

**ELECTRONIC DEVICE RECYCLING TASK FORCE
MEETING MINUTES
October 2, 2009**

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Representative Randy Fischer called the meeting to order at 9:35am at the Legislative Services Building, Room B, 200 East 14th Ave, Denver, Colorado.

Task Force Members Present

- Dag Adamson, Lifespan Technology Recycling (Colorado-based E-waste Recycler); Present
- Laura Bishop, Best Buy (Electronic Device Retailer): Present by Phone
- Bill Carlson, Town of Vail (Rural Local Government); Present
- Meggan Ehret, Thomson Inc. (Electronic Device Manufacturer – TV); Present by Phone and by Proxy Kristyn Rankin
- Rep. Randy Fischer, House District 53 (Colorado General Assembly); Chairman; Present
- Sen. Dan Gibbs, Senate District 16 (Colorado General Assembly); Absent
- Charles Johnson, CDPHE (Dept. of Public Health and Environment); Present by Phone by Proxy Jesi Dobosz
- Rep. Jim Kerr, House District 28 (Colorado General Assembly); Present
- Jeffrey Kuypers, Hewlett Packard (Electronic Device Manufacturer – Computer); Present
- Dan Matsch, Eco-Cycle (Nonprofit Organization); Present
- Anne Peters, CAFR (Nonprofit Organization); Present

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- Lisa Skumatz, Town of Superior (Urban Local Government); Present
- Sen. Pat Steadman, Senate District 31 (Colorado General Assembly); Vice Chairman; Present
- Karn Stiegelmeier, Summit County (County That Owns or Operates Landfill); Present
- Tom Williams, AT&T (Electronic Device Manufacturer – Small Device); Present
- Mike Wright, Metech (Colorado-based E-waste Recycler); Present

CAFR Administrative Assistant Amy Randell and facilitator Herb Dreo were in attendance. Witnesses: Carly Dollar, Axiom Strategies, Inc.; Marjorie Griek, CAFR; Howard Copeland, Goodwill; Annmarie Jensen, Jensen Public Affairs; Jeff Johnson, Goodwill; Larry King, Sims Recycling; Chad Miller, Waste Management; Brooke Oleen, National Conference of State Legislatures; Dianna Orf, Hawthorne Group; Kristyn Rankin, Dell; Charles Sheffield, Colorado Retail Council.

Agenda Review

No changes. Agenda adopted.

Approval of August 24 Meeting Minutes

Dag Adamson asked if on page 7 “no state requiring manufacturer to participate in two programs” applied to states where manufacturers and retailers have their own recycling programs and are still responsible for participating in a state or independent program. Kristyn Rankin said in states where there is a state plan or independent option, typically manufacturers would propose their independent plan to meet the requirements of the law. Adamson said the point on page 7 was that a manufacturer doesn’t get invoiced for both, i.e., in California if material is collected at a non-manufacturer or retailer site, funds for the collection and processing are still available to the recyclers. Rankin said not in any states that she is aware of; California is an advanced recovery fee (ARF) system where obligations to the state are completed after manufacturers have collected the ARF from consumers. The manufacturers retain 3 percent admin fee and 90 percent is remitted to the state, the obligation is then met.

Adamson said he is concerned that the minutes imply that no states have two programs. Rankin said if an independent plan is approved, a manufacturer doesn’t pay anything additional through the state plan. Laura Bishop said she agreed with Rankin; there should not be a requirement to participate in both an independent and a state plan.

Adamson asked if Pitkin County is running a drop-off site at a landfill and there is a shared responsibility program but Dell, for example, has its own program, is it up to the county to decide whether to accept certain brands or not. Jeff Kuypers said that is a new scenario; the minutes are correct as written. Rankin said seven states currently operate programs where manufacturers are solely responsible; the law requires manufacturers to take back everything that has their brand on it. She has not heard of pushback or challenges to municipalities.

Rep. Randy Fischer said the current topic is whether the minutes are accurate. Adamson said he has no further comments. Anne Peters made a motion to approve the August 24 minutes. Lisa Skumatz seconded the motion. **Motion passed unanimously.**

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Moderated Discussion – Members’ Prioritization of Recommendations for Fulfilling the Task Force’s Purpose and Intent. Herb Dreo, Moderator

Dreo said at the last meeting the task force listed potential ideas to meet the purpose and intent and task force members were asked to prioritize those ideas. Dreo handed out results of that exercise and said the first handout summarizes the response and the second explains in more detail. See Appendix One. The task force members were given a moment to review the handouts. Dreo said some of the answers had a lot of commonalities; others had a wide range of opinions.

Dan Matsch asked what “market driven” meant. Dag Adamson said he used it in the context of having a program where manufacturers and retailers had the ability to run programs in parallel to a state program, letting the consumer decide which program to participate in. Bill Carlson said to him market driven means shared responsibility.

Dreo said eight task force members provided input, so the opinions are probably representative. Anne Peters disagreed and said without knowing who submitted responses, she can’t take it as representative. Karn Stiegelmeier said she responded; however, her answers were “yes” and “but” answers and didn’t include numbers for each of the bullets. Stiegelmeier said the ideas weren’t consistent as far as their scope; she didn’t feel her responses were best represented in terms of numbers. Peters said her responses were similar to Stiegelmeier’s and she didn’t think it was a good predictive tool for such complex issues. Dreo said he eliminated Peters’ responses from the sample that was reported. Peters said this was disrespectful.

Dreo said it is up to the task force to decide where to take the discussion. Carlson said he’d like to see an average for each response. Dreo said in order to do more with the results it would be good to have additional responses. Peters said from a process point of view, numerical ranking of subpoints and comparing them numerically doesn’t tell her what the core issues are for the task force to focus on because of the difference in scope and difficulty of comparison. It is important to determine the majority and minority consensus for each topic; and particularly since everyone’s vote is not included it is not a useful tool. Peters said the stakeholders already know what they want and the task force just needs to hear it from them. Dreo said what you have then is a “visual” of where people who responded are leaning to.

Rep. Randy Fischer said the exercise was worthwhile but agreed that the task force shouldn’t draw too many conclusions from the lists; although he appreciated the effort some members put into responding. Rep. Fischer said it may be more helpful to hear what people have to say. Peters said each area merits one to two hours of discussion; she would rather take one topic and discuss it in detail after hearing task force members’ presentations. Dreo said a lot of the responses were questions; there was a lot of uncertainty about it. Tom Williams said perhaps the discussion should focus on the more important items; the task force shouldn’t feel pressured to plow through all nine items right now. Lisa Skumatz asked how the responses could be turned into something actionable for recommendations; she is most interested in hearing the recommendations of the task force members.

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Moderated Discussion – Members’ Recommendations for a Preferred Model for E-scrap Recycling in Colorado. Herb Dreo, Moderator

Rep. Randy Fischer said the task was for individuals to prepare their preferred model for a program in Colorado; the model could include no action. Rep. Fischer asked the task force members to begin their presentations with a statement about whether there is a need for a statewide program or not.

Herb Dreo explained that the different topics posted on flip charts around the room are the results of an e-mail from Rep. Fischer and presuppose that there is a statewide program. Topics include the different roles involved, questions related to a model and other suggestions. Dreo said he is not a content expert; he is neutral on the direction the task force takes. Rep. Fischer said his intent was to provide an organizational framework with the flipcharts and they were designed to facilitate Dreo’s recording of the preferred models. Bill Carlson said he came prepared to address the three questions in the action item. Lisa Skumatz said she hates for flip charts to drive discussions and asked to retain the flexibility not to use them. Annmarie Jensen said that as a person drafting legislation, she thinks the flip charts are good and they don’t have to presuppose legislation; items could just be things people want to do without legislation. Anne Peters said from a report-writing perspective, it would be beneficial if the information was collected in line with the outline of the report. Rep. Fischer said he considered using the outline to facilitate discussion but a final version had not been agreed on yet. Karn Stiegelmeier proposed that if the presentations fit into the flip chart framework, they should be captured; Dreo and Amy Randell would both record the discussion.

Presentation by Bill Carlson, Rural Local Government:
See Appendix Two.

Carlson said his model is taken from a rural perspective. Small local governments and nonprofits have had to respond to the challenge of collecting e-waste and are fronting the cost; the Town of Vail pays thousands to have e-waste recycled.

Carlson said the state needs to have a statewide program, mandated by legislation. Carlson said he was originally in favor of a landfill ban but has decided that’s not real important; a good program with a good design will do the job. And there is no real enforcement; CDPHE doesn’t have the resources for monitoring and it is ultimately up to the landfill operator.

Carlson said he is proposing a law with producer responsibility where manufacturers assume financial responsibility for end-of-life management. He is proposing a mandatory recycling program by law, requiring manufacturers to participate to finance transportation and recycling of devices. Devices include computers, TVs, monitors, and either initial or phased-in printers. Retailers would be involved by partnering with manufacturers to collect devices and have manufacturers pick up material for recycling.

Carlson said the requirements of manufacturers would be to clearly and permanently label equipment with brand, register with CDPHE, pay initial registration fee and other determined fees based on market share; anyone with market share greater than 1 percent would be required to register. Fees would finance transportation and recycling by participating state program and paying approved recyclers reasonable costs for transporting and recycling. As an option, taking part in a private program that complies with requirements of the law would be acceptable; manufacturers must file a description with CDPHE and still pay annual registration fee based on market share.

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Local municipalities would be required to provide collection of household-generated electronics and submit a plan to CDPHE for a program that is convenient and accessible to residents; municipalities could work on their own or as a region. Municipalities would be required to educate residents on how to recycle electronics; a fee could not be charged to households; since the law requires manufacturers to pay a fee, they would bear the costs. Towns could use own collection methods if a permanent site cannot be provided. Retailers could be the sole or primary component of a regional collection plan. Municipalities would be encouraged not obligated to recycle accessories; those could be diverted to the solid waste stream and landfill.

Recyclers must be certified through CDPHE and could still bill manufacturers for cost of transportation and recycling of material. CDPHE would work with towns and regions to create collection programs in a timely manner.

Questions:

Carlson was asked to repeat the role of retailers. Carlson said retailers could be the sole or primary collection point; they must be willing to accept devices they sell and willing to separate household from commercial e-waste; they could not charge residents, must comply with CDPHE universal waste rules for storage and handling of material and must agree to estimate the weight of recycled material. Carlson said municipalities must have a contingent plan should the retailer decide not to continue the program or goes out of business.

Mike Wright asked if the role of the retailer was optional, if they were not required to participate. Carlson said yes. Dan Matsch asked if it was up to the municipality for a given location. Carlson said programs would be more effective if based at the local level, especially in rural areas.

