on the weight of each manufacturer's brand of CEDs collected and recycled.
- Other members envisioned a statewide program in which manufacturer-run and local government / collector / processor-run programs would operate side-by-side with complementary designs and coverage, using funding from apportionments from advanced recovery fees.

b. Collectors' Roles and Interactions

The consensus of the EDRTF was that governmental entities, non-profit, or for-profit companies that collect CEDs as the first step in the recycling process would be free to run their own take-back programs and/or to enter into contracts with any entity to provide CED collection services. It was also accepted that collectors could act as processors. Beyond that, opinions differed regarding their roles and interactions with other entities.

Under one model, collectors would be required to register and become certified with the State, pay an administrative fee to the State, and send all collected CEDs to a State-certified processor. Collectors would be required to take CEDs back from consumers at no cost but would contract with State-certified processors who would pay them fair market value for their collected CEDs.

There was some concern among task force members that there would still be on-going costs for community collection programs to recycle e-waste that is not considered a CED.

c. Processors' Roles and Interactions

It was agreed that the role of processors as electronics EOL managers was to accept CEDs from collectors, recover recyclable materials, and properly dispose of the non-toxic remains. Under any of EDRTF's preferred models, processors would be free to interact with manufacturers and collectors as they choose.

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Beyond the recognition of the processors' basic role, two different models emerged from the EDRTF. Under one model, processors would be required to register with the State, become a State-certified processor in order to participate in the statewide program, and pay an annual licensing fee to the State. Under this model, processors would sort the CEDs they receive by brand name and recover processing costs from the manufacturers based on a price per pound established by rule. Processors would also comply with State material-tracking and audit standards and with reporting requirements to ensure accuracy and fairness in their manufacturer invoices. Manufacturers would retain the ability to contract directly with State-certified processors.

Under another model, manufacturers would contract directly with processors of their choice and perform their own due diligence and certification of processors with whom they contract. Processors could be required to register or become certified with the State and manufacturers would not reimburse processors other than those with whom they contract directly, and those processors would in turn reimburse any up-stream collectors and handlers.

d. Transporters Roles and Interactions

The consensus of the EDRTF was that e-waste transporters would be regulated under current statutes and regulations. Collectors, processors, and manufacturers would each contract with transporters as needed.

e. Retailer's Role

The consensus of the EDRTF is that retailers should verify that all brands of CEDs sold within Colorado are properly registered to participate in the take-back program. Most members believe retailers should be able to continue to run their own take-back programs. However, some believed that they should not be able to charge consumers for accepting CEDs. Online retailers selling into Colorado are included in the general definition of retailer.

D. How Funding Flows

This section is about how money flows – not about responsibilities of various players. This section clarifies how and when money changes hands between consumers, manufacturers, retailers, collectors, transporters, processors, and the State. Clarification of financial transactions helps assure sound program design, averting fraud and making responsibilities clear.

a. Annual Fees for Manufacturers

The majority of stakeholders agreed that manufacturers should pay initial and annual registration fees, which will be submitted to an "Agency" (defined as a Division of CDPHE or a non-profit working in coordination with CDPHE).

A minority disagreed, preferring a system whereby the Agency collects an up-front deposit or ARF on the sale of all CEDs sold in to the state via all channels. This fee would be on CEDs sold to households and small businesses.

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b. Who Bills Whom

The majority of stakeholders agreed that the reasonable costs for Colorado consumers to recycle CEDs at end of life should not be borne by the Colorado consumer at the time of recycling. For example, there would be no collection of fees from consumers when eligible products are brought to an eligible collection point. As mentioned, a minority disagrees: consumers would pay a visible fee at point of sale of CEDs. All retailers and sales outlets (both online and brick-and-mortar) would be responsible for remitting fees to the State. Covered entities may not be charged an EOL fee for CEDs unless a financial incentive of equal or greater value, such as a coupon, is provided.

