**Testimony of**

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**Pennsylvania Department of Environmental Protection**

**Before the Joint Legislative Conservation Committee**

**on the Covered Device Recycling Act**

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Ladies and Gentlemen of the Committee:

My name is Ken Reisinger, and I am Deputy Secretary for the Office of Waste, Air, Radiation and Remediation in the Department of Environmental Protection (DEP). I'm here today to provide background information on the Covered Device Recycling Act (also referred to as CDRA); discuss emerging challenges for municipalities, citizens and recycling businesses; and offer options to potentially address those challenges.

Before getting into the details of the Department's testimony, however, I would like to recognize the efforts of Representative Chris Ross, whose vision and leadership led the way for Pennsylvania's Covered Device Recycling Act. I would also like to recognize the overwhelming support of the House and Senate in passing the Act. Although we are here today to talk about ways to amend or improve certain implementation challenges, we would be remiss if we did not acknowledge that the CDRA has yielded positive results with approximately 200,177,812 pounds of electronic material collected and recycled over the past four years.

## Background on the Covered Device Recycling Act

Enacted in 2010, the CDRA established a manufacturer responsibility program for recycling of covered devices designed to offer readily available electronic device recycling for all citizens.

The Act also provided for a disposal ban for covered devices that went into effect in January 2013. The emerging challenges associated with the Act that lay before us can be categorized in three general areas:

- First, the goal-setting provisions of the Act do not reflect the reality of the amount of material that is available or offered for recycling;

- Second, the fluctuation in commodity prices creates uncertainty in the market place; and

- Third, on a global basis, recycling opportunities for Cathode Ray Tubes (CRTs) are unstable and uncertain.

Goals

The Act requires manufacturers to collect and recycle 100% of their sales weight from two years ago, based on market share. For example, the total weight of 2013 sales was the weight goal to be collected and recycled in 2015.

Realizing that the 100% goal would not be immediately achievable, the DEP established ramp-up interim goals for manufacturers to establish and grow recycling programs. The first year goal in 2012 was set at 35% of the obligated share, and it ramped up over the next three years to the 100% goal in 2015 as established by the Act.

The good news is that most manufacturers met the interim and final goals. For instance, in 2014, 48 manufacturers met their goal, 10 exceeded their goal, and only 4 failed to meet their goal. In total, from 2012 to 2014, manufacturers increased the total amount of material annually collected and recycled from 31.5 million pounds to 62.5 million pounds.

The growth in pounds collected is very impressive – as is the number of manufacturers meeting or exceeding their goals. According to the measures established by the Act, the Act does appear to be successful. Unfortunately, we have learned over the past two years that the presumptions and bases for establishing the goals in the Act do not reflect actual real-world demand for

recycling. Simply put, there is more material made available for recycling than what the act actually requires to be collected and recycled.

This oversupply of material significantly affects the economics of the system by depressing the value of material collected. For the manufacturers, it is good business which allows them to meet their goals at the lowest possible price. However, it puts recycler, collectors, and municipalities at a competitive disadvantage due to the over-abundance of material, which drives prices down and impacts their ability to recover program costs.

The surplus of available materials also allows manufacturers to structure programs to be selective, targeting the more valuable commodities made available for recycling. This is best represented by programs that accept covered devices *except for televisions*, which generally have a negative value due to the difficulty of recycling the leaded glass contained in the CRT. This oversupply versus demand can create present and future market uncertainty for recyclers, collectors, and municipalities that can make long-term contracting difficult.

Finally, oversupply results in manufacturers terminating programs once the requisite goal for that year is met. In these situations, material may end up being stockpiled, or programs may be suspended, eliminating opportunities for citizens to recycle their material.

We in DEP believe that the existing disequilibrium between supply and demand is a primary cause of many of the issues associated with the current program. It is our suggestion that the manufacturer's goal, which essentially caps the obligated amount of material required to be collected, be re-examined, modified, eliminated, or replaced with another metric or approach to ensure that sustainable and continual recycling programs are available on a consistent basis and all material made available for recycling by our citizens is effectively managed.

<u>Market Conditions</u>

Markets for the recoverable materials in covered devices are just like any other commodity and fluctuate along with changes to the economy. While DEP recognizes that it is impractical to absolutely insulate any industry from unanticipated economic impacts, we believe that changing

the goal-setting provisions in the Act to address the oversupply of materials will allow recycling businesses to better cope with changes in the economy through more effective contracting and partnerships with manufacturers.

CRTs

The third general category I mentioned concerns the unique challenges for recycling Cathode Ray Tubes. It is estimated by some that CRTs, by volume and weight, comprise as much as 70% of the material required to be recycled by the Act. It is generally recognized that CRTs are the most difficult material to recycle due to the leaded glass. Worldwide there are nine facilities that process or recycle leaded glass. One facility in India recycles CRT glass into new CRTs. There are two tile manufacturers, one in Spain and one in Illinois, that use leaded glass in some or part of their manufacturing processes. And there are six smelters of varying capacity that process leaded glass. It is worth mentioning that one of these smelters is located in Dunkirk, New York, and is just in its start-up phase. DEP is hopeful that the Dunkirk facility will be fully operational soon and will prove to be an effective technology for processing CRTs.

Globally there appears to be capacity for processing and recycling CRT glass; however, the market seems to be uncertain and unstable, and the cost of transportation and processing can be high. The absence of a readily reliable outlet for recycling CRT glass creates a unique challenge for our citizens because, with the implementation of the landfill ban in 2013, we find ourselves in a position where it is not practical to recycle CRTs because opportunities are limited – nor can citizens dispose of televisions due to the disposal ban. Obviously this was not an objective of the CDRA when passed in 2010, but it is the market conditions of 2016 that need to be recognized. Without some type of off-ramp, until CRT recycling opportunities become more reliable and affordable, we will continue to be vexed by this challenge.

## Going Forward

To address the challenges previously identified, DEP respectfully offers the following points for consideration as part of a legislative remedy:

- Revise the goals in the act to ensure that collection programs are available on a continuing basis for all consumers who wish to offer a covered device for recycling.

- Create a solid foundation for funding programs by strengthening the provisions of the Act regarding producer responsibility programs to ensure recyclers, collectors, and municipalities are able to operate programs and fully recover all program costs including collection, transportation, and recycling of those covered devices.

- Consider a "brand-name" responsibility program where each manufacturer is only responsible for recycling their own devices. This option would also include a provision for each manufacturer to provide support for the collection of orphaned material.

- Ensure that all consumers have access to recycling and that recyclers, collectors, municipalities, and counties are not left with pounds that are not supported by a manufacturer's program – or being billed by a recycler or manufacturer.

- Eliminate the current 85% coverage requirement in the Act. This requirement leaves 1.8 million Pennsylvanians without opportunities to recycle electronic devices.

- Consider special provisions for difficult-to-recycle commodities such as CRTs to provide management options until markets are able to respond to recycling demands.

Thank you, members of the Committee, for the opportunity to present DEP's observations, comments, and areas to explore as you consider amendments to the CDRA.