Anne Peters asked if all local governments would be required to register with the state. Carlson said yes, it could be by town or on a regional basis. Peters asked if certified recyclers could bill manufacturers directly by brand. Carlson said yes, for example, if a municipality uses a certain recycler to pick up recycling and a manufacturer doesn't want to work with that recycler, the manufacturer can have their own contract with their own recycler and pick up the material themselves and just pay the municipality's recycler fees for collecting and storing the material. Manufacturers are billed by portion in material for cost of collection.

Charles Sheffield said he was confused about how retailers would interface with municipal plans and asked if it was optional. Carlson said it would be optional, if a retailer wanted to be a collection point it could be; it is the ultimate burden of the producer to pay for transport and collection. Carlson said if a small town has a retailer that wants to partner as a primary component, then that's the option of the retailer. Carlson said he is not proposing retailers are responsible, though the service already exists in many towns.

Lisa Skumatz said the Colorado Municipal League would consider solid waste to be a county issue rather than a city issue.

Larry King asked how a fair market value would be established. Carlson said it would be whatever the market would bear; if the price a recycler submits annually to be certified is not what the market will bear they will not be approved. King said it is not a free-market system; in states with laws,

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recyclers can charge exorbitant amounts for transport and collection. In other states collection and consolidation is less than half of what it costs in states with laws. King asked what certified meant and whether that meant certifying a level of standard. Carlson said what the market will bear will have to be determined. His is a brief overview of a concept and can't say right now. Carlson said certification is not figured out yet; it should be determined based on what other states are doing.

Rep. Fischer cautioned that these are conceptual models and the intent is to let people present their preferred models. Herb Dreo said questions should be about what was meant not whether you agree. Rep. Fischer said keep in mind all details may not be fleshed out.

Annamarie Jensen asked what happened if a local government doesn't want to do anything or participate. Carlson suggested a limit or threshold for population.

Sheffield said he was still unclear about the implementation of a plan; if Best Buy and Target each have programs, if both want to partner, will both have to conform their plans or would they be allowed to leave their programs in place. Carlson said he was in favor of as much flexibility as possible.

Presentation by Jesi Dobosz, Colorado Department of Public Health and Environment (CDPHE):

Jesi Dobosz said CDPHE doesn't have any specific recommendations; the department would like to see something that works for most manufacturers and recyclers and other stakeholders. Dobosz said the department would be happy to comment on what would and would not work for CDPHE as far as administrative oversight if the task force chooses not to go down a voluntary path. Bill Carlson asked the department was in favor of a statewide program. Dobosz said they have no specific model, they have had preliminary discussions about take-back programs but have no position on whether a program should be mandatory or voluntary; it is up to the stakeholders.

Presentation by Lisa Skumatz, Urban Local Government:

Skumatz said the Colorado Municipal League (CML) looks for community partnerships and impacts on towns; CML tends to favor retaining local discretion and control, avoiding unfunded mandates. Skumatz said she saw two main issues: funding/administrative and how to get it delivered. Skumatz said Carlson's proposal was more fleshed out, she is just proposing ideas that would appeal to cities.

For funding and administration, Skumatz said she prefers manufacturers to pay and suggested a deposit system like the one for car batteries; perhaps percentage of the cost embedded in the purchase for all computers. Skumatz said household need signals to realize that putting e-waste in the trash is a problem; either reward them for doing the right thing or the cost needs to be a line item at the time of purchase. Skumatz said she sees a multi-pronged program. Monies would be doled out to manufacturers and the state, possibly in fixed shares. Manufacturers and the state would be doing efforts related to the program, which would allow continuation of existing efforts and deals with the rural issue. Money would be provided to counties from the state based on population, some portion based on formula and some based on extra efforts. Cities would go through counties; cities would not be direct beneficiaries. Existing private firms' roles could be as a contractor for county. If people don't want to use a county system they can use a retail system; convenient and multiple options for people must be provided.

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Skumatz said the state would be responsible for funding education but it should be performed by manufacturers, cities and the state. Reporting should be required of manufacturers so the state can track. Service delivery should be convenient and local; multiple options are needed for residents. Two to three sites per county are needed with more in urban areas.

Skumatz said a landfill ban might be of interest at the local level but enforcement can be complex. Cities are encouraged in using local labor and keeping local infrastructure in business. Towns are generally neutral regarding prison labor and safety.

Skumatz said all brands should contribute to the system. Mail-back programs are not sufficient and probably not practical. Skumatz said brands that meet a certain threshold of designing for the environment could not be charged a fee.

Questions:

Rep. Randy Fischer confirmed that this model would require a state program. Rep. Fischer asked if Skumatz was talking about an advanced recovery fee. Skumatz said yes and the fee should be visible to the consumer.

Anne Peters asked if the money would be collected by the state. Skumatz said she just wants it to go to one central point, it could go to the state.

Larry King asked about the deposit refund. Skumatz said it is important to reach people that need economic incentive to do the right thing. Rep. Jim Kerr asked what percentage of the population needs economic incentive to do the right thing. Skumatz said no one knows because no one knows how much is being recycled. Peters said but recycling is not free in Colorado for the most part. Rep. Kerr said retailers or whoever handles those products are trying to do the right thing and asked how will we manage and monitor this program. Rep. Kerr said the money will create another bureaucracy; sometimes it is easier to dump at a non-monitored dump site when it costs people more to do the right thing. Skumatz said she is proposing free to cost. Peters said free systems have seen a significant increase in recycling; maybe an incentive could be built in. Charles Sheffield said Best Buy's program takes back any product sold in the store for a fee of \$15 which can then be applied towards a purchase in the store.

Presentation by Karn Stiegelmeier, County That Owns or Operates Landfill:

See Appendix Three.

Karn Stiegelmeier said she is not providing an entire model, just key concepts. Counties are supportive of a statewide program; Summit County is incurring large costs to recycle electronics, consumers do bring e-waste to the landfill and pay a fee, most of the time.

Stiegelmeier said she is not excited about a ban; it would only work if it was phased in after programs were successfully functioning. Stiegelmeier said she would like to have authority for a ban in legislation so counties or municipalities could opt to have a ban if they chose. The benefit of a ban is questionable; a ban on disposal doesn't incentivize recycling. Currently haulers drop things they are not supposed to, like tires, and a ban is not easy to enforce.

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Stiegelmeier said counties are against mandates of any kind; some counties would like to have a plan but some would have great resistance to any kind of mandated planning, even a one-page plan.

Stiegelmeier said she is in favor of an advanced recovery fee; she likes the idea of the consumers paying so they know e-waste is a problem and what they are paying for. An up-front fee should cover administration, education, outreach and some special assistance for rural counties with collection/processing. A consumer rebate is a good idea. Incentive would create more recycling than mandates.

Stiegelmeier said she preferred the concept of a tiered system, allowing incentive for green design, making things easier to deconstruct; perhaps a rating could be used so for well-designed products consumers would not be required to pay as big a fee.

Stiegelmeier proposed a new administration idea: CDPHE is essential in terms of certifying or licensing recyclers, but a private nonprofit or a quasi-nonprofit working with the state could administer the program; administration would include collection of fees, repayment to collectors/processors/private or county operations.

Questions:

Anne Peters said the province of Alberta is using a third party to administer their program. Peters said it would be novel to mention a ratings system such as E-PEAT in legislation. Kristyn Rankin said Washington has a government-authorized authority; the program still allows for independent or group plans, though it is very cost intense and bureaucratic. Annmarie Jensen said an authority model is appealing in this economy; it would be harder for the State to “sweep” the money, i.e., transfer the money to the general fund during down economic times.

Mike Wright said in general he likes the idea of an advanced recovery fee; it's good for the consumer to see that they are paying for the recycling of material. Wright said one of the issues with California's program is that they have to verify that all material is being used in the state. If Colorado has a deposit system to refund back to the consumer, Wright said he could see fraud multiplying dramatically; Colorado could take in material from, for example, Kansas that a fee was never collected for.

Presentation by Meggan Ehret and Kristyn Rankin, Electronic Device Manufacturer:

See Appendix Four.

Kristyn Rankin said she worked with Meggan Ehret on the preferred model. Rankin said she wanted to ask if legislation is really necessary; there is a map that shows some programs available in Colorado at the voluntary level. Rankin said if the task force decides a mandate is necessary, she has a strong preference for letting manufacturers do it; they have already figured out how provide free, reasonably convenient consumer recycling options that meet a high environmental standard. Rankin brought handouts of model legislation the industry put together for how to implement a program.

Rankin said on the IT side manufacturers would be required to come up with a state-approved program implemented for branded material. Retailer would be prohibited from selling anything from a manufacturer not registered with the state; nominal fees would be required to implement the program

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and would cover approving plans, maintaining a list of approved manufacturers. It would be the consumer's responsibility to take advantage of the program. The benefit to government is that it adds little bureaucracy; the legislation has been implemented in seven states, and it does push manufacturers who don't have a national program to come up with one.

Meggan Ehret said the TV piece is not much different from IT. For TVs the program is brand agnostic; all current manufacturers would be responsible for collecting TVs based on respective command of the market. At the end of the year the total pounds collected would be calculated, allocated among manufacturers. A version of this program has worked in almost every state that has passed law; the market-share funding piece is widely accepted. The state totals the pounds collected then tells each manufacturer what their responsibility is.

Rankin said the program is simple, there's not a lot of bureaucracy compared to an advanced recovery fee. Manufacturers are committed to paying for responsible recycling; an advanced recovery fee says consumers have to pay for something twice, essentially a double burden for consumers.

Questions:

Lisa Skumatz asked how to incentivize better design. Rankin said through partnerships with Goodwill, Dell is looking at recyclability in addition to recycled content; Dell has engineers sitting in Goodwill doing dismantling and that feedback goes into the design process. Rankin said another way is by adding a state procurement incentive that focuses on E-Peat; Rankin encouraged using such an existing green grading criteria, which is built into the federal electronics challenge and the Northeast states recycling challenge.

Karn Stiegelmeier asked how rural issues would be addressed. Rankin said Dell supports rural through a portfolio program, a combination of Goodwill, Staples and residential collection programs; it's as convenient as your doorstep and free with purchase. Stiegelmeier asked if any retailer was required to take back TVs of any brand. Rankin said manufacturers of IT and TV are responsible for coming up with a program for taking back materials; the only mandate for retailers is permission for selling products of registered manufacturers. Stiegelmeier asked how to define reasonably convenient. Rankin said that is the job of the task force.

Annamarie Jensen asked what enforcement mechanisms were for manufacturers who don't really do much. Rankin said most state environment agencies have the ability to revoke plans; if negative feedback is received the state can react to that. If manufacturers don't have an approved plan, they can't sell in the state. Jeff Kuypers said Hawaii plans to publish a ranking of manufacturer performance. Rankin said there is peer pressure from manufacturers to perform.