The majority of stakeholders agree that the manufacturer should pay for reasonable costs of transport, processing, and collection. However, there are three major views on how fees are to be determined:

- 1) Collector bills processor a per-pound collection fee set by rule through a stakeholder process to reflect a fair market price; processor bills manufacturer a per-pound recycling and transportation fee set by rule for manufacturers' brands plus pro-rata 'orphan' share.
- 2) Collectors, transporters, and processors bill manufacturers based on agreements that manufacturers (or their agents) reach with them⁴.
- 3) Distribute the funds collected from a deposit or ARF via three channels:
 - o X% to Agency for administration, to certify processors, for statewide education, and for a current statewide on-line list of collection locations;
 - o X% to a county landfill and recycling-assistance grant program for county landfills to address e-waste not captured "up-stream," to potentially provide rebates as incentive for proper return of e-waste, and to provide a grants program to help cities fund special collection events;
 - o X% to industry to set up and maintain collection sites with retail or other program design and to provide financial rebates for users of the return program.

There was recognition that processors and collectors might not be adequately compensated for orphan or disassembled e-waste under any of these models.

Because funds collected by the State should be monitored, the State's regular auditing process will be required to audit this fund regularly.

E. Role of Regulator

The question was asked of the EDRTF: What should be the role, if any, of a regulator in a statewide electronics recycling program? All of the EDRTF members agreed that the regulator or Agency would be the Colorado Department of Public Health and Environment but differed in their responses as to what that regulation looked like. The following subcategories were explored in more detail.

⁴ See section C, How CEDs are Collected, Transported, Processed; Roles of Collectors, Processors, Transporters; Manufacturers' Relationship with Processors, subsection a. Manufacturers' Roles and Interactions, for more information on this option.

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a. Approval of Manufacturers, Recyclers, and Collectors

Most EDRTF members agreed that the Agency should have the power to approve and regulate manufacturers, processors, and collectors of CEDs. This would require each of those entities who wanted to do business in Colorado to register with the Agency and potentially pay a fee.

While the majority of the EDRTF suggested that the Agency hold processors of CEDs to some sort of standard, the exact standard was not decided but would be left to the department to determine by rule.

The manufacturers want any standards and/or approval processes to be open to in- or out-of-state recyclers to meet.

All agree that the Agency should review and approve the manufacturers' take-back plans.

b. Establishing fees

EDRTF members agreed that the Agency should be the entity to establish and collect any fees. The majority agreed that the Agency should set all fees by rule through the stakeholder process. Fees would include an annual registration fee for manufacturers and registration fees for processors and possibly collectors. The fees could be used for:

- Covering the cost of administering the e-waste program;
- Public education and outreach;
- Covering the cost of reviewing registrations;
- Posting approved manufacturers on a website;
- Certification of approved electronics processors;
- Determining television manufacturers' market share;
- Managing a website with manufacturer and local e-cycler information;
- In the case of an ARF model, rebates to provide incentive for proper return of CEDs for those for which zero rebate is not enough.

It was suggested that the Agency would develop a differential pricing structure to create incentives to collect and transport e-waste from remote areas of the state and for collectors' education programs that result in maximized pound-per-capita recovery.

Some suggested a registration fee adequate to cover the Agency's full cost of initiating, running, and enforcing the program, and having the flexibility to adjust initial and annual fees to manufacturers over time, to fully recover administrative costs. Some suggested that a maximum of a \$2,500 annual registration fee for manufacturers (less for smaller companies) should be adequate based on experience with other state programs.

A minority suggested that an up-front ARF on the sale of all eligible electronic equipment be charged. The Agency would then be responsible for administering the statewide program and distributing funds collected to local programs and for grants.

All agreed that the Agency may reduce fees for specific equipment models it determines to meet a threshold of "green" criteria in order to provide an incentive for manufacture of equipment with enhanced deconstruction and recyclability characteristics.

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c. Auditing

All EDRTF members agree on the necessity of audits for processors/recyclers, but they have different suggestions on what that audit consists of and who does it. The Agency would ask processors to conform to a national program such as e-Stewards or R2⁵ or develop a statewide certification program that exceeds these standards.

