

**ELECTRONIC DEVICE RECYCLING TASK FORCE
MEETING MINUTES
October 28, 2009**

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Representative Randy Fischer called the meeting to order at 9:30am at the Colorado State Capitol, House Committee Room 107, 200 E. Colfax Ave., Denver, Colorado.

Task Force Members Present

- Dag Adamson, Lifespan Technology Recycling (Colorado-based E-waste Recycler); Absent
- Laura Bishop, Best Buy (Electronic Device Retailer); Present by Phone
- Bill Carlson, Town of Vail (Rural Local Government); Present by Phone
- Meggan Ehret, Thomson Inc. (Electronic Device Manufacturer – TV); Present by Phone
- 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); Absent
- Jeffrey Kuypers, Hewlett Packard (Electronic Device Manufacturer – Computer); Present by Phone
- Dan Matsch, Eco-Cycle (Nonprofit Organization); Present
- Anne Peters, CAFR (Nonprofit Organization); Present by Phone
- Lisa Skumatz, Town of Superior (Urban Local Government); Present by Phone

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- Sen. Pat Steadman, Senate District 31 (Colorado General Assembly); Vice Chairman; Present
- Karn Stiegelmeier, Summit County (County That Owns or Operates Landfill); Present by Phone
- Tom Williams, AT&T (Electronic Device Manufacturer – Small Device): Present by Phone
- Mike Wright, Metech (Colorado-based E-waste Recycler); Absent

CAFR Administrative Assistant Amy Randell was in attendance. Witnesses: Howard Copeland, Goodwill; Marjorie Griek, CAFR; Jeff Johnson, Goodwill; Larry King, Sims Recycling; Chad Miller, Waste Management; Dianna Orf, Hawthorne Group; Kristyn Rankin, Dell; Charles Sheffield, Colorado Retail Council; Bill Soards, AT&T.

Agenda Review

No changes. Agenda adopted.

Approval of October 2 Meeting Minutes

Senator Pat Steadman made a motion to approve the October 2 minutes. Karn Stiegelmeier seconded the motion. **Motion passed unanimously.**

Report-writing Subcommittee Report and Discussion

Anne Peters said the committee reviewed four outlines prepared by four different groups: manufacturers, which included task force members Jeff Kuypers, Meggan Ehret, and Laura Bishop and Kristyn Rankin (See Appendix Two), Peters noted that the group did not get input from the small-device task force member; CAFR, which included task force members Peters, Dan Matsch, Mike Wright, Dag Adamson, Rep. Randy Fischer, and Sen. Pat Steadman and Marjorie Griek, the CAFR executive director (See Appendix Three); Bill Carlson, rural local government task force member (See Appendix Four); and Colorado Counties Inc. (CCI) and the Colorado Municipal League (CML), which included task force members Lisa Skumatz and Karn Stiegelmeier (See Appendix Five).

Peters said the outline is comprised of three main sections: the introduction, recommendations for elements of legislation, and an optional section with legislative recommendations; appendices would also be included. See Appendix One. Peters said the introduction will be non-controversial and will include a statement of the problem. The second section contains 13 subsections, which is what the task force will discuss today. Peters said she didn't know if the third section would be included, it may be beyond the scope of the task force.

Peters said report-writing committee members were assigned certain subsections to read carefully and identify agreement and disagreement among the four outlines submitted. Each committee member will report today on what they read, and it is assumed that the areas of agreement will form the majority report and areas of disagreement will for the minority report. Peters said today's discussion will not dwell on disagreements until all of the sections have been reviewed and the task force has a sense of where everyone agrees.

Covered Electronic Devices (CEDs):

Rep. Fischer said he was tasked with the Covered Electronic Devices section. Areas of agreement were TVs and CRTs, which included monitors. Rep. Fischer said the manufacturers also mentioned flat screens and LCD screens and that consumers could have a hard time distinguishing what may or

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may not be a CRT. Rep. Fischer said since there is agreement on TVs and monitors, would laptops be included since they have CPUs and screens; he assumed laptops would be included.

Rep. Fischer said there were some areas of disagreement. CAFR included CPUs; there were also various opinions about printers, mice, keyboards, fax machines, VCRs.

Rep. Fischer asked the task force if he summarized the four outlines correctly. Jeff Kuypers clarified that the manufacturers' recommendations were specific to TVs and monitors. They did not include everything with an LCD, only monitors with an LCD display. Kuypers said they were open to discussing laptops as mentioned but the focus of the manufacturers' recommendations was TVs and monitors. Karn Stiegelmeier said Meggan Ehret provided a good definition for CEDs that included anything with a greater than six-inch screen. Ehret said the definition specified a nine-inch screen, which was meant to carve out hand-held devices, so as not to capture PDAs or phones. Stiegelmeier said she thought it made sense to follow those definitions.

Peters said she observed that no one commented on cell phones and asked if there was agreement on not including cell phones as CEDs. Ehret said the sample definitions had an ICI exemption and included in that exemption telephones in general, PDAs, mobile phones because those are already being managed. Laura Bishop agreed and said the task force should look at other states' definitions; many have removed GPS devices and certain medical and exercise equipment from the list of CEDs.

Sen. Steadman asked if manufacturers were willing to include laptops as CEDs. Kuypers said HP would not argue against including laptops at this time but added that if there is an interest in any further scope expansion, then there is a need for specific and objective criteria that can be applied evenly to all devices. Kristyn Rankin said Dell could support including notebooks but would like to see a screen-size limitation included in the definition. Bishop agreed with Rankin. Peters asked what size screen the manufacturers would recommend. Bishop said in Minnesota the threshold is nine inches, which could be a starting point. Rankin said Dell could support a nine-inch limit, which would be consistent with other states and also get to the intent of capturing notebooks and not large PDAs or other small devices.

Rep. Fischer said perhaps that level of detail wasn't necessary and asked if the task force was comfortable with saying there is a general agreement that laptop/notebook computers need to be included as CEDs and that part of the definition would revolve around screen size. Kuypers said he was fine with that approach at this time.

Covered Entities:

Rep. Fischer said this section defines who is included in the program. There was agreement that the program deals with consumers and that entities already subject to regulations don't need to be covered, such as large businesses, commercial entities, etc. Rep. Fischer said the CAFR outline raised the question of how to deal with public schools or hotels and motels.

Rep. Fischer said he wasn't sure he saw any disagreement; however, he did not understand the intention of Bill Carlson's outline.

Rep. Fischer asked if anyone disagreed that covered entities included consumers and small businesses and that entities already subject to RCRA (Resource Conservation and Recovery Act)

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don't need to be covered. Laura Bishop, Dan Matsch, and Karn Stiegelmeier said they agreed. Stiegelmeier said she and Lisa Skumatz talked about expanding the definition but they didn't have any strong feelings about expanding coverage. Anne Peters said Dag Adamson had observed that small-business e-waste leaks into the consumer waste stream anyway, so he argued against including small businesses. Kristyn Rankin said other states have limited it to consumers but have also said that individuals can return up to a certain number of items; Rankin said this takes away the challenge of a collection site having to determine if an item came from a small business or a consumer. Laura Bishop said a limit on the amount should be a limit on how many a collector can accept, not how many they have to accept; Best Buy accepts small business e-waste but limits the amount to two items.

Dan Matsch asked if, in order to avoid loopholes for hotels/motels and others, covered entities would include those not currently covered by RCRA. Charles Sheffield said he would object, that defining what is and what is not covered by RCRA would expand the scope of the task force beyond its responsibility. Rankin and Rep. Fischer asked Matsch to clarify his question. Matsch said he would define covered entities as those owning CEDs not currently covered by RCRA to close the loop hole, rather than just defining covered entities as consumers, which opens a loop hole for large amounts of equipment from hotels/motels, schools, etc., that are not covered by RCRA. Rep. Fischer asked if Matsch was saying any resident not covered by RCRA would be included. Matsch said he was asking to expand the definition of consumer. Rankin said she had two concerns: the first was that schools have unique data security and privacy issues and those are better addressed in business to business relationships; the second was that defining entities as those not covered by RCRA adds a burden on collection sites and she doesn't believe it is reasonable to ask collection sites to have to determine whether or not someone is covered by RCRA. Rankin said the key to success is making it easy for people to recycle, which is why many states have limited programs to consumers with a limit on the number of items that can be returned. Peters said CAFR's concern was with, as an example, the monitors from a school district that showed up a landfill being used for target practice. Peters said poorer school districts are troubled by e-waste; under the current RCRA exemption a school can legally bring equipment to the landfill. Peters said that is some of the rationale behind Matsch's proposal and realizes that it blurs the line of intending any legislation as a consumer bill. Peters said it could be argued that schools don't function as businesses, though, and aren't defined as such and so could claim the e-waste was from consumers. Rep. Fischer said the task force needed to move on from the topic.