Anne Peters asked about the merging of TV and computer products and if there has been discussion about where those products will go. Rankin said there are standard definitions; if the product has a tuner designed to pick up a TV signal, it is a TV; if it is a computer that someone buys an extra card for to pick up TV signal, it stays on IT side.

Rankin was asked if diversion goals are included in the model legislation. Rankin said no, but some states have added goals. Rankin said goals should be based on average return rates, which can differ by region. Larry King said it is important to understand what the goal of the legislation was: to

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collect equipment or to divert it from the landfill. Clear goals are needed when writing legislation then performance goals can be created.

Presentation by Laura Bishop, Electronic Device Retailer:

See Appendix Five.

Laura Bishop said Best Buy operates without mandates nationwide. It is important to allow for flexibility of programs. The gift card exchange makes it easy for Best Buy to operate a program; Best Buy charges \$10 fee for taking back a screen device and in return the consumer gets a \$10 gift card. This fee does not apply to their private label products. This allows Best Buy flexibility and they accept almost any product and from a variety of manufacturers. Of the states that currently have electronics recycling laws, only three require that collection is free.

Bishop said if the task force is looking at a mandate, a market share model should be discussed. Bishop said she would argue strongly not do an advanced recovery fee; she has only seen fees go up and it is a problem to administer, especially for TVs. In addition, the state does not have enforcement authority against on-line retailers, so the fees for these products would not be collected, creating an unlevel playing field for brick-and-mortar retailers.

Bishop said the definition of convenient programs would need to be discussed. In other states, Best Buy is finding that their programs, with 20-25 locations, are not qualified as convenient. So while they are collecting millions of pounds, they are not able to be counted as a convenient program in some states. This makes it more difficult for Best Buy to operate their program, which is popular for consumers; Best Buy would request credit for the amount they are collecting.

Bishop said that should labeling of products be considered, it should be done at a national level. Specific labeling for Colorado would be a problem.

Questions:

Dag Adamson asked if Washington was an example where there was a state-run program, but Best Buy also runs their own program. Kristyn Rankin said in Washington, instead of adding to their infrastructure to meet state requirements, Best Buy has elected to pay into the state program but continues to operate their own programs. Manufacturers can meet the obligation of providing free recycling to consumers by filing an independent plan or paying into the state plan; the state plan meets the obligation of free recycling, but some companies have opted to continue to run their own programs that don't meet the state requirements. Jeff Kuypers said Hewlett Packard hasn't turned off their programs around the country just because a state has a law to provide free take back recycling. In most states if you charge a fee, you can't count those pounds toward your compliance claim.

Rep. Randy Fischer asked if they favored a statewide program. Rankin said based on what's available in Colorado from regional and national programs, she is not convinced legislation is necessary; however, if the task force feels legislation is necessary, manufacturers would like to be given that responsibility and that charge. Bishop said she believes Best Buy programs will continue regardless and that evaluation of what is best for the state is important. If the task force moved forward with a statewide program, Best Buy would accept responsibility and would like the flexibility to operate their program.

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Presentation by Dan Matsch, Colorado-based E-waste Recycler and Nonprofit Organization:
See Appendix Six.

Dan Matsch said he was representing the four Colorado Association for Recycling (CAFR) seats on the task force. CAFR favors state legislation and feels the central issue is who controls the program: manufacturers or the state.

Matsch said during previous legislative efforts they went down the road of working with the manufacturer model and found two roadblocks. First, it cements the status quo; there is no incentive to increase the recycling rate. Given the current recycling rate, if the manufacturer model was used he would be concerned about a landfill ban. The manufacturer program is confusing for residents, for example if you want to recycle your computer and TV at the same time, the state would provide a website that drives the consumer to the individual manufacturers websites, where there are different requirements for recycling the TV and for recycling the computer; that is not convenient for the consumer. There are tools to address this such as a quota idea, regional minimal coverage like Oregon or Washington, but it has been seen that that greatly increases the complexity and cost of the program.

Second, in the manufacturer model, existing local infrastructure doesn't get to participate. Existing infrastructure has gotten us where we are today: educating the public, finding solutions, avoiding the export problem. Matsch said if he wanted to negotiate for payment with the manufacturers, the payment wouldn't cover the real cost because of all the burdens he's already taken on.

Matsch said the CAFR program allows flexibility, it allows manufacturers to run their own programs, and it creates a state program with Colorado-approved recyclers. Manufacturers would pay a registration fee and can collect devices on their own in addition to paying for their brand that is collected by other recyclers/collectors in Colorado. The amount of the fee is set by a stakeholder process to create a transparent formula. The criteria for environmental standards would be set by the State. There would be no charge to the consumer. Processors would bill manufacturers for collection/processing plus a pro rata share for orphan devices that could be based on return share or market share). A landfill ban would be implemented in five years. Education would be a shared responsibility.

Matsch said we should address export and worker safety issues as much as possible. The State would control the program and CDPHE or a third party should be directed by statute as much as possible on how to administer the program.

Mike Wright said the key concept is that collectors/recyclers are incentivized to drive the value so the recycling industry will come up with a way to reach the rural areas, educate the people and recover material. There has to be a reasonable fee associated with doing that and Wright said he envisions a multi-stakeholder process through CDPHE to establish reasonable fees. Wright said he likes that it uses some free market aspects to really drive recycling values.

Dag Adamson said reuse should be considered. Great work has been done in Chicago to incentivize reuse.

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Questions:

Lisa Skumatz asked if there was a funding source for counties. Wright said the proposal does not require the county to do anything. The county could function as a collector and would then be reimbursed as a collector. Skumatz said if in five years there is a landfill ban, counties would have to be involved in that. Anne Peters said she envisions a fee structure that would have hefty incentives for rural areas, which are the primary areas that may not have programs in place; ideally like funds would be set aside for education and outreach for counties that want to start a program.

Skumatz asked about incentives for green manufacturing. Peters said there would be state procurement incentives.

Kristyn Rankin said the proposal is that manufacturers could have their own plan and would still be required to pay any registered collector or processor in the state. Peters said just the processors. Rankin said because of the risk to manufacturers they have robust environmental performance standards; because Dell retains liability for their brand, how would the group propose to address the significant gap between state processors and Dell processors. Peters said an e-steward recycling processor standard would be desired. Rankin said even that doesn't meet Dell's standards. Peters asked how that issue is dealt with in Maine. Rankin said Maine takes on the liability for what they process because of their selection of processors. Jeff Kuypers said it is the same for Hewlett Packard. Mike Wright said Colorado would do the same, assume some liability and have it built into the bill. Wright said as far as standards, the manufacturers' model legislation says recycling must meet local state and federal laws, which there aren't many of; that's why he has issues with the manufacturer legislation, there's not enough to require everyone to meet standards. Rankin said the intent of the manufacturers would be to change the model legislation to R2, E-stewards or equivalent in the future; though, even then, Dell would opt out and do an independent plan.

Wright said if a third-party certification is required, there's significant cost associated with achieving and maintaining that; he would be surprised if more than four processors qualified in Colorado, though it depends on the final rule setting.

Adamson said he would welcome setting the bar high to limit risk and take on liability and that, like Maine, there should be a certain number of processors.

Peters said there are two reasons for incentivizing local processors: keeping local jobs and reducing greenhouse gas emissions. Rankin said if the bar is raised high enough to mitigate liability and risk then you end up limiting new jobs to only three or four companies. Wright said disassembly jobs would increase due to increased volume.

Rep. Jim Kerr asked how it is no cost to the consumer when the proposal says manufacturers must pay. Kerr asked if approved practices must be approved by the state, will the state have to hire someone, and if so, then there is an additional cost; Kerr asked how there is no cost if you are creating a bureaucracy. Wright said with any recycling, if we say it is important to recycle, there is an associated cost; the cost is covered by one source, in any program, and that's the consumer. Wright said in California the cost is visible, in other states the cost of recycling is spread out over all products; to say that the program is no cost to the consumer is saying that they will not be charged a fee to drop stuff off.

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Presentation by Jeff Kuypers, Electronic Device Manufacturer:

Jeff Kuypers said what he is sharing is very similar to what he presented at the first meeting. He has spent time trying to come up with other options, listened to the other interests in the room, and spent many hours talking to individuals at HP; he is sharing what works best for HP.

Kuypers said the question of whether there should be a legislative mandate is fundamentally an unreasonable question for a manufacturer (e.g., asking for more regulation of an activity that HP is already doing voluntarily). He has to say no; however, if Colorado decides on legislation he still wants to give input.

Kuypers said the preferred model is a producer responsibility program, where producers register with the state, have to offer free consumer take-back program, are required to take back their own brand and are allowed to take back other brands and count it. Kuypers said his approach to provide incentive is reasonable: a published ranking, normalized to sales, for example. Manufacturers would pay for their programs and pay a small registration fee to the state to cover cost of the process of registration and posting information on a Web site. Retailers would be required to make sure they are selling only brands registered in the state.

Kuypers said that some of the advantages are: implicit volume liability for manufacturers, no need for government to set a target, prevents manufacturers having to compel consumers to return private property, which is out of the manufacturer's control. Colorado would not have to add employees to address more complex systems. Kuypers said the model does not "guarantee" specific coverage for rural areas, although manufacturers do offer some take-back services in rural areas now, and this could expand if many more manufacturers were mandated to have take-back programs. Kuypers said that this model also does not offer a "guarantee" of protecting all existing computer recycling jobs in Colorado, although Colorado recyclers and other associated entities could certainly compete to deliver take-back services, and this system may in fact result in an increase in computer recycling and related jobs in Colorado as many more manufacturers are required to implement programs. Kuypers said manufacturers like HP have employees in Colorado, and this is a contribution to jobs in Colorado.

Kuypers said that it is not unreasonable to expect that those that benefit financially from the sale and use of consumer electronics should identify some role that they can play in supporting take-back and recycling. Kuypers said sales tax in Colorado could be estimated at \$225 million, based on national sales of consumer electronics, prorated for Colorado's population, and using a sales tax rate of 7.5%, so Colorado is presumably one of those benefactors. Currently there are folks running programs in counties and cities, some of Colorado's taxes from consumer electronics sales may even be helping to support those programs. This manufacturer program proposal would not prevent those people, or additional parties, from collecting and processing material if they wished. The proposal would be for all covered consumer electronics manufacturers (well over 100 versus about two dozen voluntarily now) to provide a convenient way for consumers to recycle in Colorado, and thereby expand opportunities and recycling rates.