The majority believe that the Agency should audit recyclers/processors and collectors. Some suggest that there should be a third party that audits processors. Manufacturers want the ability to audit their chosen recyclers, but recognize the value of having recyclers meet an accredited certification standard such as R2s or e-Stewards. Any certification standard required must be eligible for both in-state and out-of-state recyclers to meet, as the State of Colorado cannot legally bar out-of-state recyclers from providing services.

d. Enforcement

Here again, the majority agree that the Agency should enforce the regulation and establish a fine structure that sufficiently funds enforcement and reimburses processors for uncollected recycling fees sent to manufacturers. The minority does not want the Agency to have that much authority but would agree that the Agency should conduct audits and inspections to determine compliance and that the Agency and the state attorney general would enforce the provisions of a take-back law.

There were some additional comments on items not specifically addressed under the above topics. They recommend that the Agency take a leadership role in promoting a statewide e-waste program, work with towns and regions to establish collection programs that meet the needs of the residents in a timely manner so that collection programs can begin as soon as the law takes effect, and compile and submit an annual report to the state legislature.

F. Role of Local Government

The role of local government varied among the program design proposals. No proposal required all local governments (county or city) to provide programs. Two proposals were similar, in that local government participation is not required, but local governments could register as a collector and assist in public education. Manufacturers could be free to enter into agreements for collection with available, willing participants, including, potentially, municipal or local government. In addition, local governments would be free to continue to run programs as they do now, if they so choose.

Another proposal supported more leadership at the county level, allowing and encouraging counties to design and propose projects for the county-allocated grant funds from ARFs, covering collection, sites, and/or education. In addition, counties could submit independently or potentially team with manufacturers, processors, and/or cities. Underserved counties would receive special attention or have a special role; priority grants from ARFs would be to underserved counties/counties with inadequate collection and education programs.

⁵ Under an accredited certification standard, there is a board such as ANAB that accredits auditors to perform certification audits, thus lending consistency and eligibility across a wide geography.

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G. Role of Consumer

Consumers of household electronic devices are generally unaware of recycling or other end-of-life options for disposing of used CEDs. Many electronic devices are donated to thrift stores or end up in landfills. The majority of the EDRTF believes that consumers should have greater responsibility to ensure proper disposal of CEDs, including returning unwanted devices to retailers or other collection sites. If a landfill ban for CEDs were included in any legislative proposal, the responsibility of the consumer and the need for consumer education would be increased.

A minority of the EDRTF proposed that a deposit or ARF be collected from consumers at the point of retail purchase. An ARF would be the method of funding recycling operations with the greatest transparency to consumers, potentially contributing to greater opportunities for consumer education and awareness, particularly if a portion of the ARF were refundable to the consumer as an incentive for proper return of the CED. However, the majority of the EDRTF opposed the ARF funding model. Under funding models preferred by the majority of the EDRTF it is presumed that costs borne by manufactures of CEDs would be passed on to consumers through increased retail prices.

To remove disincentives for collectors and processors, the majority of the EDRTF believes that consumers should be responsible for data protection when returning a CED. Collectors, processors, and manufacturers should be shielded from liability for any release of information that potentially could occur when computers or other CEDs are returned for recycling.

H. Landfill ban

There is no clear majority on this issue. Some stakeholders are landfill ban agnostic. Others feel strongly about establishing a statewide landfill ban at the appropriate time and encourage landfill operators to establish a collection point on-site and thereby divert CEDs into the program and create a revenue source that can offset related costs. Still others would like for the State to allow the authority in legislation for counties to have the option to establish a ban on CEDs and other electronic waste.

There was a divergence of opinion on which model would promote the development of infrastructure sufficient enough to eventually implement a statewide landfill ban for CEDs.