Rep. Fischer said everyone agrees that a program would be intended for consumers and there is disagreement on the need to include entities not subject to RCRA. Larry King said most states use the term household consumer.

Rep. Fischer said he liked the idea of setting a limit on the number of items and hoped the task force could agree on that. Meggan Ehret said the source of disagreement is whether to include schools or small businesses.

How CEDs are Collected, Transported, Processed:

Meggan Ehret said based on her review of the four outlines there was some consistency on two out of four issues. Most agreed that manufacturers should register and pay some nominal registration fee. There was disagreement on manufacturer-run programs. Ehret said CAFR proposed that manufacturers be required to use a state-certified processor; as long as manufacturers register and

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as long as they are using state-certified processors, manufacturers can run their own programs collectively or individually. Ehret said on the CAFR proposal, even if a manufacturer used a state-certified processor in addition they are still required to pay any state processor that receives their product a fee to be determined by law; the proposal was agnostic on whether the fee would be based on a return or market share.

Ehret said Carlson's proposal was the only one to require retailers to collect; a retailer would have to set up a place where residents can drop off covered devices. Carlson's proposal said if the retailer was the sole component of a recycling program then that retailer must accept all CEDs. Ehret said none of the other proposals included that requirement for retailers.

Ehret said the manufacturers' outline was similar to CAFR's in that they preferred manufacturers to run their own programs. It was a point of contention that if manufacturers operate their own programs whether or not they could also be invoiced by any state-certified processor.

Ehret said all four outlines permitted manufacturers to run their own programs. There was disagreement on whether that means manufacturers also have to receive invoices from anyone outside the manufacturers' networks. Ehret said CAFR and the manufacturers were not proposing a burden on retailers. Ehret said CAFR, manufacturers and Carlson agreed that manufacturers could meet requirements by operating their own program; the only disagreement was that CAFR wants manufacturers to receive invoices from any state-certified processor. Stiegelmeier said her proposal didn't go into detail on those concepts, but manufacturer responsibility would include some convenient collection and a mail-back program would not be sufficient for a large part of rural Colorado.

How Funding Flows:

Anne Peters said CAFR, manufacturers and Carlson all agreed that manufacturers would pay some initial and annual fee, which for the most part would be submitted to CDPHE. CCI/CML disagreed and proposed to require an advanced recovery fee (ARF) on all electronic devices sold in Colorado via all channels; if an agency collects the money it would be a division of CDPHE or a nonprofit.

Peters said CAFR, manufacturers and Carlson agreed manufacturers should pay a registration fee to the State. Manufacturers explicitly stated that fees should cover receiving registrations, posting information on a Web site, determining TV manufacturers' market share, and managing a Web site with electronic recycling information. Peters said CAFR basically agreed with that and added that fees collected be used to cover reasonable administration costs, to manage and monitor certification of processors and registration of collectors. Peters said there was no statement from CCI/CML regarding registration fees for manufacturers, money would just come from an ARF.

Peters said manufacturers, CAFR and Carlson agreed recycling would be free to covered entities and that manufacturers would pay for transport, recycling and collection costs. Peters said each outline differed on how fees were determined. Peters said CAFR proposed collectors would bill manufacturers by a per pound collection fee to be set by rule, for manufacturers' brands plus a pro rata orphan share. Carlson proposed collectors and processors would bill manufacturers for CEDs by weight at a fair market price. Manufacturers proposed that collectors, transporters and processors bill them based on agreements reached with each individual manufacturer. Peters said manufacturers really prefer to design and run their own programs and do not want to receive many bills from

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unlimited collectors/processors. Peters said CCI/CML did not state exactly how processors get paid for processing but was explicit about the three channels through which money would flow from the ARF: 1) undetermined percent goes to “Agency” for administration, to certify recyclers/processors, for statewide education, and a current state-wide on-line list of manufacturer and government (and private(?)) collection locations¹; 2) undetermined percent to county landfill and grant program to address e-waste² not captured upstream, to potentially provide rebates to those delivering e-waste and to provide a grants program to help cities fund special collection events; 3) undetermined percent to industry to set up and maintain collection sites with retail or other program design and provide rebates for consumers.

Rep. Fischer clarified that the CCI/CML outline diverges from the others with the idea to set up a grant/rebate program. Peters agreed.

Meggan Ehret asked if anyone addressed the issue of market share for TVs. Peters said no. Ehret asked if there was consensus on a return share for IT. Peters said it wasn't apparent from the outline sections she reviewed. CAFR proposed that electronics recyclers would bill manufacturers based on brand plus a pro rata orphan share. Peters said the proposal was silent on how/when that would be determined, when bills would go out, and how involved CDPHE would be. Ehret said with a market-share system orphans don't exist. Peters said CAFR would be OK with electronic recyclers using market share for billing TV makers for recycling TVs.

Note: The following discussion flowed from the topic of “how funding flows” but is not about funding: Peters said CAFR and manufacturers agreed that processors should be audited and agreed that CDPHE should reference published standards, such as R2 and e-Stewards. CAFR's proposal was explicit in terms of environmental health and safety and that CDPHE should reference some type of standards that a registered processor needs to meet. Peters said the manufacturers' plan did not require annual audits, just that they would audit vendors they chose to provide take back. Peters said Carlson and CCI/CML did not mention any standards for processors.

Rep. Fischer asked Stiegelmeier and Carlson if they would object to including setting standards as part of the regulators role. Carlson said there should be a standard. Stiegelmeier said her proposal didn't touch on it, but she thinks there need to be standards and that CDPHE would be the group to oversee that. Marjorie Griek said based on the sections she reviewed, the CCI/CML outline implied standards involved with the grants and rebate review process.

Peters said she wasn't sure if the four proposals agreed on accountability for program administration or not. Peters said the CAFR outline asked for processors to submit an annual report to CDPHE showing totals received. Manufacturers outline spoke to a continuation of current regulatory oversight. CCI/CML outline referenced a granting process that would include program evaluation every two years and a requirement to measure tonnage. Peters said none of the outlines said there had to be an audit of CDPHE's use of funds, though those procedures may be in place already. Jesi Dobosz said the requirement for an audit can be put in the statute and that any program can be audited upon request; it is up to the task force how to handle that. Griek asked if a fiscal note would be attached to an audit. Dobosz said probably but she couldn't say for sure.

¹ This list will help determine need for additional access in specific counties or subregions.

² Rebates are an optional element for county programs.

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Rep. Fischer asked if everyone agreed that auditing and other accountability measures are critical for making sure a program runs appropriately. There were no responses.

Role of Regulators:

Marjorie Griek said CAFR and Bill Carlson agreed that CDPHE would approve and regulate manufacturers, recyclers, and collectors. The manufacturer outline didn't indicate what the role would be for CDPHE and wanted manufacturers to be able to approve recyclers for payment and may approve collectors or contract with recyclers to manage collectors. Griek said CAFR and Carlson agreed on the adoption of some standards that CDPHE would create or adopt, like R2. Griek said there was some overlap in this section with the accountability section. Griek said CAFR laid out more detail in the other section about wanting to see the State adopt standards and Carlson's outline suggested CDPHE adopt EPA guidelines. Griek said manufacturer outline didn't mention any standards but CDPHE should be able to approve any universal waste handlers along with any existing regulated requirements in place; another option was that CDPHE develop a process to review manufacturer plans for take back in Colorado or approve programs to make sure they meet requirements of the State. Griek said the role of regulators in CCI/CML outline was a little less clear; the State would collect an ARF and an agency would administer and distribute funds for programs and grants, there was no explicit mention of standards for participants.

Griek asked for confirmation that that was an accurate summary. Griek said CAFR, Carlson, and CCI/CML agreed that the department would have a role in regulating and approving industries. Karn Stiegelmeier said Griek captured the implied standards and compliance in their proposal. Jeff Kuypers said manufacturers did mention standards in the accountability section and that the State could reference standards for responsible recycling like R2 or E-stewards.

Griek asked if smaller manufacturers applied high standards or if they would need incentive to ensure standards were in place. Kuypers said he couldn't say whether all manufacturers' standards were similar; major manufacturers have high standards and that would be reason for possibly requiring some baseline. Anne Peters said that raises a fair question about how the State would track, for example, the mail-back program of a small manufacturer. Kristyn Rankin said it is a tactical reality; they are starting to see smaller manufacturers joining group plans, which are more cost effective and which has the effect of increasing standards. Kuypers said R2 and E-stewards are moving into more official certification phases with independent auditors that would be able to certify.