Presentation by Tom Williams, Electronic Device Manufacturer:

Tom Williams said AT&T's views are similar to Best Buy, Dell and HP. He believes there are existing programs in place that are effective; Bill Soards presented AT&T's recycling program at a previous meeting. Williams said it all comes back to education, and that's one thing the industry needs to do;

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over time, that is one thing AT&T will do: create a demand to get e-waste taken care of properly. AT&T is not in favor of additional legislation; AT&T is in favor of additional education to alert residents of their options. Williams is not in favor of a landfill ban and said wireless devices should be excluded from any legislation.

Questions:

Sen. Pat Steadman asked if the task force recommended legislation, would that moot the other recommendations. Williams said certainly AT&T's desire is to be excluded; if they weren't, it would lead to his other positions on legislation and landfill ban. Williams said he takes the position of no additional legislation because his industry is good at taking care of their issues.

Dan Matsch asked how wireless device was defined. Williams said mostly common by screen size.

Presentation by Rep. Randy Fischer:

See Appendix Seven.

Rep. Randy Fischer said he based his recommendations on a report from Utah; his recommendations parallel CAFR recommendations. Rep. Fischer said he sees two parallel tracks which address manufacturer concerns about mandating what they have to do and allows growth of the industry around e-cycling in Colorado.

Rep. Fischer said CDPHE or a third party would be the operator. The consumer's role is to be responsible and keep electronics out of the waste stream. OEMs and retailers would be free to continue doing what they are doing but would be required to register with the state, and as an incentive to register, retailers would be prohibited from marketing products from unregistered manufacturers. Roles of collectors and recyclers would be the same as they are now. They would be subject to certification by CDPHE and would be required to account for everyone's brand name plate, keeping that separate. Fees would be assessed for pounds of material collected for each manufacturer and recyclers would seek reimbursement for amount recycled.

Rep. Fischer said the program would be limited to CRTs, CPUs, laptops, TVs, printers and other video display devices, realizing that there will be hybrid products emerging and the administrator of the program would need some authority to address new products.

Rep. Fischer said participation in the state program would be limited to consumers, not to businesses or others already subject to regulations; public schools could take part in the program. The program would be financed by a fee from the OEMs paid to the state. It would be a market-driven approach. The more material OEMs can recycle on their own avoids the cost of having to reimburse processors and recyclers the amount they are handling.

Rep. Fischer said there should be landfill restrictions, maybe not a ban, but at least a waiver process for rural communities that aren't seeking collection; flexibility is needed.

Questions:

Larry King said the Utah working group made a presentation to the legislators and moved to create legislation around the proposal; the motion was voted down. Rep. Fischer said that was true, but he still likes the proposal.

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Jeff Kuypers asked what the motivation was for manufacturers to participate; in this type of system everyone will know the going rate and will be charging the same amount. Mike Wright asked if HP has a program set up at a certain price and the state establishes a fee for approved processors that is higher than the price HP is paying, HP would be concerned that the people they work with want to be paid the higher price also. Wright said he believed there would be enough competition to get HP's business that someone would offer a lower price, to be competitive. Kuypers said in other states they are seeing a forcing of prices up to a ceiling. Anne Peters said those places have quotas.

Report-writing Subcommittee Report and Discussion

Anne Peters said the committee met and looked at the legislation to see what it calls for. The committee talked about three ways to organize the material and developed three outlines. All of the outlines have introductory material, appendices with minutes roster, copy of the bill, definitions, etc. Peters said most reports to legislators are less than eight pages, and the committee agreed on a goal of four to ten pages with accurate representations of the findings and minority briefs.

Peters said outline #1 is organized by the purpose and intent list and follows the nine bulleted items. Outline #2 includes statement of the problem, roles of players and how to set up a program. Outline #3, which is the outline the committee agreed on, covers how devices will flow, who bills who, reporting/auditing, certification/licensing, including a section on the role of the regulator, which implies a state agency or third party. There may be two sections with majority and minority stances.

Meggan Ehret said all three outlines assume the group is recommending legislation, and they may not be the recommendation. Peters agreed and said the legislation section of the outline was optional; the intent of the report is for it to be a record of the points agreed on and points that are disagreed on, it is not meant to be a partisan report.

Peters asked for additional comments and said she pushed to get an outline set because it will help all parties involved prepare their comments and could help structure subsequent meetings.

Rep. Randy Fischer said even if it's assumed the task force doesn't recommend legislation, the outline still presupposes a statewide program. Peters agreed. Rep. Fischer said it seems the group needs to decide if it endorses a statewide program or not. Peters said that could be discussed now, to see if a majority recommend legislation. Rep. Fischer asked what people thought.

Bill Carlson said the group needs an outcome from this effort and he would think a majority of folks would want some statewide program; he would want the third section to be hard recommendations not a dialogue. Mike Wright asked if it was worth a vote at this point, should there be a statewide program and legislation to create it. Rep. Fischer said it is a good idea to come to some closure. Rep. Fischer said AT&T was the only one heard say there was absolutely no need for statewide legislation; other manufacturers questioned whether there was a need but said they would participate in a program or engage in the effort going forward. Rep. Fischer said the group needed to be cognizant that a statewide program doesn't currently exist and would require legislation.

Mike Wright said in general he is in favor of state legislation to control the flow of e-waste, but that doesn't mean he would support any e-waste legislation that the task force might come up with.

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Wright made a motion for the task force to vote to determine whether or not, in general, it is in favor of statewide legislation. Bill Carlson seconded the motion.

Sen. Pat Steadman said legislation and a statewide program are two different things, for example, a landfill ban requires legislation without a statewide program. Sen. Steadman made a substitute motion that the task force proceed to synthesize the various recommendations with the goal of crafting legislation that would create a statewide program for e-waste recycling. Karn Stiegelmeier seconded the motion.

Meggan Ehret asked what a statewide program means. Sen. Steadman said different recommendations have been made, but really this would be state legislation with the goal of dealing with the problem across all four corners of the state. Dianna Orf said the problem with the word synthesize is that some recommendations are in conflict with each other. Sen. Steadman said maybe synthesize is not the right word. If there was a way to address all concerns and accommodate voluntary programs within the framework of a new program, that would be one way of synthesizing options. Sen. Steadman suggested the using the word integrate instead.

Wright said coming back to the fundamental question, are we in favor of this task force moving ahead trying to get legislation or not. Rep. Fischer asked if the task force agreed to this, is the group saying the task force is responsible for writing legislation. Sen. Steadman said the task force could produce a list of recommendation rather than a first draft of a bill, providing the framework for legislation to move forward.

Rep. Fischer asked for objections to the motion. Jeff Kuypers said he objects and said he is hearing the same basic principles and proposals as at the first meeting; without many more meetings he doesn't see how the group will synthesize these different approaches. Kuypers said that the proposals are fundamentally different and not reasonable to synthesize.

Rep. Fischer said Sen. Steadman's substitute motion superseded the first and asked for a show of hands. In favor: nine; opposed: four; abstained: one. **Motion passed.**

Peters said she would make it clear from the outline that it will be a fair representation of the multiple points of view. Peters said she would send the revised outline to the task force and asked members to think about what sections they might want to write.

Rep. Fischer asked for further suggestions for the outline. Stiegelmeier said it would be nice if manufacturers could come up with some incentives that do work, in terms of not getting stuck with a higher price; perhaps that could be a topic. Rep. Fischer asked Jeff Kuypers if HP would go back through the CAFR/Fischer proposal and see if there are ways to make it work for manufacturers. Kuypers said he is not sure what to say; he has spent considerable time within HP, and to extent outside of HP, trying to figure out how to meet the diverse interests that task force members have expressed. He can't commit to go back and find a way to make the CAFR/Fischer model work for industry when it is fundamentally different than the industry proposal. Kuypers said it is inappropriate to single out HP as having the obligation of making the CAFR/Fischer proposal work. Kuypers said he was opposed to the motion for the expressed reason that the models are fundamentally different and do not seem reasonable to synthesize. Kuypers said he can't think of other states that have put in place this particular model where industry is comfortable with addressing the issues of fair pricing

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where industry is forced to pay for bills from an unlimited number of recyclers, which the manufacturers do not get to choose and contract with in a state.

Peters asked if, in the history of task force reports submitted to the Colorado legislature, the reports with different points of view were useful. Sen. Steadman said both the majority reports and minority reports form the debate on the floor. Sen. Steadman said to be mindful that legislation anticipates that a minority report is produced; those in the majority need to be respectful of the time it will take for the minority report to be prepared.

Rep. Fischer said there were folks who recommended an advanced recovery fee model and asked if that was still there recommendation or if there was value in discussing any of those issues again. Lisa Skumatz said an advanced recovery fee is still her preference. Dianna Orf said it might ultimately be informative for the legislature to know the local government, recyclers, and manufacturers approaches and asked if it would be helpful for each of those entities to detail their approaches in the report, then no one is forced to buy into another position.

Peters asked how much more the group wanted to talk to each other and if they were even going to keep meeting to come to consensus. Charles Sheffield said the fact that there are differences of opinion necessitates more meetings; the task force needs to take all the different stakeholder views and flush out the differences, especially if the task force is proposing legislation. Carlson said he agreed completely; he came to the task force to produce a report that is clear and concise and didn't expect agreement. Carlson said he would like to come back in a month and go over the draft report and see what people think; the bottom line is the task force will have a report to give to the legislature. Sheffield said even with difference of opinions he also hears commonalities; the commonalities can be presented collectively and disagreements can be detailed in the majority and minority reports. Wright said he doesn't want to go backward. There are roughly three different models with commonalities; the issue is that there is one model that the majority of people feel is going to be best for Colorado. Skumatz said or do we come up with something new, taking parts from all. Dag Adamson said the three models were the model legislation from HP and Dell, the model from CAFR, and the advanced recovery fee (ARF). Wright said he prefers the CAFR model but he is not opposed to the other two if some of the things can be modified; that's where the task force is at: can concessions be made in any of those models to make it OK for the other stakeholders and to benefit the State.

Peters said she could revise the outline to reflect the conversation today and send it to the task force. Peters said it would be most helpful if the three viewpoints, with subsets, formed a caucus and resubmitted to the report committee their bullets dropped into the outline; then the committee could synthesize those into one document and at the next meeting the task force could start discussions on the most difficult sections. Peters said the report would be sent to the task force for review by October 21.

The task force scheduled the next two meetings for the morning of October 28 and the afternoon of November 30.

Public Comment

No public comments.

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The Electronic Device Recycling Task Force meeting adjourned at 3:00pm.

Action Items

This is a summary list of tasks from the EDRTF meeting. If you are listed as an 'owner', please come prepared to the next meeting with this information. If you don't think you were assigned a particular task, indicate who you think the owner is and notify Amy Randell for updating.