I. Reporting

All parties agreed that reporting and tracking by all involved parties is an important part of a successful strategy. Recommended elements of reporting included:

- Annual reporting submitted to the Agency;
- Annual report submitted by the Agency to the legislature;
- Manufacturers would report the brands of covered devices that they sell in the State;
- Beginning the second program year, manufacturers would report the weight of CEDs collected and recovered in the State during the previous program year through their own take-back programs;
- Beginning the second program year, registered collectors and/or processors would report the weight of CEDs collected and recovered in the State during the previous program year through their own take back programs;

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- In the event that manufacturers are allowed to run their own programs, the Agency could post a ranking or indicator of manufacturer collection performance to drive volumes competitively.

J. Education

Education is an integral part of any successful electronics recycling program. When the EDRTF discussed the role of education, everyone agreed that it needed to be done and that each player would have some responsibility. Manufacturers would post their program details on their website, instructing consumers on how to participate, and provide the website to the Agency. The Agency would post a list of approved manufacturers on a website. Local municipalities or counties with support from the Agency, the Colorado Association for Recycling (CAFR), or other nonprofits, would help educate their residents. Retailers would also be responsible for educating Colorado consumers about recycling programs.

It was suggested, too, that this was an opportunity to use any excess ARF funding for developing a grant program to help educate the public and reward manufacturers that meet or exceed their recycling goals through their educational program.

K. Enforcement

The majority of the EDRTF believes that the Agency with regulatory oversight for a CED recycling program should have the enforcement authority and the resources to impose penalties against obligated entities such as manufacturers, retailers, collectors, and processors that fail to comply with the requirements of a law. Penalties could include but would not be limited to fines, cease-and-desist orders, or other mechanisms approved by the State. The issue of retailer responsibility to ensure that CEDs they sell are properly labeled to indicate manufacture by an approved manufacturer that is participating in the state program was not fully explored.

Penalties or remedies for discrepancies discovered during audits were not fully discussed.

L. Other Elements

EDRTF members agreed to recommend several program elements for inclusion in Colorado's program that did not fit within the categories listed above. These other elements include the following:

- a. Disclosing the level of compliance with the European Union directive on Restriction of Hazardous Substances (RoHS) by original equipment manufacturers (OEMs);
- b. Recognizing the importance of computer reuse programs and ensuring that reuse programs can continue to function under a statewide e-waste recycling program. However, some EDRTF members expressed concern about how a reuse program would function under a statewide recycling program;
- c. State procurement preferences for EPEAT (Electronic Products Environmental Assessment Tool) rated products;
- d. Providing incentives for e-waste processing facilities in underserved and rural communities.
- e. The majority recommended that mail-in programs do not provide adequate service to encourage proper EOL management of CEDs.

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APPENDIX ONE

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 09-1282

BY REPRESENTATIVE(S) Fischer, Apuan, Frangas, Gagliardi, Gerou, Kefalas, Kerr J., Marostica, Nikkel, Primavera, Ryden, Schafer S., Solano, Todd, Vigil, Hullinghorst, Labuda, Levy, Pace, Pommer;
also SENATOR(S) Schwartz, Hodge, Boyd, Gibbs, Newell, Hudak, Sandoval, Williams.

CONCERNING THE RECYCLING OF CERTAIN ELECTRONIC DEVICES, AND, IN CONNECTION THEREWITH, ESTABLISHING A TASK FORCE WITHIN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO MAKE RECOMMENDATIONS REGARDING THE IMPLEMENTATION OF ELECTRONIC DEVICE RECYCLING PROGRAMS AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 1 of article 17 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25-17-107. Electronic device recycling task force - report - cash fund - repeal. (1) THE GENERAL ASSEMBLY HEREBY:

(a) FINDS THAT CONSUMER ELECTRONICS CONTAIN HAZARDOUS MATERIALS AS WELL AS COMPONENTS AND MATERIALS THAT ARE VALUED AS

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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COMMODITIES;