Griek said in summary everyone can agree that there should be some minimal standards that need to be applied and that it would be up to CDPHE as the agency in charge to also oversee and approve manufacturers' plans for a program. Kuypers agreed that some baseline standards are appropriate.

Griek said everyone agreed that CDPHE would establish fees; however, there were some differences. CAFR proposed that all fees be set by rule through a stakeholder process and with a differential pricing structure to provide incentive for collection in remote areas and education programs. Griek said she didn't see anything in Carlson's outline about how to set fees. The manufacturers outline wanted a maximum annual registration fee of \$2,500 for large manufacturers and a reduced fee for smaller manufacturers; CDPHE would use those fees to establish market share percent for TVs. Griek said CCI/CML outline indicated that fees would come from an ARF and the agency could reduce the fees for specific models if they met certain green criteria to provide incentive

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for enhanced destruction and recyclability characteristics. Griek said everyone agreed on a fee but the details differed. Rep. Fischer said he wasn't sure if the report needed to include specific, it could just be noted that there were differences.

Griek asked Stiegelmeier how tied they were to an ARF or if they would be fine with another form of fee. Stiegelmeier said she is not bound to an ARF, but she was very concerned about adequate fees to enable a program to function properly; fees need to be high enough to pay for a program and registration fees don't seem to be adequate. Stiegelmeier said she is concerned about consumer education and whether that need is met or not; if it's met, then an ARF may not be needed. An ARF just seems like the most efficient way to educate every consumer and to meet the needs of running a program. Lisa Skumatz said people get a strong message about recycling with an ARF. Laura Bishop said she agreed there is a need for adequate funding for administration of a program, but Best Buy feels strongly that with an ARF there are difficulties from a compliance standpoint in a retail setting; Best Buy has seen success with producer-responsibility models. Lisa Skumatz asked how businesses get the message then to green their products. Bishop said she likes the idea of greening products; however specific labeling for Colorado would be difficult and that she would prefer a national rating system. Kristyn Rankin said other states are looking at state-level procurement preferences based on E-peat, etc. Rep. Fischer said the discussion is getting off track and asked if it was OK to say there is disagreement over whether an ARF is the best funding mechanism. There were no objections.

Griek said everyone agreed that audits are the responsibility of the regulator but differed on what that looks like and who does it. Griek said the manufacturers wanted to control to audit their chosen recyclers and allow CDPHE to audit under other frameworks, like universal waste handlers. Carlson's outline said CDPHE would be the auditor. CAFR outline said a third party should audit processors. CCI/CML outline used the grant process as an informal audit procedure.

Griek said Carlson and CAFR agreed that CDPHE should enforce regulations and establish a fine structure. Manufacturer outline said CDPHE could conduct audits and inspect for compliance. Griek said the CCI/CML outline recommended enough funds to properly manage material; there was no mention of enforcement in the outline. Griek said there were some additional comments in Carlson's outline that CDPHE should take a leadership role in promoting the statewide e-waste program, work with towns to meet the needs of residents in a timely manner, and that CDPHE should submit an annual report to the state legislature. Griek said everyone agreed there was a need for enforcement by the designated agency.

Rep. Fischer suggested that Sen. Pat Steadman report next since he needs to leave the meeting early.

Miscellaneous:

Sen. Steadman said he was assigned the odds and ends of each outline to review. Sen. Steadman said only one proposal mentioned assessing a penalty to retailers for selling devices from manufacturers not registered with the State. Other penalties or fines were not fleshed out in the proposals, but there was agreement that manufacturers have a labeling responsibility.

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Sen. Steadman asked if there were other issues to address regarding the role of regulators and auditing or reporting requirements. Dan Matsch said anything you ask a regulator to do has to have teeth in it or there's no point.

Sen. Steadman said most of the proposals didn't include a landfill ban or included it as a local option with enforcement being a local issue.

Sen. Steadman said the proposals that dealt with the issue said the role of the consumer would be one of data security issues; once a consumer gives up possession of their device, it's security is no one else's responsibility. Sen. Steadman said consumer responsibility isn't apparent in the proposals; the cost of the program wouldn't generally be transparent. Sen. Steadman asked if given the incentive for redesign discussion, should there be more apparent ways for consumers to see those incentives; the CCI/CML proposal put the responsibility on the consumer to the cost of recycling. Sen. Steadman said consumers under all the outlines were responsible for returning and properly disposing of equipment; the role of the consumer in understanding the scope of covered devices then becomes important along with consumer education. Sen. Steadman said a lot of these ideas were implicit in all of the proposals.

Rep. Fischer asked if there was any disagreement about data security and the role of the consumer; and if a section was to be added the outline regarding consumer responsibility, would anyone object that the consumer is ultimately responsible for recycling. There were no objections.

Sen. Steadman said Bill Carlson's outline expressly dealt with exemptions, the other outlines didn't. The Carlson outline said regarding local government responsibility, there would be exemptions for towns with a minimum population, the outline also listed exemptions for manufacturers whose devices are not sold in Colorado; only manufacturers who sell products in Colorado would be expected to participate in the program. Sen. Steadman said that addresses the issue of people moving her and bringing equipment with them; that is an issue that needs more thought.

Sen. Steadman said some of his issues had some overlap with other sections.

Rep. Fischer said exemptions for small local government will be covered under the role of local governments. Rep. Fischer asked Carlson if he would object to mentioning exemptions where applicable in other sections rather than including a separate section for exemptions. Dan Matsch said CAFR is not opposed to exemptions; however, it depends on the program. The manufacturer program doesn't require exemptions, nor does the CAFR program; the onus is put on local government in either proposal. Lisa Skumatz said local government will always have a role because there will always be material that gets through the system. Carlson said he wouldn't object to including exemptions in applicable sections, as long as exemptions are addressed adequately.

Karn Stiegelmeier said she wanted to comment on landfill ban; Summit County would favor a ban but the majority of counties would be opposed. Stiegelmeier said she would support giving counties the authority to establish a ban if they chose. Rep. Fischer said this topic would be revisited.

Role of Local Government:

Rep. Fischer said all the outlines except for the Carlson outline said participation by local governments would not be required but they could act as collectors and assist in other ways.

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CCI/CML outline stated it differently, having an entirely different way of enabling local government through grants and rebates, but it would still be optional for local governments to participate. Rep. Fischer said Carlson was the only one to require local government to run programs. Carlson said he agreed with that statement; in rural Colorado governments have a major role in collection. Carlson said he could back off his position on mandatory participation, but he thinks action has to happen at the local level. Carlson said whatever the group wants to do is fine with him; having a collection site managed with education at the local level is critical in any proposal. Lisa Skumatz said the CCI/CML proposal assumed counties would be running programs and some cities; local government would be a co-giver of programs along with manufacturers. Carlson agreed and said it is about shared responsibility among local communities, manufacturers and the public. Skumatz said in the CCI/CML proposal, counties are meant to have a big share of the money and a big share of the responsibility. Peters asked if that meant a community was required to participate or could opt in. Skumatz said the intention and expectation was for counties to have programs.

Dan Matsch asked Carlson, Skumatz and Stiegelmeier if they would object to CAFR's proposal where local government has the option but is not required to function as a collection site and to do education and receive sufficient funding based on their level of participation. Skumatz said she expected landfills to be collection sites and specifically wanted money to go to cities and counties, if not through a grant program then mandated, but it is important that responsibility and funding be at the local level. Carlson said if there was funding, a mandate may not be as significant; it's really about the process of supporting collection and transportation.

Landfill Ban:

Meggan Ehret said the proposals were not passionate for or against a landfill ban. Karn Stiegelmeier suggested a change in law so counties would have the authority to implement a landfill ban if they chose. Bill Carlson said he didn't think a ban was necessary if a good plan was in place. Ehret said the CAFR outline mentioned landfill operators ought to have some mechanism to ensure education and encourage establishment of collection points on site to divert CEDs from the landfill. Carlson said a landfill ban is in place for commercial but there is no effective enforcement mechanism, which CDPHE is responsible for. If a good program is in place, a ban is not needed. Rep. Fischer said it was a good point that statutory authority may need to be granted to counties to impose a landfill ban. Carlson said he supports the idea that a landfill or county have the authority for a ban if they want to do enforcement. Dan Matsch said CAFR is passionate about a landfill ban; if the goal of the task force is to remove e-waste from the landfill, the best way is through a ban. Matsch said it would be OK for a ban to apply on a county by county basis.