Action Item or Commitment	Owner	BY WHEN	Status
Send revised outline to task force	Peters	8/7/09	Complete
Provide bullets to report writing committee	Manufacturers, CAFR, ARF groups	10/17/09	Pending

APPENDIX ONE
Members' Prioritization of Recommendations for Fulfilling Purpose and Intent
Prioritized Recommendations for Purpose and Intent

1. Identify potentially viable means of gathering and recycling e-waste	Market driven 2,1,1,1,3,3,3,1	Local govt. 4,1,2,3,?,4,4,2	State website 3,2,3,5,2,2,5,3	Already existing pro 1,4,4,4,1,1,2,4	Rural/urban 5,3,2,?,1,?			
2. Address or eliminate environmental risks posed by landfill disposal or incineration of e-waste;	Ban 3,1,1,5,5,4,2,3	Education 1,3,2,1,1,1,5,4	Ec. Incentives ?,5,3,2,2,3,4,5	Design for environment ?,4,4,3,3,2,1,2	Reg. enforcement 2,2,5,4,4,5,3,1			
3. Identify specific technologies and practices for recycling of e-waste that are protective of human health and the environment;	Standards/ Certification' 1,1,1,2,1,2 All equal (2)	R2, OEM, IARS etc. 2,2,2,1,2,1	Prison labor 3,3,no,?,no,?,?,3					
4. Gather input regarding the benefits and consequences of establishing a landfill disposal ban for e-waste;	Statewide or regional 4,2,6,3	Ban from waste stream 1,7,5,1,4	Educate public 1,3,3,4,1,3,5	Consider consequence 3,5,3,4,4,6	Phased in approach 2,4,5,2,2,2	If banned, have option 1,2,6,2,1	Intent? 1,1,7	
5. Investigate opportunities to increase e-waste diversion rates;	Goals with teeth 1,3,1,1,?,8,2,	What is success? 1,?,2,3,	Goals based on returns 3,2,6,2,5,	Commercial sector 8,3,?,1	Recognition Rebates 2,4,4,?,1,4,	Rural incentive 4,7,2,2,6,	Procurement credits 6,5,1,4,5,	ARF 5,2,3,1,

APPENDIX ONE

Members' Prioritization of Recommendations for Fulfilling Purpose and Intent

6. Investigate ways to promote new non-toxic and more readily recyclable designs for electronic devices;	Make manuf. Responsible ?,1,1,1,1,2,2,2	Consistent reqs. EU – r 1,2,2,2,2,1,1,1						
7. Develop ways to create jobs and promote economic development through the recycling of e-waste;	Incentive for instate recyc 3,1,2,2,2,2,2	Extend RREO prog 2,4,3,1,?	Landfill ban 5,1,5,4,4	More opps to recycle 1,3,5,1,3,1	Education 2,4,3,4,1,3			
8. Prevent the export of toxic materials to countries with insufficient environmental controls in place to recycle them safely	Standards/certification 1,1,1,1,1,1,2,1	Economic incentives 2,2,2,2,2,2,1,2						
9. Build on the existing infrastructure for recycling e-waste in Colorado.	Incentives for infrastructure 2,3,2,2,2,2,4	Landfill ban 4,4,1,4,4,4,3	Co-op for underserved 3,1,3,3,3,3,2	Ensure no undermining 1,2,4,1,1,1,1				

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APPENDIX ONE

Members' Prioritization of Recommendations for Fulfilling Purpose and Intent

Purpose and Intent

- 1) Identify potentially viable means of gathering and recycling consumer electronic devices in Colorado
 - a. Market-driven and/or shared responsibility; multiple channels for public recycling of electronics (i.e. retail take-back programs, mail-back programs and other voluntary programs)
 - b. Local government options and nonprofit/commercial-run recycling centers
 - c. State website (consumer friendly) for voluntary programs (where recyclers can notify the state and register and residents can have one place to find information)
 - d. Already existing voluntary programs
 - e. Difference between rural and urban areas
- 2) Address or eliminate environmental risks posed by landfill disposal or incineration of e-waste
 - Ban it
 - Education
 - Economic incentives
 - Design for environment
 - Regulatory enforcement of unacceptable items in landfill
- 3) Identify specific technologies and practices for recycling of e-waste that are protective of human health and the environment
 - Standards/certification
 - R2, OEM best practices, IAER/ISRI-RIOS, E-stewards, ISO14000
 - Prison labor?
- 4) Gather input regarding the benefits and consequences of establishing a landfill disposal ban for e-waste
 - Should be statewide or regional – so landfills can't be cherrypicked
 - Ban from waste stream
 - Educate the public on options/consequences
 - Consider consequences, i.e. dumping, political considerations, lost revenue/value from valuable resource
 - Phased-in approach – timing critical
 - If banned there must be options
 - Intent? Landfills already mitigate risk
- 5) Investigate opportunities to increase e-waste diversion rates
 - Goals with teeth and incentives
 - What is success? What are metrics? i.e., amount collected vs. how much in landfill

APPENDIX ONE

Members' Prioritization of Recommendations for Fulfilling Purpose and Intent

- Goals based on actual returns to recycling programs
 - Commercial sector and recyclers responsibility to collect (standards not the same?)
 - Recognition/rebates for OEMs and retailers that recycle
 - Rural incentives
 - Procurement credits for manufacturers
 - ARF may have merit despite CA experience
- 6) Investigate ways to promote new non-toxic and more readily recyclable designs for electronic devices
- Make manufacturers responsible
 - Consistent requirements (EU-RoHS)
- 7) Develop ways to create jobs and promote economic development through the recycling of e-waste in Colorado
- Incentives for in-state recyclers for job creation
 - Extend RREO program
 - A landfill ban will create jobs
 - More opportunity for people to recycle
 - Education
- 8) Prevent the export of toxic materials to countries with insufficient environmental controls in place to recycle them safely
- Standards/certification for recyclers and collectors
 - Economic incentives
- 9) Build on the existing infrastructure for recycling e-waste in Colorado
- Incentives in areas with inadequate infrastructure
 - Landfill ban
 - Co-op development for underserved areas
- Ensure no unintentional undermining of existing businesses that can meet standards (cf. #8)

APPENDIX TWO
Task Force Members' Preferred Model for E-Scrap Recycling in Colorado
Bill Carlson, Rural Local Government

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HOW DO WE GET THERE?

Local governments and non profits have had to respond to the challenge of managing the ever increasing amounts of electronic devices ending up in the solid waste stream. These devices referred to as electronic waste typically contain toxic substances such as lead, cadmium and mercury and have become a growing portion of the solid waste stream at a time when Colorado needs to pursue aggressive recycling goals.

ELECTRONIC RECYCLING RECOMMENDED MODEL

The State of Colorado implements an electronic recycling law banning electronic waste from landfills within 3 years based on a “producer responsibility” model where the manufacturer assumes financial responsibility for the end of life management of their product. The law creates a mandatory recycling program for discarded covered electronic devices (CEDs). The law requires manufacturers to participate in a program to finance the transportation and recycling of CEDs.

WHAT ARE CEDs?

1. E- waste defined as Covered Electronic Devices (CEDs):

- Computers (desk tops and laptops)
- TVs
- Monitors
- Printers (optional or phased in)

2. Manufacturers are companies that:

- Make or made CEDs under a brand they own or owned;
- Make or made CEDs under a brand they license;
- Make or made CEDs without affixing a brand;
- Resell or has resold, under their own brand, a CED made by others;
- Make or made CEDs and supply or supplied such devices to may person within a distribution network that includes wholesalers or retailers;

3. Retailers are companies who:

- Sell CEDs under its own brand names;or
- Sells CEDs acquired from an importer and choose to register, in lieu of the importer, as the manufacturer of those devices; or
- They are an importer or exporter of CEDs.

WHAT IS REQUIRED OF A MANUFACTURER?

- Clearly and permanently label their CEDs with the manufacturer's brand;
- Register with the CDPHE;
- Pay CDPHE an initial registration fee and any other required fees.
- Register annually with CDPHE and pay annual registration renewal fee;
- Finance the transportation and recycling of CEDs by:
 - Participating in the state program and paying an approved recycler's reasonable costs for transporting and recycling the CEDs attributed to the manufacturer; and

APPENDIX TWO
Task Force Members' Preferred Model for E-Scrap Recycling in Colorado
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- (optional) taking part in a private recycling program that complies with the requirements of the law. Manufacturers participating in a private collection program must file a description of the program with their annual CDPHE annual registration.
- Manufacturers taking part in a private CED recycling program must make information about their program available to any retailers that sell their CEDs.

REQUIREMENTS FOR LOCAL MUNICIPALITIES

The law would require municipalities to provide for the collection of household generated CEDs. Municipality must submit a plan to CDPHE that is convenient and accessible for its residents. Municipalities can meet this requirement by working on their own or in conjunction with a region. If a town choose to submit the plan regionally, it will need to certify that the regional entity is submitting a plan on its behalf. Municipalities will be required to educate their residents on the specifics of how to recycle CEDs. Municipalities may not charge a fee to households bringing 5 or less CEDs, since the law requires producer responsibility ensuring the manufacturer not the municipalities shall bear the cost of recycling CEDs.

CDPHE would strongly recommend that every town identify one or more collection points for CEDs within it borders, preferably at an existing transfer station, recycling center, or regional municipal facility. Towns can elect to use other collection methods if a permanent site within its boundary can not be provided. By way of example, a town may establish a collection site at the local landfill or transfer station or other solid waste facility. The town must comply with Federal Universal Waste Rules. Towns may also identify private collection points that are not under the Town's control. One day electronic waste collection events may be a more practical option for collecting CEDs if approved by CDPHE.

RETAIL COLLECTION POINTS

For the retailers to be the sole or primary component of a municipal or regional collection plan:

- The retailer must be willing to accept all CEDs
- The retailer must be willing to separate household CEDs from commercial devices
- The retailer must not charge residents for the collection of CEDs
- The retailer must comply with CDPHE universal waste rule for the storage and handling of electronic waste
- The retail must have a contract in place with a CED recycler certifying they are aware of, and agree to abide by, the requirements for participating in this program
- The municipality or region must have a contingency plan should the retailer decide to no longer participate in the program
- The CED recycler must agree to estimate the weight of CEDs recycled through the retailer.

The municipality is encouraged but not obligated to recycle non CEDs (keyboards, mice, VCRs, DVDs, etc.) and may divert them to the solid waste stream.

CED RECYCLER LIST

CDPHE will post a list of CED recyclers on their website. These recyclers will be billing the manufacturers for the cost of recycling CEDs. CDPHE will develop criteria for approving CED recycling facilities and operators.

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Task Force Members' Preferred Model for E-Scrap Recycling in Colorado
Bill Carlson, Rural Local Government

CDPHE will work with the 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.