(b) DETERMINES THAT IT IS IMPORTANT TO CREATE A VIABLE MEANS OF RECYCLING ELECTRONIC DEVICES FOR ALL COLORADO CITIZENS, ELIMINATE THE THREAT TO OUR ENVIRONMENT POSED BY BURYING OR INCINERATING ELECTRONIC DEVICES, AND PREVENT THE EXPORT OF TOXIC MATERIALS TO COUNTRIES WITH INSUFFICIENT ENVIRONMENTAL CONTROLS IN PLACE TO RECYCLE THEM SAFELY; AND

(c) DECLARES THAT ITS INTENT IN CREATING AN ELECTRONIC DEVICE RECYCLING TASK FORCE IS TO GATHER INPUT REGARDING THE BENEFITS AND CONSEQUENCES OF ESTABLISHING A LANDFILL DISPOSAL BAN FOR ELECTRONIC DEVICES AND THE BEST WAY TO:

(I) INCREASE DIVERSION RATES FOR ELECTRONIC DEVICES;

(II) PROMOTE NEW NONTOXIC DESIGNS FOR ELECTRONICS;

(III) CREATE JOBS IN COLORADO; AND

(IV) BUILD ON, NOT SUPPLANT OR UNDERMINE, THE EXISTING INFRASTRUCTURE, WHICH IS PRIMARILY IN THE PRIVATE SECTOR, THAT CURRENTLY DIVERTS ELECTRONIC WASTE IN COLORADO.

(2) (a) THERE IS HEREBY CREATED WITHIN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT THE ELECTRONIC DEVICE RECYCLING TASK FORCE. THE TASK FORCE CONSISTS OF THE FOLLOWING SIXTEEN REPRESENTATIVES:

(I) ONE EMPLOYEE OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT WHO IS FAMILIAR WITH ELECTRONICS RECYCLING, APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT;

(II) ONE REPRESENTATIVE OF A RURAL LOCAL GOVERNMENT THAT IS INVOLVED IN ELECTRONICS RECYCLING, APPOINTED BY THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT IN THE DEPARTMENT OF LOCAL AFFAIRS;

(III) ONE REPRESENTATIVE OF AN URBAN LOCAL GOVERNMENT THAT IS INVOLVED IN ELECTRONICS RECYCLING, APPOINTED BY THE COLORADO

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(IV) TWO REPRESENTATIVES OF NONPROFIT ORGANIZATIONS THAT HAVE AN INVOLVEMENT WITH ELECTRONICS RECYCLING AND EDUCATION, OF WHOM ONE SHALL BE STATE-BASED AND HAVE ACCESS TO NATIONAL ELECTRONICS POLICY INFORMATION AND ONE SHALL BE A COMMUNITY NONPROFIT THAT OPERATES AN ELECTRONICS COLLECTION OR RECYCLING PROGRAM, APPOINTED BY THE EXECUTIVE DIRECTOR OF THE COLORADO ASSOCIATION FOR RECYCLING;

(V) TWO REPRESENTATIVES OF COLORADO-BASED RECYCLERS OF ELECTRONIC DEVICES, APPOINTED BY THE EXECUTIVE DIRECTOR OF THE COLORADO ASSOCIATION FOR RECYCLING;

(VI) THREE REPRESENTATIVES OF ELECTRONIC DEVICE MANUFACTURERS, OF WHOM ONE SHALL REPRESENT COMPUTER MANUFACTURERS, ONE SHALL REPRESENT SMALL ELECTRONIC DEVICE MANUFACTURERS, AND ONE SHALL REPRESENT TELEVISION MANUFACTURERS, APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT;

(VII) ONE REPRESENTATIVE OF A COUNTY THAT OWNS OR OPERATES A LANDFILL, APPOINTED BY COLORADO COUNTIES, INCORPORATED;

(VIII) ONE REPRESENTATIVE OF RETAILERS OF ELECTRONIC DEVICES, APPOINTED BY THE COLORADO RETAIL COUNCIL; AND

(IX) FOUR MEMBERS OF THE GENERAL ASSEMBLY, OF WHOM TWO SHALL BE SENATORS APPOINTED BY THE PRESIDENT OF THE SENATE, TWO SHALL BE REPRESENTATIVES APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND NO MORE THAN THREE SHALL BE MEMBERS OF THE SAME POLITICAL PARTY.