Reporting:

Marjorie Griek said CAFR, CCI/CML and Carlson agreed that registered parties, including manufacturers, collectors and processors, would be required to submit an annual report to CDPHE. Griek said manufacturers were silent on the issue but did agree with Carlson and CCI/CML on reporting weight of CEDs collected and recovered. Griek said Carlson recommended reporting on proper collection and recovery; manufacturers wanted reporting of brands sold in the state and CDPHE could post manufacturer performance. Lisa Skumatz said she had no problem with annual reporting of tons. Karn Stiegelmeier agreed and said annual reporting would be ideal.

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Laura Bishop said to find was to avoid duplicate or prescriptive reporting forms and to allow combined reporting for manufacturers who are also collectors. Griek asked if there were report examples from other states. Bishop said she would look into that.

Rep. Fischer said he heard that there is agreement that there needs to be reporting and there were differences in the specifics of what needs to be reported, and it would be helpful to have a uniform way of reporting.

Education:

Marjorie Griek said everyone agreed that education was needed but differed on what that looks like, who is responsible and how it's done. Griek said manufacturers suggested posting their program details for consumers on their Web sites; CDPHE would post a list of manufacturers and recycling information on the CDPHE site; excess funds from registration fees could be used for other education initiatives. Griek said Carlson suggested support for education would come from CDPHE or other nonprofit. Griek said CAFR suggested a grant program for start-up programs that include education and establishing a reward program for those that meet recovery targets. Griek said CCI/CML proposed a state agency doing education along with grantees. Karn Stiegelmeier said they saw education as essential and wanted to include it in the model of a grant program. Lisa Skumatz said CDPHE would be responsible at the state level, as well as manufacturers, and county/city programs applying for grants would be encouraged to include education.

Griek said there was a gamut of options, but everyone agreed education was necessary. Rep. Fischer said he didn't know that the task force needed to come to agreement; a list of ideas could be presented in the report on how to set up an education program. Rep. Fischer asked if that was reasonable. Stiegelmeier agreed but said however fees are set up some part has to be dedicated to education.

Other Items:

Rep. Fischer said there was no overlap on some the issues and no way to say there is consensus, but they are all good ideas and workable into the report.

Rep. Fischer said manufacturers suggested that as a condition of registration manufacturers should have to indicate compliance or non-compliance with regard to restriction of hazardous substances, such as RHOS directive from the European Union. Dan Matsch said that is a reasonable thing to include. Anne Peters said it is reasonable to require but she wasn't sure how meaningful it was, she had no knowledge of enforcement action by the EU; it may become a voluntary element with no teeth. Kristyn Rankin agreed with Peters but said there has been manufacturer peer pressure to comply; it should be a statement of compliance and more informational, Rankin said she was ambivalent about whether it is included in the standards or not. Jeff Kuypers said there has been enforcement of RHOS in Europe; Kuypers had heard of enforcement actions in the EU leading to products not in compliance being taken off the shelves. Rep. Fischer said he is hearing that there is agreement that it may be beneficial to leave in the condition as a stipulation of registration. Kuypers said he is flexible if it is not wanted, he was thinking it would be something everyone would want because it indicates some information about material content of products. Peters said CAFR would like it to be included.

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Rep. Fischer said manufacturers suggested CDPHE post a ranking of manufacturer collection performance to encourage competition and drive up volume and performance of recycling efforts. Rep. Fischer asked if there was any objection to the idea. There were no objections.

Rep. Fischer said another idea was to create an avenue for reuse by making sure a program has some way to register reuse programs. Kuypers said he wasn't opposed to reuse but he may have an objection if it ended up that the program required manufacturers to pay parties to do resale, which should be a viable business and shouldn't need a program for additional funding. Dan Matsch said the intent is not to charge manufacturers for equipment but to provide another registration for reuse programs so they can participate in collection. Kristyn Rankin said Dell has a strong preference for whole system reuse but asked if distinguishing credit for volumes recycled versus reused would need to be built into the legislation. Kuypers said many manufacturers have buy-back programs where consumers can find out if their products are worth money and trade them in to a vendor for credit toward a new product; Kuypers said he wouldn't want to see manufacturers having to register those programs. Matsch said he is mostly talking about nonprofits trying to refurbish and provide equipment that is still viable to those without access to computers. Rankin asked if such a proposal would preclude Dell working with Goodwill to take back materials and resell what they can and recycle the rest. Matsch said no, he was talking about end-of-life equipment in collection and just having an avenue for nonprofit reuse programs to get some access to material; Matsch said he had been asked by some reuse organizations for some avenue to access. Jeff Johnson said he would want to be able to continue to collect material at Goodwill and resell items when possible without additional burden of registration.

Rep. Fischer asked if there were any objections to requiring E-peat compliance for state purchases. There were no objections.

Rep. Fischer said the CCI/CML proposal indicated certain items/activities would make communities eligible for extra points in a grant process. Stiegelmeier said she wanted to clarify that a grant process could be administered another way; she just wanted priority for rural counties. Stiegelmeier said she would not be in favor of any mandate on counties to have a program but would like to provide a carrot through priorities for funding; she is not in favor of mandating anything. Lisa Skumatz said the extra points were for service in under-served areas. Rep. Fischer said Colorado is a local-control state and it would be hard to mandate anything to local government.

Disagreements:

Rep. Fischer said all parts of the outline had been covered and areas of disagreement would now be revisited.

Rep. Fischer asked for further discussion on CEDs. Dan Matsch said from a consumer point of view the definition needs to be as broad as possible, for example, if Eco-Cycle participated in a program that only allowed free recycling for monitors and laptops, it would be difficult to explain to a consumer who wanted to recycle their monitor, CPU, and printer that it was free to recycle the monitor but it would cost them to recycle the printer and CPU; it sends a confusing message to the customer. Matsch said he knows HP wants standards to determine covered devices and said it was unfortunate that it wasn't taken to a conclusive level. Matsch said most computer components and TVs are likely to fail a TCLP (toxic characteristic leaching procedure) test and he would like as broad a definition for covered devices as possible. Jeff Kuypers said he is confused by the accepted notion that people

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have to pay to recycle household items, like a microwave oven, but that there has to be a free option specifically for recycling computers. Kuypers said that is why manufacturers want more objective criteria for covered devices. Kuypers asked Matsch what TCLP data he was referring to. Matsch said he was referring to a University of Florida study that found that the way the TCLP test was structured was not a viable way to test; the suggestion from the report was that the TCLP test be modified. Kuypers said he was familiar with that study; it also tested equipment other than computers. Kuypers asked why other equipment that failed the University of Florida modified TCLP is not also proposed as covered under a Colorado take-back law, if the University of Florida modified test is proposed as criteria. Kristyn Rankin said the TCLP test is applied to a composite sample of an entity, not just individual pieces, so it's a slippery slope to go down because you can run into the challenge of one model of laptop passing the test and another model failing; Rankin asked you would tell a collector to make the distinction. Rep. Fischer said there is the issue of toxicity of some of the material and also the issue of recovering valuable materials; before going to the landfill at least circuit boards from a lot of stuff should be recovered. Rankin said that is a good point. Kuypers asked if Rep. Fischer was proposing that everything with a circuit board be subject to this program. Anne Peters said that would be great, but it is really political realities that have shaped decisions in CAFR's proposal. Peters said we have to draw a line in the sand; additional equipment could be added in the future. Rep. Fischer said some states target more value-rich items like CPUs, on others mice and keyboards are included but those are not subject to reimbursement by manufacturers to recyclers. Rep. Fischer asked if there could be a compromise and say that CPUs would be included as CEDs under a Colorado program. Rankin said Dell, with the Goodwill program, supports processing all IT electronics and only takes credit for the percentage that happens to be CEDs; Dell as the manufacturer bears the cost. Bishop said Best Buy charges a minimal \$10 fee for non-Best Buy products and they feel this helps them meet compliance standards and allows them to take in a greater amount of items. Rankin agrees that it is a no-cost proposal for manufacturers. Rep. Fischer suggested compromising by including TVs, monitors, laptops, and CPUs and by agreeing to disagree about whether peripherals are included. Bishop said she wants more manufacturers to participate in a working group if more items are included because they will face challenges. Rankin said she could support the compromise of CPUs, monitors, and laptops. Bishop said so can Best Buy. Rep. Fischer said to keep in mind that the report is not a final decision on anything, disagreements will be noted. Kuypers suggested that the wording, "peripherals" as described by Rep. Fischer as things like computer keyboards, mice and printers, biases people to focus on computer manufacturers. Rep. Fischer said not necessarily; DVD players and VCRs were included by CAFR. Peters asked Kuypers if he wanted to exclude peripherals. Kuypers said he is frustrated that the focus is continuously on expansion of computer equipment, such as when the word "peripheral" is commonly used to reference computer equipment, and asked if it could be more generally worded. Rep. Fischer said that was a good point, a different word could be used.