APPENDIX THREE
Task Force Members' Preferred Model for E-Scrap Recycling in Colorado
Karn Stiegelmeier, County That Owns or Operates Landfill Representative

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KEY CONCEPTS FOR E-WASTE RECYCLING

Karn Stiegelmeier, Summit County Government

October, 2009

FEES

* Deposit up front (Advanced Recovery Fee) must be enough to cover costs for

1. Administration
2. Education and outreach
3. Assistance for rural counties without a collection and processing program in place

* Include a customer rebate when returning e-waste for recycling. This would bring customers into retail locations which is a benefit to retailers..... example-- \$30.00 deposit with a \$10.00 rebate (like batteries – it works)

* Tiered system that would allow for a benefit or incentive for electronics that are green designed to be easy to de-construct and recycle

* A mechanism that controls online deposits needs to be considered. Online local taxes are in place for purchases, so this should not be difficult

Note- there is accounting in place for counties or other non-retail/manufacture collection to get paid back through reports from the recycler

ADMINISTRATION

- A private non-profit working in coordination with CDPHE could be the ideal administrator with charges to include education and outreach, administration of fees, assistance for rural counties to set up collection and processing. Fee administration would include collection of fees and repayment to collectors/ processors (private and county, municipal and other) The non-profit could also be involved in a labeling system or rating system such as those already in place including a lower deposit requirement for electronics with lower costs for de-construct and recycling
- Certification or licensing of recyclers/processors needs to be administered through CDPHE, but could be done in coordination with the non-profit

BAN

* State-wide only if phased in after successful programs are in place.

* Allow authority in legislation for counties to establish a ban when they are ready (statutory counties do not currently have that authority, municipalities and those few home rule counties do currently have the authority) Some counties will be ready to establish a ban immediately, some will not want a ban. A state-wide ban will not do much to create incentives for recycling. Our landfill imposes fines on haulers for other illegal dumping, like tires IF it is identified at the gate, which is very difficult. Our staff believes the fines do not lead to any follow up with customers, rather it is considered part of the cost of doing business. Enforcement of a ban would be extremely difficult. There is and will still be pirate dumping of all types of illegal materials.

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February 2 version

**CONSUMER INFORMATION TECHNOLOGY (IT)
EQUIPMENT AND TELEVISION ELECTRONIC RECYCLING
MODEL STATE LEGISLATION**

A BILL

*Be it enacted by the Senate and House of Representatives of the Legislature of the State of _____
assembled,*

SECTION 1. SHORT ACT; TABLE OF CONTENTS.

- a. Short Act - This Act may be cited as the "Electronic Recycling Act."
- b. Table of Contents – The table of contents of this Act is as follows:

- Sec. 1. Short Act; Table of Contents
- Sec. 2. Findings and Purposes
- Sec. 3. Definitions
- Sec. 4. Applicability
- Sec. 5. Computer Manufacturers
- Sec. 6. Television Manufacturers
- Sec. 7. Retailers
- Sec. 8. Department
- Sec. 9. Consumers
- Sec. 10. Sound Environmental Management
- Sec. 11. State Procurement
- Sec. 12. Federal Preemption
- Sec. 13. Effective Date

SECTION 2. FINDINGS AND PURPOSES.

The Legislature makes the following findings and states the following purposes for this Act:

a. Consumer electronics products are critical elements to the strength and growth of this state's economic prosperity and our quality of life. Developing and implementing an appropriate state electronics recycling and recovery system is important to our state's resource conservation, worker health and safety, and economic prosperity goals. In order to accomplish this goal, it is important to be mindful of the differences between products and ensure appropriate treatment given those differences. While some computers and computer monitors may be refurbished and reused and other consumer electronics products contain valuable materials, some older and bulkier consumer electronic products do not contain any valuable product but must be recycled, like televisions. For the products covered by this legislation, differences in product life expectancy, market economics, residual value, and product portability necessitate a different approach to recycling as reflected in this legislation.

- i. Televisions have an average useful life of 15 to 17 years and have been on the market since the late 1920s, while computers have an average life expectancy of at least 10 years less than the average

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television and have been in the market since only the 1980s.

ii. A computer's residual value is greater than the typical cathode ray tube television. Computers contain metals and other valuable and easily recycled or reused materials.

iii. Computers are lighter and easier to handle than televisions, thus making computer collection and recycling easier than for televisions.

b. The purpose of this Act is to establish a comprehensive and convenient electronics recycling and/or reuse program based on manufacturer responsibility and shared responsibility among all stakeholders, including manufacturers, consumers, retailers, and government. The purposes of this recovery system are to ensure that end-of-life consumer electronics products are responsibly retired or recycled to promote resource conservation through the development of an effective and efficient system for collecting and recycling such products, and to require manufacturers to offer such service to consumers with convenience and at no recycling charge.

SECTION 3. DEFINITIONS.

a. "Brand" means symbols, words, or marks that identify a Covered Device, rather than any of its components.

b. "Collect" or "collection" means to collect a covered device, including, but not limited to, collection through a mail-back program, collection site or collection event.

c. "Computer" means a desktop or notebook computer as further defined below. "Computer" does not mean an automated typewriter, electronic printer, professional workstation, servers, mobile telephone, portable hand-held calculator, portable digital assistant (PDA), MP3 player, or other similar device. "Computer" does not include computer peripherals, commonly known as cables, mouse, or keyboard.

d. "Desktop computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, and storage functions for general purpose needs which are met through interaction with a number of software programs contained therein, which is not designed to exclusively perform a specific type of limited or specialized application. Human interface with a desktop computer is achieved through a standalone keyboard, stand-alone monitor or other display unit, and a stand-alone mouse or other pointing device, and is designed for a single user. A desktop computer has a main unit that is intended to be persistently located in a single location, often on a desk or on the floor.

e. "Notebook computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions for general purpose needs which are met through interaction with a number of software programs contained therein, which is not designed to exclusively perform a specific type of limited or specialized application. Human interface with a notebook computer is achieved through a keyboard, video display greater than 4" in size, and mouse or other pointing device, all of which are contained within the construction of the unit which comprises the Notebook Computer, and can be carried as one unit by an individual. Supplemental standalone interface devices typically can also be attached to the Notebook Computer. Notebook computers can use external, internal, or batteries for a power source. Notebook Computer does not include a portable handheld calculator, or a portable digital assistant or similar specialized device. A notebook computer is sometimes referred to as a laptop computer.

f. "Consumer" means any occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit (a household) who has used a Covered Device primarily for personal or home business use.

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g. "Covered Computer Device" means a desktop or notebook computer, or computer monitor, marketed and intended for use by a Consumer, but does not include a Covered Television Device.

h. "Covered Television Device" means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of 9 inches or larger whose display technology is based on cathode ray tube (CRT), plasma, liquid crystal (LCD), digital light processing (DLP), liquid crystal on silicon (LCOS), silicon crystal reflective display (SXR), light emitting diode (LED), or similar technology marketed and intended for use by a Consumer primarily for personal purposes. The term does not include a Covered Computer Device.

i. "Covered Devices" means a Covered Computer Device and a Covered Television Device marketed and intended for use by a Consumer. "Covered Device," "Covered Computer Device", and "Covered Television Device" do not include any of the following:

(i) A covered device that is a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.

(ii) A covered device that is functionally or physically a part of, or connected to, or integrated within equipment or a system designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting, including but not limited to diagnostic, monitoring, control or medical products (as defined under the Federal Food, Drug, and Cosmetic Act), or equipment used for security, sensing, monitoring, anti-terrorism, emergency services purposes or equipment designed and intended primarily for use by professional users.

(iii) A covered device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier, or exercise equipment.

(iv) Telephones of any type (including mobile).

(v) A personal digital assistant (PDA).

(vi) global positioning systems (GPS).

j. "Department" means the state department of environmental protection.

k. "Computer Manufacturer" means any existing person: (i) who manufactures or manufactured Computer Covered devices under a brand that it owns or owned or is or was licensed to use, other than a license to manufacture covered devices for delivery exclusively to or at the order of the licensor; (ii) who sells or sold covered devices manufactured by others under a brand that the seller owns or owned or is or was licensed to use, other than a license to manufacture covered devices for delivery exclusively to or at the order of the licensor; or (iii) for whose account covered devices, manufactured outside the United States, are or were imported into the United States, provided, however, if at the time such covered devices are or were imported into the United States, another person has offered to collect such covered devices under a recovery plan pursuant to subsection c of section 5, then this clause (iii) shall not apply. A "Computer Manufacturer" does not mean any existing person who both a) owns and licenses the brand appearing on the Covered Computer Device and who b) has not also manufactured or sold Covered Computer Devices.

l. "Market share" means a Television Manufacturer's obligation to recycle discarded televisions. A Television Manufacturer's market share is the television manufacturer's prior year's sales of Televisions (by weight) as calculated by the Department divided by all manufacturers' prior year's sales for all televisions (by

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weight) as calculated by the Department. Market share may be expressed as a percentage, a fraction, or a decimal fraction.

m. "Manufacturers" means Television Manufacturers and Computer Manufacturers.

n. "Person" means any individual, business entity, partnership, limited liability company, corporation, not-for-profit corporation, association, governmental entity, public benefit corporation or public authority.

o. "Program year" means a full calendar year beginning on or after January 1, 200__.

p. "Recover" means to reuse or recycle; and "recoverer" means a person or entity that reuses or recycles.

q. "Recycle" means processing (including disassembling, dismantling, and shredding) covered devices or their components to recover a useable product. "Recycling" does not include any process defined as incineration under applicable laws and regulations.

r. "Retailer" means a person who owns or operates a business that sells covered devices directly to a consumer, including through sales outlets, catalogs or the Internet, whether or not the seller has a physical presence in this state.

s. "Sell," "Offer for Sale", or "Sale" means any transfer for consideration of title including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means, but does not mean financing or leasing.

t. "Television" means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying of television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of 9 inches or larger whose display technology is based on cathode ray tube (CRT), plasma, liquid crystal (LCD), digital light processing (DLP), liquid crystal on silicon (LCOS), silicon crystal reflective display (SXR), light emitting diode (LED), or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a Covered Computer Device.

u. "Television Manufacturer" means a person who: (i) manufactures Covered Television Devices under a brand that it licenses or owns, for sale in this state; (ii) manufactures Covered Television Devices without affixing a brand for sale in this state; (iii) resells into this state a Covered Television Device under a brand it owns or licenses produced by other suppliers, this includes retail establishments that sell Covered Television Devices under a brand the retailer owns or licenses; (iv) imports into the United States or exports from the United States a Covered Television Devices for sale in this state; (v) sells at retail a Covered Television Device acquired from an importer that is the manufacturer as described in subparagraph (iv) of this subdivision, and elects to register in lieu of the importer as the manufacturer for those products; (vi) manufactures Covered Television Devices, supplies them to any person or persons within a distribution network that includes wholesalers or retailers in this state, and benefits from the sale in this state of those Covered Television Devices through such distribution network; or (vii) assumes the responsibilities and obligations of a Television Manufacturer under this Bill. In the event the Television Manufacturer is one who manufactures, sells, or resells under a brand it licenses, the licensor or brand owner of such brand shall not be included in the definition of Television Manufacturer under subsection (i) or (iii) above.