(b) THE APPOINTING AUTHORITIES SHALL MAKE THEIR APPOINTMENTS WITHIN ONE MONTH AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (b). A QUORUM SHALL BE A MAJORITY OF THE MEMBERS ACTUALLY APPOINTED TO THE TASK FORCE. THE TASK FORCE SHALL MEET AND SELECT A CHAIR FROM AMONG ITS MEMBERS BY JULY 1, 2009, AND MAY ADOPT SUCH POLICIES FOR ITS PROCEEDINGS AS IT DEEMS NECESSARY.

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(c)(I) THE TASK FORCE SHALL PUBLICIZE AND HOLD AT LEAST THREE PUBLIC MEETINGS, AT LEAST ONE OF WHICH SHALL BE HELD OUTSIDE OF THE DENVER METROPOLITAN AREA, TO GATHER WRITTEN AND ORAL INPUT FROM INTERESTED PARTIES REGARDING THE BENEFITS AND CONSEQUENCES OF ESTABLISHING A LANDFILL DISPOSAL BAN FOR ELECTRONIC DEVICES AND THE BEST WAY TO:

(A) INCREASE DIVERSION RATES FOR ELECTRONIC DEVICES;

(B) PROMOTE NEW NONTOXIC DESIGNS FOR ELECTRONICS;

(C) CREATE JOBS IN COLORADO IN CONNECTION WITH THE RECYCLING OF ELECTRONIC WASTE; AND

(D) BUILD ON, NOT SUPPLANT OR UNDERMINE, THE EXISTING INFRASTRUCTURE THAT CURRENTLY DIVERTS ELECTRONIC WASTE IN COLORADO.

(II) THE TASK FORCE MAY HOLD, AND SHALL PUBLICIZE IF SO HELD, ONE OR MORE MEETINGS AT WHICH PUBLIC INPUT IS NOT TAKEN FOR THE PURPOSE OF DELIBERATING CONCERNING ITS RECOMMENDATIONS AND MAY HOLD, AND SHALL PUBLICIZE IF SO HELD, ONE OR MORE MEETINGS AT WHICH PUBLIC INPUT IS TAKEN FOR THE PURPOSE OF COMMENTING ON A DRAFT REPORT.

(d) THE TASK FORCE SHALL APPOINT A SUBCOMMITTEE TO CREATE A DRAFT FINAL REPORT CONCERNING RECOMMENDATIONS FOR THE RECYCLING OF ELECTRONIC DEVICES. A MAJORITY VOTE OF THE TASK FORCE IS REQUIRED FOR ADOPTION OF THE FINAL REPORT, WHICH SHALL INCLUDE BOTH THE MAJORITY AND MINORITY OPINIONS, IF ANY, CONCERNING THE RECOMMENDATIONS PRESENTED IN THE REPORT. THE TASK FORCE SHALL SUBMIT THE REPORT CONTAINING ITS RECOMMENDATIONS, INCLUDING PROPOSED LEGISLATION, TO THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE GENERAL ASSEMBLY, OR THEIR SUCCESSOR COMMITTEES, BY DECEMBER 15, 2009.

(3) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL PROVIDE DEPARTMENT OR CONTRACT STAFF FOR THE TASK FORCE. PAYMENTS FROM THE ELECTRONIC DEVICE RECYCLING CASH FUND FOR STAFF SHALL BE MADE PRIOR TO TASK FORCE MEMBER REIMBURSEMENTS.