Rep. Fischer asked for further discussion of covered entities. Matsch said it leaves a large loop hold if covered entities are just defined as household consumers; both hotels/motels and schools are currently exempt from RCRA. Kuypers said that his memory was that the determining factor in RCRA, for non-households, was the quantity of regulated waste generated and asked for confirmation that other entities such as hotels are actually listed as exempt or excluded. Peters said RCRA exempts hotels and households. Peters said she thinks the solution is to say collectors may take up to seven CEDs from a resident at a time, realizing there will be some leakage from small business fraction; rural school districts still need to be talked about, but they haven't been at the table. Lisa Skumatz said some kind of limit parallels fluorescent light tubes and appropriate. Diana Orf

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suggested having a separate program for schools and addressing it as a separate topic. Peters agreed.

Rep. Fischer said he was hearing that a limit on the quantity of electronics consumers could return at one time was one way not to put the onus on collectors; limits in other states range from five to seven. Rep. Fischer said the report doesn't have to focus on a number and asked if everyone agreed that some value should be applied for recycling. Peters said CAFR could agree. Bishop said it would depend on if the take-back amount was mandated; the goal should be to encourage as many collection sites as possible and Best Buy would not support a number in the report that was required to be taken back. Rep. Fischer said was hearing that for the purpose of the report, they could stipulate the program was for household consumers and that the group didn't want to go with a specific number of items that people could bring in. Marjorie Griek asked if Bishop was against some sort of upper limit, the most that any one person could return at any one time. Bishop agreed and said so long as Best Buy is not punished for turning away someone with five items because Best Buy's limit is two, so long as collectors have flexibility. Peters said that made sense. Rep. Fischer said he understands the concerns of the retailers; they would not be required to take back up to seven, but there would be an upper limit for the program to discourage people from bringing in huge truck loads. Griek agreed. There were no objections. Karn Stiegelmeier said if there is a limit for retail sites, if rural residents drive to a retail outlet and are told they reached their limit, there needs to be good education and manufacturers need to be able to pay for a county collection site. Bishop agreed there is need for statewide education on the different recycling options.

Rep. Fischer said discussion of the outline was concluded.

Report Timeline and Tasks

Anne Peters said the next meeting of the task force is scheduled for November 30 and proposed conducting it as a teleconference.

Peters said the report-writing committee would convene and assign sections of the report to be written based on the minutes; the committee would review each other's work and try to have a final draft ready for the task force by November 23, leaving a week for review and using the November 30 meeting to resolve remaining issues. Peters said that would leave a week to make final changes and come to agreement before the report is due December 15. Rep. Fischer asked if report-writing duties should be assigned to the same people that reported today. Peters said that was a good idea and that committee members who didn't have a section could volunteer to help those who had multiple sections to cover.

Dan Matsch said he was not clear at what point the majority and minority reports are established. Peters said the minority report will appear in the appendix; however, given the conversation today each of the subsections will list a majority and minority report. Sen. Steadman agreed with Peters that the report should show the extent of agreement and disagreement; however, the legislation specifically authorized a minority report and the task force needs to provide the opportunity for someone to submit a minority report for inclusion. Sen. Steadman said if anyone wants to submit a minority report they will be allowed to do so; the task force needs to be clear on the process. Matsch said to a certain extent you can pick and choose as we did today, but in the end we have to present a coherent program; very different options have been suggested and you can only take them apart so much before they are no longer relevant. Matsch said it wasn't clear to him that the task force was

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ready to say this is our majority report. Peters asked Matsch what would make him feel ready. Matsch said he didn't know; what Peters proposed seemed like a good exercise but he doesn't think it gets to the point where, for example, the program is either an ARF or not an ARF. Peters said she agreed with Sen. Steadman's proposal that an ARF would be appended as a stand-alone document, so reader's can see another approach. Peters said the main report will include the agreed-on main elements and the appendices are where each sub group can include what they actually want. Matsch said the lowest common denominator is not the majority view. Peters asked the legislators if they had any recommendations. Rep. Fischer said the report should follow the outline, indicating areas of agreement and noting areas of disagreement; if that is done, we might not need minority reports; however, the legislation did enable folks to submit a minority report, but it is not required. Rep. Fischer said from a legislative perspective, he wants something useful for legislators to look at and to him what is most useful is summarizing all of the ideas presented. Peters said if the report-writing committee can get a draft ready the week before the next meeting on November 30 that will give participants time to determine if they want to write and submit a minority report. Rep. Fischer said the determining factor is if the task force votes to accept that comes from the committee; if not, we would know the point of departure and those folks could submit their own report. Peters agreed.

Rep. Fischer said Rep. Jim Kerr joined the meeting.

Public Comment

No public comments.

The Electronic Device Recycling Task Force meeting adjourned at 12:50pm.

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
Prepare final draft of report	Peters, Steadman, Fischer, Griek, Skumatz, Ehret, Adamson	11/23/09	Pending

APPENDIX ONE
Electronic Device Recycling Task Force
Draft Report Outline

Note: goal is a 4-10 page report, at the most (extra material can go in appendices)

Outline

- I. Introductory Material
 - A. Task Force Charge
 - B. Task Force Activities (e.g., note the vote on 10/2 with a majority voting for the EDRTF to recommend legislation for a state-run program)
 - C. Overall description of possible program as agreed-to by the EDRTF (brief)
- II. Task Force Recommendations for Elements of Legislation. With minority reports referenced by sub-section & presented in Appendix
 - A. Covered electronic devices (CED) – what’s included, rationale
 - B. Covered entities – who’s included, rationale
 - C. How CEDs are collected, transported, processed; roles of collectors, processors, transporters; manufacturers’ relationship with processors
 - D. How funding flows:
 - a. who bills whom
 - b. if there are registration fees or an ARF, who collects and administers and how
 - c. accountability (both for the actual recycling process and for any state or organizational-level program administration)
 - E. Role of regulator, if any:
 - a. approval of manufacturers, recyclers, collectors,
 - b. establishing fees,
 - c. auditing,
 - d. enforcement, etc.
 - F. Role of local government
 - G. Landfill ban – if required, how are landfill owners and the counties that host them to plan and cover related costs for this?
 - H. Reporting by all parties
 - I. Education: who’s responsible
 - J. Other items (e.g., market development incentives, green purchasing, research & development, harmonization with RoHS, etc.)
- III. OPTIONAL SECTION: Legislative Recommendations
 - A. Bill 1
 - B. Bill 2
 - C. Bill 3

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Appendices

- Minutes of EDRTF meetings
- Roster of members & observers
- Copy of HB 09-1282
- Minority reports
- Definitions

APPENDIX TWO
Electronic Device Recycling Task Force
Draft Outline - From Manufacturers

Outline

I. Introductory Material

A. Task Force Charge

B. Task Force Activities (e.g., note the vote on 10/2 with a majority voting for the EDRTF to recommend legislation for a state-run program) [Question: Was the vote simply for “legislation”, or actually to recommend a “state-run” rather than a manufacturer-run model? Please clarify terms as appropriate.]

C. Overall description of possible program as agreed-to by the EDRTF (brief)

II. Task Force Recommendations for Elements of Legislation.

With minority reports referenced by sub-section & presented in Appendix

A. Covered electronic devices (CED) – what’s included, rationale

- Covered: TVs and computer monitors (if a law is necessary—manufacturers like HP, Dell, Best Buy, and others already offer free take back services for their own products)
- Rationale: CRTs are the devices of common historical (and perhaps greatest) concern due to the amount of lead present, so TVs and computer monitors that contain them could be included. Other devices in the same category (e.g., LCD and various other “flat screen” TVs and computer monitors) could be included as well, so that consumers do not have to distinguish between “CRT” and other technologies.
- Do not cover any other devices until a fair and rational approach can be identified and applied to selecting the additional products for inclusion.

B. Covered entities – who’s included, rationale

- Covered, preferred: “consumers”, meaning households and home office.
- Alternative covered: Any individual, or entity with 10 or few employees, that submits 2 or fewer covered devices for recycling at one time.
- Rationale: Business / large entities already have existing obligations and inducements to recycle electronics, including: resale / trade-in value; tax incentives; RCRA (and state-counterpart) requirements; lease agreements; data security/privacy considerations; and contracts with distributors, manufacturers, and others. Legislating take back from business / large entities would interrupt many existing take back and recovery systems for these entities.
- How CEDs are collected, transported, processed; roles of collectors, processors, transporters; manufacturers’ relationship with processors

[It seems that this “section” is asking for the general workings, so a few bullets below may be beyond “collection, transport, and processing . . .”]