SECTION 4. APPLICABILITY.

The collection and recovery provisions of this Act apply to Covered Devices used and returned by Consumers in this state.

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SECTION 5. COMPUTER MANUFACTURERS.

a. *Sale Prohibition.* No Computer Manufacturer shall sell or offer for sale a Covered Computer Device in this state unless the Computer Manufacturer includes the Computer Manufacturer's name and Brand—whether owned or licensed—by the Computer Manufacturer.

b. *Annual Report and Registration Fee.* By January 1, 200_, each Computer Manufacturer shall pay to the Department a registration fee of two thousand five dollars (\$2,500) to be used to cover any administrative costs associated with implementing this Bill and report the list of all of the brands the Computer Manufacturer is using on its Covered Computer Devices (regardless of whether it owns or licenses the brand) and shall be effective upon receipt by the department.

c. *Recovery Plan.* No Computer Manufacturer shall sell or offer for sale any Covered Computer Device in this state unless the Computer Manufacturer has adopted and is implementing a recovery plan under which the Computer Manufacturer offers to collect from a consumer and recover each Covered Computer Device that is labeled with the Computer Manufacturer's brand at no charge to the consumer.

d. *Collection for Covered Computer Devices.*

(i) The Computer Manufacturer's recovery plan must offer Covered Computer Device collection services that are reasonably convenient and available and designed to meet the collection needs of consumers in the state.

(ii) The following is a nonexclusive list of systems that can be used, alone or together, to meet the convenience requirements of this section:

(1) Mail-back systems: the Computer Manufacturer or its designee offers a system in which the consumer can return an end of life Covered Computer Device through the mail or common-carrier shipment;

(2) Physical collection sites: the Computer Manufacturer or its designee keeps open and staffed physical collection site(s) at which consumers may return end of life Covered Computer Devices; or;

(3) Collection events: the Computer Manufacturer or its designee holds collection event(s) at which consumers may return end of life Covered Computer Devices.

(iii) Collection services may use existing collection infrastructure for handling Covered Devices and may include electronic recyclers and repair shops, municipal or local government transfer stations, recyclers of other commodities, reuse organizations, not-for-profit corporations, retailers, recyclers, or other suitable operations.

e. *Cost.* Computer Manufacturers must offer collection under their recovery plan at no charge to the consumer.

f. *Education.* Each Computer Manufacturer shall, as part of its recovery plan, inform consumers in this state about where and how to return and recover Covered Computer Devices. Each Computer Manufacturer shall include collection and recovery information on its website, shall provide such information to the department, and may also include such information in the covered device's packaging or accompanying the sale of the covered device.

g. *Annual Report and Renewal.* Each Computer Manufacturer shall annually report to the Department

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on or before February 28, beginning the second program year, the weight of Covered Computer Devices collected and recovered in this state during the previous program year. The report also shall include documentation verifying proper collection and recovery of such material compliant with the sound environmental management provisions under Section 11. At the same time, each Computer Manufacturer shall pay to the Department a registration fee of two thousand five dollars (\$2,500) to be used to cover any administrative costs associated with implementing this Bill.

h. *Data Security.* Computer Manufacturers and their licensors shall not be liable in any way for data or other information that a Consumer may leave on a Covered Device that is collected or recovered.

i. *Multiple Computer Manufacturers.* Where it is asserted that more than one person is within the definition of Computer Manufacturer of a Brand of a Covered Computer Device under subsection g of section 3, any one or more such persons may assume responsibility for and satisfy the obligations of a manufacturer under this Act with respect to Covered Computer Devices bearing that brand. In the event that no person assumes responsibility for and satisfies the obligations of a Computer Manufacturer under this Act with respect to covered devices bearing that Brand, for purposes of compliance with these provisions, the responsible party shall be the person who meets the definition of "Computer Manufacturer" under Section 3(k)(i).

j. *Liability under applicable law.* Nothing in this Act is intended to exempt any person from liability he or she would otherwise have under applicable law.

k. *Exemption.* This section does not apply to a Manufacturer solely of Covered Devices that the Department determines are of such a character that the Covered Devices would not be used by a Consumer. If, however, such a Manufacturer also manufactures or manufactures one or more Covered Devices that are of such character as to be used by a Consumer, then the provisions of this section nevertheless apply to the Manufacturer for those Covered Devices.

SECTION 6. TELEVISION MANUFACTURERS.

a. *Sale Prohibition.* No Television Manufacturer shall sell or offer for sale a Covered Television Device in this state unless the Television Manufacturer includes the Television Manufacturer's name and brand—whether owned or licensed—on the Covered Television Device.

b. *Annual Report and Registration Fee.* By January 1, 20--, each Television Manufacturer, before selling or offering for sale Covered Television Devices in the State, shall register with the Department and, at the time of registration, shall pay an initial registration fee of two thousand five hundred dollars (\$2,500) to the Department. Thereafter, if a Television Manufacturer has not previously registered, the Television Manufacturer shall register with the Department prior to any offer for sale for delivery in this State of the Television Manufacturer's new Covered Television Device. A Television Manufacturer that has registered shall pay an annual renewal registration fee of two thousand five hundred dollars (\$2,500) to the Department by January 1 of each year. The registration and each renewal shall include the following :

- i. List of all of the Television Manufacturer is using on its Covered Television Devices (regardless of whether it owns or licenses the brand) and shall be effective on the second day of the succeeding month after receipt by the Department of the registration or renewal;
- ii. Contact information for the Television Manufacturer's designated agent or employee whom the Department may contact for information related to the Television Manufacturer's compliance with the requirements of this section.

d. *Recycling Obligation.* The obligation to recycle Covered Television Devices shall be allocated to each Television Manufacturer based on the Television Manufacturer's Market Share multiplied by the total

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pounds of Televisions recycled by all Television Manufacturers during the previous program year. Beginning in program year 20__, a Television Manufacturer must annually recycle or arrange for the recycling of covered televisions. Beginning in the program year 20__, a Television Manufacturer must annually recycle or arrange for the recycling of its Market Share of Covered Television Devices pursuant to this Section.

e. A Television Manufacturer may fulfill the requirements of this Section either individually or in participation with other Television Manufacturers.

f. A Television Manufacturer shall report to the Department by January 31, 2012, and annually thereafter, the total weight of Covered Television Devices the Television Manufacturer collected in the State and recycled during the previous year.

SECTION 7. RETAILERS.

a. *Sale Prohibition.* No retailer shall sell or offer for sale a Covered Device in this state unless the Covered Device has a proper manufacturer label, including the Manufacturer's Brand and name and such device's Manufacturer is included on the state list of Manufacturers with recovery plans.

b. *Data Security.* Retailers shall not be liable in any way for data or other information that a consumer may leave on a Covered Device that is collected or recovered.

SECTION 8. DEPARTMENT.

a. *Education.* The Department shall educate consumers about collection and recovery of Covered Devices.

b. *Website.* The Department shall host, or designate another person to host, a website about Covered Device recovery for Consumers, with information about and links to Manufacturers' collection and recovery information, including their recovery plans, and information about and links to information about collection events, collection sites, and community recycling programs for Covered Devices. Inclusion on the state's website is not a determination by the state that the manufacturer's recovery plan or actual recovery are in compliance with this Act or other laws.

c. *Calculation of Market Share.* The Department shall use State-specific television sales data or national television sales data available from commercially available analytical sources to determine each Television Manufacturer's recovery responsibilities for televisions based on the Television Manufacturer's Market Share. If the Department uses national sales data, the Department shall extrapolate data for the State from national data on the basis of the State's share of national population. The Department shall seek to establish the most accurate determination of each Television Manufacturer's Market Share and may rely on supplemental sources of information to achieve this goal.

d. *Notify Television Manufacturer of Market Share.* By March 15, 20__ and annually thereafter, the Department shall notify each Television Manufacturer of its non-binding recycling obligation. Each Television Manufacturer's obligation will be based on that Television Manufacturer's Market Share from the previous year multiplied by the total pounds of Televisions collected by all Television Manufacturers during the previous program year.

e. *Enforcement.*

(i) The department may conduct audits and inspections to determine compliance under this Act. The department and the state attorney general, as appropriate, shall enforce the provisions of this Act

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and take enforcement action against any Covered Manufacturer, Retailer, or recoverer for failure to comply with any provisions of this Act.

(ii) Any Covered Manufacturer who fails to label its Covered Devices as required by subsection a of section 5, or section 6, or adopt and implement a recovery plan as required by section 5 or section 6, may be assessed a penalty of up to ten thousand dollars for the first violation and up to twenty-five thousand dollars for the second and each subsequent violation, in addition to being responsible for any penalties required by or imposed pursuant to this Act.

(iii) Except as provided in subsection (ii) directly above, any person who violates any requirement of this Act may be assessed a penalty of up to one thousand dollars for the first violation and up to two thousand dollars for the second and each subsequent violation, in addition to being responsible for any penalties required by or imposed pursuant to this Act.

(iv) The department shall determine the appropriate penalties, as provided in this subsection, based on adverse impact to the environment, unfair competitive advantage, and other considerations as the department deems appropriate.

(v) Penalties shall be paid to the department.

(vi) Any violation of the sales prohibitions of this Act may be enjoined in an action, in the name of the state, brought by the attorney general.

f. *Financial and Proprietary Information.* Financial or proprietary information submitted to the department under this Act is exempt from public disclosure, in accordance with state law.

g. *Annual Report.* The department shall compile the information from Covered Manufacturers and issue a report to the Legislature by April 1 each year, beginning the second program year.

h. *Rules.* The department may adopt such rules and regulations as are necessary to implement the provisions of this Act.

i. *No Fees.* The department does not have the authority to assess any fees, including an advanced recycling fee, registration fee, or other fee, on Consumers, Manufacturers, Retailers, or recoverers for collection or recovery of Covered Devices except those noted in Sections 5, 6, and 8(c).

SECTION 9. CONSUMERS.

a. *Data Security.* Consumers remain responsible for any data or other information that may be on a Covered Device that is collected or recovered.

b. *Education.* Consumers also are encouraged to learn about proper recovery of their end-of-life covered devices by visiting the department's and Manufacturers' websites.