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NOTWITHSTANDING SECTION 2-2-307, C.R.S., LEGISLATIVE AND NONLEGISLATIVE MEMBERS OF THE TASK FORCE SHALL BE ENTITLED TO REIMBURSEMENT FROM THE ELECTRONIC DEVICE RECYCLING CASH FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY, FOR NECESSARY TRAVEL EXPENSES FOR EACH DAY ACTUALLY SPENT AT A TASK FORCE MEETING THAT WAS PUBLICLY NOTICED. WITH OR WITHOUT STAFF, THE TASK FORCE MAY MEET, EXERCISE ITS POWERS, AND PERFORM ITS OBLIGATIONS NOTWITHSTANDING THE FACT THAT THE DEPARTMENT HAS NOT RECEIVED SUFFICIENT GIFTS, GRANTS, OR DONATIONS TO CARRY OUT THE PURPOSES OF THIS SECTION. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE DEPARTMENT HAS NO OBLIGATIONS PURSUANT TO THIS SECTION AND REIMBURSEMENT SHALL NOT BE MADE TO TASK FORCE MEMBERS UNLESS THE DEPARTMENT HAS RECEIVED SUFFICIENT GIFTS, GRANTS, AND DONATIONS TO CARRY OUT THE PURPOSES OF THIS SECTION. THE DEPARTMENT SHALL TRANSFER SUCH GIFTS, GRANTS, AND DONATIONS TO THE STATE TREASURER, WHO SHALL DEPOSIT THEM IN THE ELECTRONIC DEVICE RECYCLING CASH FUND. INTEREST EARNED ON THE INVESTMENT AND DEPOSIT OF REVENUES IN THE FUND SHALL BE DEPOSITED IN THE FUND. THE FUND SHALL BE EXPENDED ONLY FOR PURPOSES SPECIFIED IN THIS SECTION.

(4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2010.

SECTION 2. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the electronic device recycling cash fund created in section 25-17-107 (3), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for allocation to the hazardous materials and waste management division, for the fiscal year beginning July 1, 2009, the sum of twenty-eight thousand six hundred forty-three dollars (\$28,643) cash funds and 0.4 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 3. Safety clause. The general assembly hereby finds,

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determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO

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APPENDIX TWO

Table 1. Membership and Makeup of the Electronic Device Recycling Task Force

Name	Affiliation	Appointed By	Representing
Dag Adamson	Lifespan Technology Recycling	Colorado Association for Recycling	Colorado E-Waste Recyclers
Laura Bishop	Best Buy	Colorado Retail Council	Electronic Device Retailers
Bill Carlson	Town of Vail, Colorado	Colorado Municipal League	Colorado Rural Local Government
Meggan Ehret	Thomson Inc.	Colorado Dept. of Public Health and Environment	Original Electronic Equipment Manufacturers – TV
Rep. Randy Fischer	Colorado House of Representatives	Speaker of the House	Colorado General Assembly
Senator Dan Gibbs	Colorado State Senate	President of the Senate	Colorado General Assembly
Charles Johnson	Colorado Department of Public Health and Environment	Colorado Department of Public Health and Environment	Colorado Department of Public Health and Environment
Rep. Jim Kerr	Colorado House of Representatives	Speaker of the House	Colorado General Assembly
Jeff Kuypers	Hewlett Packard	Colorado Department of Public Health and Environment	Original Electronic Equipment Manufacturers - IT Equipment
Dan Matsch	Eco-Cycle	Colorado Association for Recycling	Colorado-Based Non-Profit Recyclers
Anne Peters	Colorado Association for Recycling Board of Directors	Colorado Association for Recycling	Colorado-Based Non-Profit
Lisa Skumatz	Town of Superior, Colorado	Colorado Municipal League	Urban Local Government
Senator Pat Steadman	Colorado State Senate	President of the Senate	Colorado General Assembly
Commissioner Karn Stiegelmeier	Summit County Board of County Commissioners	Colorado Counties, Inc.	Colorado Counties That Own or Operate a Landfill
Tom Williams	AT&T	Colorado Department of Public Health and Environment	Original Electronic Manufacturers - Small Electronics
Mike Wright	Metech Recycling	Colorado Association for Recycling	Colorado-Based E-Waste Recyclers