- Require that each mfr must register if they wish to sell covered devices.
- Require that registered manufacturers must offer a free consumer take back program, using mail-back, ongoing collection, events, or other means.
- Manufacturers would have to make arrangements with collectors, transporters and recyclers to deliver their programs.
- The computer mfrs would be required to take back their own brand, but also could accept other brands and types of consumer electronics—at their discretion—and count it in any state reporting.
- Example laws, see TX, VA, OK, MO, and MD.
- The TV mfrs would be required to take back their own brand, but also could accept other brands and types of consumer electronics—at their discretion—and count it in any state reporting. After year one, the TV mfrs are obligated to accept their market

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Electronic Device Recycling Task Force
Draft Outline - From Manufacturers

share portion of the TV waste stream based on last year's numbers (in year one, the TV mfrs are obligated to collect but not meet any pound requirement; all subsequent pound requirements are based on the prior year's numbers). If they over or under collect in any given year, they can trade credits with the other mfrs.

- Optional: If there are concerns over end-of-life fees, consider the IL law:
 - "Individual consumers may not be charged an end-of-life fee when bringing their CEDs and EEDs to permanent or temporary collection locations, unless a financial incentive of equal or greater value, such as a coupon, is provided."
 - Optional: Drive recycling rates competitively by publishing a ranking as provided in the HI law.
 - Optional: CDPHE could require submittal of take back program plans from manufacturers, describing more details than above for each mfr.
 - Other collectors and recyclers are free to participate as they do now, but will not be reimbursed by manufacturers unless manufacturers enter into agreements with them for services.
- C. How funding flows:
- a. who bills whom
 - For manufacturer programs, collectors, transporters and recyclers bill manufacturers based on agreements that manufacturers or their agents reach with these parties.
 - Key issue for manufacturers: Mfrs must have confidence that they are billed for fair-market rates (not "whatever the market will bear"). Mfrs also must have a system that does not have so many participants that it becomes unreasonable to tell (including via investigation / audit) whether bills are fraudulent or accurate. If mfrs can design and manage their own programs, then they can address these needs.
 - b. if there are registration fees or an ARF, who collects and administers and how [Note: Manufacturers responding favor a producer responsibility model over an ARF. The response below is for registration fees only.]
 - Manufacturers pay a small fee to the state (suggest CDPHE) to cover the cost of reviewing registrations, posting registered manufacturers on a website, determining TV mfrs market share, and managing a website directing customers to manufacturer take back programs and other recycling programs offered in the state (as desired).
 - c. accountability (both for the actual recycling process and for any state or organizational-level program administration)
 - Manufacturers would be responsible for auditing and managing the vendors that they choose to deliver the take back services.
 - Existing state oversight by CDPHE, such as for administration of universal waste rules, would continue to apply to any CO entities participating in take back and recycling.
 - Mfrs already have standards for selecting vendors. However, the state could reference standards for responsible recycling, such as R2s, e-Stewards, or equivalent.
- D. Role of regulator, if any:
- a. approval of manufacturers, recyclers, collectors,

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Electronic Device Recycling Task Force
Draft Outline - From Manufacturers

- Mfrs approve recyclers for payment by mfrs, and may approve collectors for payment as well (or contract with their recyclers to manage collectors).
 - Any existing regulatory approvals such as by CDPHE for CO universal waste handlers, or by wastewater or air control boards for CO entities, etc., would continue to apply.
 - Optional: CDPHE may develop a process to review manufacturer plans for take back in CO, or approve mfr programs if they meet all statutory requirements.
- b. establishing fees and market share
- For mfr programs, the law would set a small registration fee amount [e.g., not to exceed \$2,500, potentially waived for very small manufacturers (<100 covered devices / year)].
 - CDPHE would also establish the market share percentages for use on the tv side. CDPHE should use national data to determine responsibilities or other publically available data.
- c. auditing,
- The manufacturer is responsible for auditing their chosen recyclers.
 - Audits under other legal / regulatory frameworks may continue, such as but not limited to, CDPHE audits of any universal waste handlers.
- d. enforcement, etc.
- CDPHE may conduct audits and inspections to determine compliance.
 - CDPHE and the state attorney general, as appropriate, would enforce the provisions of a take back law.
 - Failure to register or comply could result in failure to sell in the state
 - Penalties could be assessed for such incidents as, but not necessarily limited to: failure of a manufacturer to label their covered products with a brand, or failure of a retailer to limit sales in CO to devices made by registered mfrs only.
- E. Role of local government
- Local government would not be compelled to participate in any manufacturer-run take back program. However, manufacturers would be free to enter into agreements for collection with available, willing participants (recyclers, repair shops, municipal or local government transfer stations, reuse organizations, not-for-profit corporations, retailers, or other suitable operations.)
 - Local governments would be free to continue to run programs as they do now, if they wish to.
- F. Landfill ban – if required, how are landfill owners and the counties that host them to plan and cover related costs for this?
- Use of a disposal ban would be at the discretion of the state and/or local authorities.
- G. Reporting by all parties
- Annually, manufacturers would report the brands of covered devices that they sell in the state.
 - Beginning the second program year, computer mfrs annually would report the weight of Covered Computer Devices collected and recovered in the state during the previous program year, and TV mfrs report annually the weight of Covered Television Devices collected and recovered in the state during the previous year.
 - Optional: CDPHE could post a ranking or some indicator of mfr collection performance to drive volumes competitively.
- H. Education: who's responsible

APPENDIX TWO
Electronic Device Recycling Task Force
Draft Outline - From Manufacturers

- Mfrs would post their program details, instructing consumers as to how to participate, on their website, and provide the website to CDPHE.
- CDPHE would post a list of manufacturer, and any other recycling opportunities that the state desires to post, on a website.
- So long as registration fees for manufacturers are reasonable [e.g., not to exceed \$2,500, potentially waived for very small manufacturers (<100 covered devices / year)], CDPHE could use any excess funds from registration for other consumer education initiatives.
- I. Other items (e.g., market development incentives, green purchasing, research & development, harmonization with RoHS, etc.)
 - With registration, mfrs must indicate compliance or noncompliance with RoHS (Restriction of Hazardous Substances) Directive 2002/95/EC of the European Parliament and Council and any amendments thereto.
 - Optional: CDPHE could post a ranking of or some indicator of mfr collection performance to drive volumes competitively.

III. OPTIONAL SECTION: Legislative Recommendations

- A. Bill 1
- B. Bill 2
- C. Bill 3

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Appendices

- Minutes of EDRTF meetings
- Roster of members & observers
- Copy of HB 09-1282
- Minority reports
- Definitions

APPENDIX THREE
Electronic Device Recycling Task Force
Draft Outline - From CAFR

I. Introductory Material

A. Task Force Charge

B. Task Force Activities (*e.g., note the vote on 10/2 with a majority voting for the EDRTF to recommend legislation for a state-run program*)

C. Overall description of possible program as agreed-to by the EDRTF (brief)

II. Task Force Recommendations for Elements of Legislation.

With minority reports referenced by sub-section & presented in Appendix

J. Covered electronic devices (CED) – what’s included, rationale

TVs, monitors, laptops, CPUs, printers, mouse, keyboard, fax, DVD players, VCRs. All CEDs contain a significant circuit board and are therefore likely to fail a TCLP test or are peripheral to a personal computer, and have a net cost to properly recycle.

K. Covered entities – who’s included, rationale

Consumers, defined as any Colorado resident or entity not currently covered by RCRA. This definition closes potentially major loopholes such as hotel/motel e-scrap created by a definition that limits coverage to individuals and home-based businesses.

L. How CEDs are collected, transported, processed; roles of collectors, processors, transporters; manufacturers’ relationship with processors

Any qualified and registered entity, including manufacturers, processors, and local government or non-profit collection programs can collect CEDs, either through existing programs or new ones.