SECTION 10. SOUND ENVIRONMENTAL MANAGEMENT.

a. *Compliance.* All covered devices collected pursuant to this Act shall be recovered in a manner that is in compliance with all applicable federal, state, and local laws and requirements.

b. *The Department shall adopt by reference the EPA's Plug-in Guidelines as requirements.*

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SECTION 11. STATE PROCUREMENT.

a. *Compliance.*

(i) Any Computer Manufacturer or Television Manufacturer who submits a bid for a contract with a state agency must be in compliance with this Act.

(ii) A state agency that engages in a contract with a Computer Manufacturer or a Television Manufacturer as defined by this act shall require such manufacturer to certify compliance with this Act. Failure to provide such certification shall render the prospective bidder ineligible to bid.

b. *State Purchasing Preferences.* In considering bids for state contracts for covered devices, in addition to any other preferences provided elsewhere under state law, the state shall give special preference to Computer Manufacturers or Television Manufacturers that have programs to recover other Manufacturers' Covered Devices, including but not limited to collection events, recycling grants, and manufacturer initiatives that accept any covered device brand with purchase.

c. *Rulemaking.* The state's procurement agency shall adopt rules to implement this section's provisions.

SECTION 12. FEDERAL PREEMPTION.

This Act shall be deemed repealed if a federal law or a combination of federal laws takes effect that establishes a national program for the collection and recycling of Covered Devices that substantially meets the intent of this Act.

SECTION 13. EFFECTIVE DATE.

The Act shall take effect [insert date.]

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Laura Bishop, Electronic Device Retailer

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CO E-Recycling

Best Buy recommendations

Below are some high-level recommendations based on Best Buy's experience in all 50 states and given our current operation of recycling programs.

About Best Buy Everyday Recycling

Best Buy operates a comprehensive in-store recycling program nationwide where consumers can bring up to two units per household per day to Best Buy stores for recycling. Consumers pay \$10 for recycling of screened devices and laptops and in return they receive a \$10 Best Buy gift card. All other non-screened items accepted through the in-store recycling program are free to the consumer and Best Buy does not charge for the recycling of any of our private label products (ie. Insignia, Dynex) that we manufacturer. We have had everyday recycling of small electronics (e.g. cell phones, batteries, ink toner) in our stores for several years. Our TV haul-away program also allows households to dispose of an unwanted television for recycling for free when we deliver a new one to the home or make a service call to their home.

All stakeholders share in the responsibility – manufacturers, retailers, consumers, recyclers and governments – in providing a safe and responsible solution for recycling consumer electronic devices

Scope of Product:

- At this time, Best Buy does not have a position on the scope of product that should be covered under the law. Given that some products clearly pose more concern than other it may make sense to start with those products. Having said this, Best Buy's voluntary recycling efforts cover a wide-range of products.

Manufacturers:

- Manufacturers are required to run or support programs to collect covered electronic devices.
- To encourage participation and accountability, having manufacturers meet a certain poundage goal in their collections is helpful.
- As part of their participation, manufacturers may not charge collection fees for their own product.
- If a manufacturer runs their own program, allow for manufacturers to receive credit for collection of other brands and fees for collection on these other brands to encourage maximum participation by manufacturers and consumers.
- Beyond, manufacturers collecting their own brands, do not dictate the scope of products that need to be collected at collection sites in order to allow varied settings options to accommodate both their ability to collect and customer needs.
- Consider incentives for manufacturer collection programs in greater CO. For example, if a program is established based on pounds, consider a formula that allows for increased poundage in return for running outstate programs – ie 1 lb collected=1.5 lbs credit.

Collectors:

- Collectors should be encouraged to work with manufacturers to meet goals

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Laura Bishop, Electronic Device Retailer

- Allow collectors flexibility in the items they collect and should they wish to administer fees for certain products.

Retailers:

- Retailers can assist in educating consumers on any re-cycling program. It is important to consider the different capacities in which retailers may educate and allow for flexibility. For example, some retailers may wish to educate in the computing and/or TV areas, while others may educate in another area. Ensure that flexibility is considered in allowing retailers to design their own materials.
- Retailers should not sell product of manufacturers that are not registered with the state.
- Allow a “sell-through” for retailers to sell product in the event a manufacturer does not register or is pulled from the list by the state. Typical time allowed in other laws is six months.

Recyclers:

- Recyclers should follow standards to encourage responsible recycling.
- Legislation should allow for a competitive environment with multiple recyclers participating in a program and not requiring recyclers be in-state recyclers.
- Given the fluctuation in the marketplace, legislation should not set a fee for recycling.

Registration:

- In order to minimize use of state resources, consider registration processes and timelines that allow for multiple registrations. For example, the State might considered allowing manufacturers and collectors to register using a similar form.
- Manufacturers could be required to pay a registration fee to help offset program fees. Typical fees are from \$2500-\$5000 per manufacturer.

For more information, please contact:

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Dan Matsch, Nonprofit Organization and Colorado Recyclers

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CAFR Proposed E-Waste Legislation: Executive Summary

This proposed model for e-waste legislation for Colorado recognizes the shared responsibility of all stakeholders in this issue, achieves the highest diversion rates, and ensures proper recycling.

Proposed Elements:

1. Manufacturers can run their own recycling programs if they wish to do so and there will be no quotas or thresholds for their own programs or for using CO-approved electronics recyclers (“processors”).
2. Manufacturers must pay a registration fee to sell in Colorado.
3. Manufacturers must pay CO-approved processors directly for materials that are not otherwise recycled by the manufacturer. Recyclers will be paid under a differential pricing structure, developed by the state, which creates incentives for hard-to-recycle locations.
4. The State will establish guidelines for the program through rulemaking with input from stakeholders that include approval of processors, transporters and collectors, with minimum criteria established by statute.
5. Once approved, processors and collectors will collect unwanted electronics from consumers at no charge.
6. Processors will then process the electronics in accordance with approved practices established by the State.
7. Processors will bill the responsible manufacturer for the collection, transport, and recycling of each manufacturers' respective products, plus a pro-rata share of 'orphan' equipment.
8. Program will have a weight threshold limit, which will include only products weighing over a certain amount as covered electronic devices.
9. Legislation will include a landfill ban in 5 years.
10. Public education will be a shared responsibility.

Advantages to this system:

Recyclers will have incentives to process as much volume as possible, since they will bill manufacturers for it. Manufacturers will have an incentive to recycle as much as possible on their own, so they do not have to pay any additional costs to the recyclers. Small manufacturers don't have to take on the burden of running their own program or joining a multi-mfgr program – they just register with the state and pay bills to approved processors handling their products.. Consumers will have incentives to recycle, since they will not be charged. The State will control the processing standards, ensuring that electronics are recycled properly.

Local governments, not-for-profits, and other organizations may participate in the program and receive compensation for their efforts.

Key to the program's success

It is imperative that the regulating body for the program (CDPHE) set all fees, develop and administer the recycler certification process, and determine environmental standards by rule through the stakeholder process. No other state take-back model exists that can reasonably be expected to create sufficient infrastructure statewide in Colorado to successfully enact a landfill ban of CEDs within the typical target time of five years or less. Allowing a manufacturer to run an independent

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Dan Matsch, Nonprofit Organization and Colorado Recyclers

statewide program and set the price to be paid to recyclers likely results in a “race to the bottom” to minimize costs; this minimization of costs would in turn eliminate the existing local infrastructure that has worked to educate the public about the need for electronics recycling and provide for recycling over the past decade. Conversely, allowing any recycler who qualifies through the certification process to participate and receive a set reimbursement encourages infrastructure creation and maximizes Colorado jobs.

Equally imperative is that the recycler certification minimum standards address as much as possible the export of hazardous materials to non-OECD countries in violation of international law, as well as ensure high environmental and worker safety standards.

APPENDIX SEVEN
Task Force Members' Preferred Model for E-Scrap Recycling in Colorado
Rep. Randy Fischer, Colorado General Assembly

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Two-Track Shared Responsibility Model by Rep. Randy Fischer
Preferred Colorado E-scrap Recycling Model

1) CDPHE's Roles and Responsibilities -

- a) Administers state-wide program;
- b) Develops rules, regulations, and facility standards;
- c) Certifies E-scrap collectors and recyclers;
- d) Collects fees from OEMs and Retailers;
- e) Enforces landfill restrictions and facility standards
- f) Determines market share for each OEM.

2) Local Governments' Roles and Responsibilities –

- a) Could act as collectors;
- b) Develop community-specific education and outreach programs;
- c) Implement landfill restrictions and rules to keep CEDs out of waste stream.

3) Consumers' Roles and Responsibilities –

- a) Be responsible for keeping CEDs out of waste stream;
- b) Drop off CEDs to certified collectors or recyclers or return to OEM or retailers.

4) OEMs'/Retailers' Roles and Responsibilities –

- a) Develop and operate their own programs;
- b) OEMs register and pay fees to CDPHE and become certified collectors/recyclers;
- c) Retailers would be prohibited from selling CEDs from unregistered companies;
- d) Pay recyclers for the amount of CEDs with their brands that the recyclers recycle based on fees set by CDPHE;
- e) Pay for amount of orphan equipment recycled by recyclers based on market share;
- f) Submit reports on annual activities.

5) Collectors'/Recyclers' Roles and Responsibilities -

- a) Register and become certified by CDPHE;
- b) Establish convenient collection sites in local communities;
- c) Recycle collected CEDs according to adopted state-wide standards;
- d) Account for the amount of each OEMs' equipment they recycle;
- e) Seek cost reimbursement from each OEM for the amount recycled, including orphan share.

6) Covered Devices –

- a) CRTs, CPUs, laptops, TVs, printers, video display devices;
- b) CDPHE would have authority to add other equipment by rule.

7) Program Participants –

- a) Consumers dropping off 10 or fewer computers;
- b) Public schools.

8) Program Finances –

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- a) Consumers would pay no direct fee to recycle;
- b) OEMs pay an initial admin fee and annual fees to CDPHE;
- c) OEMs pay collectors/recyclers for cost of recycling their branded CEDs;

9) Incentives and Penalties –

- a) All market driven, no diversion goals;
- b) Retailers would be prohibited from selling CEDs from unregistered companies;
- c) Landfill restrictions would be phased in and CEDs would eventually be excluded from municipal waste stream.

10) Landfill Restrictions –

- a) Landfill bans would be phased in over 3 to 5 years;
- b) Waivers would be available for rural communities with no collectors.

11) Reporting and Accountability Measures –

- a) Needs work.

12) Job Creation Methods –

- a) Market driven, but landfill ban would help create jobs.

13) Miscellaneous Elements –

- a) Unspecified.