CED Collectors:

- *Register in the state program,*
- *Verify that all material collected for the program qualifies as a CED, including verification of in-state ownership,*
- *Send all CEDs to a state-certified processor.*

Transporters:

- *Are not regulated by this legislation,*
- *Are contracted privately by processor.*

Processors:

- *Qualify as a state-certified recycling processor in order to participate in the state take-back program, and pay an annual licensing fee to the state,*
- *Sort CEDs by brand and bill the manufacturer,*
- *Comply with state material tracking and audit standards and with reporting requirements,*
- *Utilize the free market to assist in creating a comprehensive recycling infrastructure for the state sufficient to eventually enact a landfill ban of CEDs.*

Manufacturers:

- *Register with the state to sell CEDs in Colorado,*
- *Optionally, may operate their own voluntary take-back program using state-certified processors, either separately or as a group of manufacturers,*
- *In addition to any voluntary program of their own, pay state-certified processors the reasonable costs (determined by rule) of recovering CEDs displaying brands registered by the manufacturer plus a pro-rata share of orphan devices collected,*
- *May set up the program based on return share for covered IT devices and market share for TVs.*

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Electronic Device Recycling Task Force
Draft Outline - From CAFR

Retailers:

- *Verify that all brands sold within Colorado outlets are properly registered to participate in the take-back program,*
- *Act as a source of information about recycling options for their customers.*

M. *How funding flows:*

- a. *Free to consumer; collector bills processor per-pound collection fee set by rule; processor bills manufacturer per-pound recycling and transportation fee set by rule for manufacturer's brands plus pro-rata orphan share.*
- b. *if there are registration fees or an ARF, who collects and administers and how CDPHE collects all fees – brand registration fee from manufacturers, certification fee from approved processors, and registration fee from collectors. Each fee is sufficient to cover the reasonable administrative program costs for each stakeholder group, including enforcement of non-compliance. Additionally, CDPHE determines by rule fees that may be charged by collectors and processors.*
- c. *accountability (both for the actual recycling process and for any state or organizational-level program administration)*
Collectors and processors – including voluntary manufacturer programs – will submit an annual report to CDPHE detailing collection totals and fees received; processors complete an annual third-party audit as part of their state certification; CDPHE will present an annual report to the legislature showing a balance sheet for the program.

N. *Role of regulator, if any:*

- a. *approval of manufacturers, recyclers, collectors,*
CDPHE will approve and regulate manufacturers, processors, and collectors as detailed above. CDPHE will establish or adopt a processor certification that assures the highest possible standards for environmental safety, worker safety, and compliance with international export laws (guidelines for which will be set by statute).
- b. *establishing fees,*
All fees will be set by rule through the stakeholder process as detailed above. CDPHE will develop a differential pricing structure to create incentives to collect and transport from remote areas of the state and for collectors' education programs that result in maximized pound-per-capita recovery.
- c. *auditing,*
Auditing for processor certification will be performed by an established third party auditor.
- d. *enforcement, etc.*
CDPHE will establish a fine structure that sufficiently funds enforcement and reimburses processors for uncollected recycling fees sent to manufacturers.

O. *Role of local government*

Participation is not required, but local governments may register as a collector and assist in public education.

P. *Landfill ban – if required, how are landfill owners and the counties that host them to plan and cover related costs for this?*

Landfill operators are encouraged to establish a collection point on-site and thereby divert CEDs into the program and create a revenue source that can offset related costs.

Q. *Reporting by all parties*

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Electronic Device Recycling Task Force
Draft Outline - From CAFR

All registered parties are required to submit an annual report to CDPHE.

R. Education: who's responsible

Set up a grant program for startup collection programs that include education programs; establish a reward program for collectors' education programs that meet recovery targets.

S. Other items (e.g., market development incentives, green purchasing, research & development, harmonization with RoHS, etc.)

- *Create an avenue for reuse by registering legitimate reuse programs (the sale or donation to a registered reuse program of tested working equipment is exempt from the program);*
- *EPEAT compliance is required for all state purchases*

III. OPTIONAL SECTION: Legislative Recommendations

- A. Bill 1
- B. Bill 2
- C. Bill 3

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Appendices

- Minutes of EDRTF meetings
- Roster of members & observers
- Copy of HB 09-1282
- Minority reports
- Definitions

APPENDIX FOUR
Electronic Device Recycling Task Force
Draft Outline - From Bill Carlson

I. Introductory Material

- A. Task Force Charge
- B. Task Force Activities (*e.g., note the vote on 10/2 with a majority voting for the EDRTF to recommend legislation for a state-run program*)
- C. Overall description of possible program as agreed-to by the EDRTF (brief)

II. Task Force Recommendations for Elements of Legislation.

With minority reports referenced by sub-section & presented in Appendix

- T. Covered electronic devices (CED) – what’s included, rationale
 - a. Computers (desk tops and laptops)
 - b. TVs
 - c. Monitoring/CRTs
 - d. Printers (optional or phased in)
- U. Covered entities – Manufacturers who are companies that:
 - a. Make or made CEDs under a brand they own or owned;
 - b. Make or made CEDs under a brand they license;
 - c. Make or made CEDs without affixing a brand;
 - d. Resell or has resold, under their own brand, a CED made by others;
 - e. Make or made CEDs and supply or supplied such devices to any person with a distribution network that includes wholesalers or retailers
- V. How CEDs are collected, transported, processed; roles of collectors, processors, transporters; manufacturers’ relationship with processors
 - a. Manufacturers’ recovery plan must offer free CED collection services that are convenient and accessible to all Colorado residents.
 - b. Manufacturers must label their CEDs with their brand name.
 - c. Register and pay CDPHE an initial registration fee and other required fees.
 - d. Register annually with CDPHE and pay annual registration renewal fee.
 - e. Manufacturers finance the transportation and recycling of CED by:
 - Participating in the state program and paying approved recycler’s reasonable costs for the transporting and recycling of their CEDs
 - 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.
 - f. Retail Collection Rules
 - Retailer must not charge residents for the collection of CED
 - Retailer must have a contract in place with a CDPHE approved CED recycler certifying they are abiding by state program requirements.
 - If the retailer is the sole component of a municipal or regional collection, must accept all CEDs, and the municipality or region must have a contingency plan if the retail no longer participates in the program.
 - Retailer must estimate the weight of CEDs recycled
- W. How funding flows:
 - a. who bills whom (collectors/recycling processing facilities bill manufacturer for their CEDs by weight at fair market price)

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- b. if there are registration fees or an ARF, who collects and administers and how
 - CDPHE administers state program funding by manufacturers annual/initial registrations fees, or contracts out administration to qualified e-waste consulting firm; i.e., Jason Linnell, who administrates Oregon's e-waste program.
- c. accountability (both for the actual recycling process and for any state or organizational-level program administration)
- X. Role of regulator, if any: CDPHE will:
 - a. approval of manufacturers, recyclers, collectors,
 - b. Take a leadership role in promoting state wide E-Waste program
 - c. establishing fees,
 - d. auditing,
 - e. Enforcement, etc.
 - f. Adopt EPA material waste management guidelines
 - g. CDPHE will work with towns and regions to establish collection programs that meet the needs of the residents in a timely manner so that collection programs can begin as soon as the law takes effect.
 - h. CDPHE shall compile and annual report to the state legislature.
- Y. Role of local government
 - a. Municipalities must provide for collection of household generated CEDs.
 - b. Municipalities must submit a plan to CDPHE that is convenient and accessible for it residents.
 - c. Municipalities can meet this requirement by working on their own or in conjunction with a region. If a regional plan, the regional entity must certify they are submitting a plan on its behalf.
 - d. Municipalities are required to educate their residents on the specifics of how to recycle CEDs.
 - e. Municipalities may not charge a fee to households bringing 5 or less CEDs since the manufacturers shall bear the cost of recycling CEDs.
 - f. Municipalities must provide a collection point within it borders or at a regional municipal facility (i.e., landfill).
 - g. One day E-waste collection events may be an option for collecting CEDs for small towns if approved by CDPHE.
- Z. Role of Consumer
 - a. Consumer is responsible for any data or information on a CED that is collected or recovered.
 - b. Keep informed about the proper recovery of their CED by receiving information from the local government, manufacturer and/or retailer selling CEDs.
- AA. Landfill ban – if required, how are landfill owners and the counties that host them to plan and cover related costs for this?
 - a. No landfill ban recommended since a good state designed plan will eliminate e-waste dumping into landfills.
 - b. No enforcement now or after a landfill ban takes effect.
- BB. Reporting by all parties – annually report to the CDPHE the weight of CED collected and recovered in Colorado during the past year. Report shall verify proper collection and recovery of CED materials in compliance with state program requirements. Parties responsible are:

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- a. Local governments
- b. Manufacturers
- c. Collectors
- d. Processors
- CC. Education: who's responsible
 - a. Local municipalities
 - b. Support from CDPHE, CAFR, non profits working with towns or regions
- DD. Other items (e.g., market development incentives, green purchasing, research & development, harmonization with RoHS, etc.)
- EE. Exemptions
 - a. Towns with populations under XXX TBD
 - b. Manufacturers with CED not used by Colorado Consumers
- FF. Enforcement
 - a. CDPHE may conduct audits and inspections of collectors and processors to determine compliance of law.
 - b. CDPHE can delegate enforcement authority to local municipality and county governments.
 - c. Manufacturers who fail to properly label CEDs as requirement by law may be assessed a penalty up to \$10,000 for first violation and up to \$25,000 for second and each subsequent violation.
 - d. Penalties shall be paid to CDPHE and used to administrate the program.

III. OPTIONAL SECTION: Legislative Recommendations

- A. Bill 1 - AFR
- B. Bill 2 – Local based
- C. Bill 3 – Estimating manufacturer infrastructure

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Appendices

- Minutes of EDRTF meetings
- Roster of members & observers
- Copy of HB 09-1282
- Minority reports
- Definitions

APPENDIX FIVE
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CITY COUNTY PROGRAM RECOMMENDATION

II. Task Force Recommendations for Elements of Legislation.

A. Covered electronic devices (CED) – what’s included, rationale

Eligible equipment: computer CPUs, laptops, screens and monitors and equipment with screens larger than 6 inches measured diagonally, printers, and XXX. TVs too?????

B. Covered entities – who’s included, rationale

Households and (small?)³ businesses (*can be all businesses; unclear if large businesses should be required to treat large quantities of e-waste as they currently must treat large quantities of fluorescent lighting – have bills of lading, SQG, etc.*)

C. How CEDs are collected, transported, processed; roles of collectors, processors, transporters; manufacturers’ relationship with processors

Depends on individual program designs from manufacturers and counties (individually or submitted with potential local private recyclers and/or cities as partners) through grant process. “Pots” of funding are in fixed proportions for county efforts vs. manufacturer efforts.

D. How funding flows:

- a. who bills whom
- b. if there are registration fees or an ARF, who collects and administers and how
- c. accountability (both for the actual recycling process and for any state or organizational-level program administration)

Bill A directs the State to collect a financial deposit (or up-front Advanced Recovery Fee) on sale of all eligible⁴ electronic equipment sold within the State of Colorado, or sold for use in the State of Colorado.⁵ The fee shall be set to cover 1) administration and oversight of the program, 2) funds to properly manage / dispose of the materials in an environmentally sound and ethical manner; 3) education and outreach on proper disposal and sites; 4) assistance for rural counties without a collection and processing program in place. The level of the fee is set as \$X per component⁶ and will be adjusted automatically by the CPI value on an annual basis. Starting in year 3 or earlier in the program, “the Agency” (see below) may reduce fees for specific equipment models it determines to be meet threshold “green” criteria in order to provide an incentive for manufacture of equipment with enhanced deconstruction and recycleability characteristics.

The funds shall be accumulated and distributed by a Division of CDPHE or a non-profit working in coordination with CDPHE for that purpose (“The Agency”). The Agency shall distribute the monies into three “funds” in fixed proportions: 1) X% to the Agency for administration, to certify recyclers / processors, and for statewide education on e-waste disposal options, and a state-wide on-line list of

³ Define consistent with the cutoff for fluorescent lighting tubes.

⁴ Eligible equipment: computer CPUs, laptops, screens and monitors and equipment with screens larger than 6 inches measured diagonally, printers, and XXX. TVs too?????

⁵ 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

⁶ The legislation may set different levels depending on major category of component (e.g. CPU vs. monitors or by size of monitor, etc.)

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manufacturer and government (and private(?)) collection locations that is updated regularly⁷; 2) X% to a county landfill and recycling assistance grant program for county landfills to address e-waste that has not been captured “up-stream”, to potentially provide rebates to those delivering e-waste⁸, and to provide a grants program to help cities fund special collection events, and 3) X% to industry to set up and maintain collection sites in association with retail or other program design as shall meet the standards of the Agency and to provide financial rebates for users of the return program. Each entity (manufacturer or county) wishing grant funds from their respective “pool” shall submit plans or proposals for e-waste programs / sites / education to the Agency for review, comment, and approval / disapproval, with the funds.⁹ Counties and/or manufacturers may team with existing private recyclers for funds; cities may team with counties. Priority grants would be to underserved counties / counties with inadequate collection and education programs. Programs receive funding for at least two years, and shall be evaluated every two years. Successful, well-run programs can count on reasonably sustained funding.¹⁰

E. Role of regulator, if any:

- a. approval of manufacturers, recyclers, collectors,
- b. establishing fees,
- c. auditing,
- d. enforcement, etc.

Bill A directs the State to collect a financial deposit (or up-front Advanced Recovery Fee) on sale of all eligible¹¹ electronic equipment sold within the State of Colorado, or sold for use in the State of Colorado.¹² The fee shall be set to cover 1) administration and oversight of the program, 2) funds to properly manage / dispose of the materials in an environmentally sound and ethical manner; 3) education and outreach on proper disposal and sites; 4) assistance for rural counties without a collection and processing program in place. The level of the fee is set as \$X per component¹³ and will be adjusted automatically by the CPI value on an annual basis. Starting in year 3 or earlier in the program, “the Agency” (see below) may reduce fees for specific equipment models it determines to be meet threshold “green” criteria in order to provide an incentive for manufacture of equipment with enhanced deconstruction and recycleability characteristics.

The Agency shall distribute the monies into three “funds” in fixed proportions: 1) X% to the Agency for administration, to certify recyclers / processors, and for statewide education on e-waste disposal options, and a state-wide on-line list of manufacturer and government (and private(?)) collection locations that is updated regularly¹⁴;

PLUS

⁷ This list will help determine need for additional access in specific counties or subregions.

⁸ Rebates are an optional element for county programs

⁹ Evaluation criteria shall include extra points for use of local firms/ job creation, healthy demanufacturing, filling service “gaps”, and other priority criteria.

¹⁰ Although improvements / enhancements are encouraged.

¹¹ Eligible equipment: computer CPUs, laptops, screens and monitors and equipment with screens larger than 6 inches measured diagonally, printers, and XXX. TVs too?????

¹² 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

¹³ The legislation may set different levels depending on major category of component (e.g. CPU vs. monitors or by size of monitor, etc.)

¹⁴ This list will help determine need for additional access in specific counties or subregions.

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Each entity (manufacturer or county) wishing grant funds from their respective “pool” shall submit plans or proposals for e-waste programs / sites / education to the Agency for review, comment, and approval / disapproval, with the funds.¹⁵

PLUS

All programs must include tonnage measurement and reporting to the Agency.

F. Role of local government

Each entity (manufacturer or county) wishing grant funds from their respective “pool” shall submit plans or proposals for e-waste programs / sites / education to the Agency for review, comment, and approval / disapproval, with the funds.¹⁶ Counties and/or manufacturers may team with existing private recyclers for funds; cities may team with counties. Priority grants would be to underserved counties / counties with inadequate collection and education programs.

Counties / county landfills to address e-waste that has not been captured “up-stream”, to potentially provide rebates to those delivering e-waste¹⁷, and to provide a grants program to help cities fund special collection events,

G. Landfill ban – if required, how are landfill owners and the counties that host them to plan and cover related costs for this?

Bill B – Statutory Authority to Counties to Ban E-waste and Other Recyclable Materials

Bill B directs the State to allow the authority in legislation for counties the option to establish a ban on electronic waste (and other recyclable materials). Statutory counties do not currently have that authority, municipalities and those few home rule counties do currently have the authority.

H. Reporting by all parties

All programs must include tonnage measurement and reporting to the Agency.

The Agency and the programs shall be evaluated every 4 years by the legislature and revised in consultation with CDPHE.

Programs receive funding for at least two years, and shall be evaluated every two years. Successful, well-run programs can count on reasonably sustained funding.¹⁸

I. Education: who’s responsible

State “Agency” PLUS any programs submitting grant requests approved that cover education efforts.

J. Other items (e.g., market development incentives, green purchasing, research & development, harmonization with RoHS, etc.)

Extra points in grant assessment provided for these elements.

Starting in year 3 or earlier in the program, “the Agency” (see below) may reduce fees for specific equipment models it determines to be meet threshold “green” criteria in order to provide an incentive for manufacture of equipment with enhanced deconstruction and recycleability characteristics.

¹⁵ Evaluation criteria shall include extra points for use of local firms/ job creation, healthy demanufacturing, filling service “gaps”, and other priority criteria.

¹⁶ Evaluation criteria shall include extra points for use of local firms/ job creation, healthy demanufacturing, filling service “gaps”, and other priority criteria.

¹⁷ Rebates are an optional element for county programs

¹⁸ Although improvements / enhancements are encouraged.