

COMMISSIONERS OF CUMBERLAND COUNTY

Vincent T. DiFilippo
Chairman

Jim Hertzler
Vice Chairman

Gary Eichelberger
Secretary

June 21, 2016

Sent via email to mnerozzi@jcc.legis.state.pa.us

Mike Nerozzi, Communications Specialist
Joint Conservation Committee
PA House of Representatives
House Box 202254
Harrisburg, PA, 17120-22540

Re: Written Testimony Regarding Public Hearing – The Covered Device Recycling Act

Dear Mr. Nerozzi,

Cumberland County was one of the first counties in Pennsylvania to offer an electronics recycling program for its residents. Eleven drop-off events were held between October 2001 and April 2009, resulting in the collection and recycling of 1,386,711 pounds of electronics. Each event, on average, resulted in the collection of 126,065 pounds of electronics at a gross cost of \$24,806.

Cumberland County has never used general fund tax dollars for its Recycling & Waste Department program expenses. The Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101 of 1988) requires that counties insure adequate disposal capacity for waste generated within their boundaries. Some counties decided to meet this requirement by building their own disposal facility and directing all waste generated within the county to that facility. These counties have the added ability to build program costs, including recycling programs, into the tipping fee they charge to deposit waste at their facility.

Other counties, like Cumberland, contracted with both private and public disposal facilities as a means of insuring disposal capacity. Often included in these contracts were stipulations that the disposal facility pay the county an “administrative fee” on every ton of county generated waste received. In Cumberland’s case, the administrative fee was \$2.50 per ton, which generated approximately \$500,000 per year for the County’s Recycling & Waste Department to run its programs. There was no provision preventing the disposal facility from passing this fee on to their customers.

In the early 2000’s, county administrative fees were challenged in court under the guise that Act 101 does not expressly authorize counties to charge such fees. Several cases worked their way through the courts (with conflicting decisions handed down by several lower court judges) until rulings in 2006 struck down administrative fees. Fortunately,

Cumberland County's Recycling & Waste Department had accumulated a reserve and has been functioning off that reserve since, albeit by scaling back and eliminating some very popular programs. Thirty-six counties in PA, more than half, faced similar consequences. Some have had to shut down their waste management programs completely.

One of the programs Cumberland County earmarked for elimination was the popular Electronics Recycling Program, in large part due to the fact that, at the time, there were several other electronics recycling opportunities in the County. Needless to say, the County was excited when the Covered Device Recycling Act (CDRA) was passed based on the belief that the law would lead to even more robust recycling opportunities. In fact, the Recycling & Waste Department desired to get back in the business as early signs indicated collection sites would be paid a few cents per pound for material. The County decided to take a wait and see approach largely due to input from elected officials, as well as articles in the local papers with claims from local recycling businesses that they could handle all electronics recycling needs.

What the County observed and heard over the next few years were unfortunate situations of collection programs easily meeting goals midway through the year and subsequently losing manufacturer support for the remainder of the year. Payments to collection sites began to dwindle and eventually disappear. Recyclers faced economic struggles due to inadequate payments from manufacturers, poor commodity markets, and a glut of excess material to deal with. In many cases, the responsibility of sustaining a program ultimately fell square on a municipality, county, or authority; just the opposite of what the law had intended. Some have had to make the hard choice of discontinuing programs so popular with their respective constituencies.

Recognizing that electronics recycling was deteriorating in Cumberland County, the Board of Commissioners agreed to put out a bid for an electronics recycling drop-off event to be held in the fall of 2015. Eleven courtesy copies were distributed, with a primary focus on non-manufacturer supported recyclers believing it would be hard to find a manufacturer supported recycler willing to do a drop-off event late in the year. To our surprise, the County received no bids at all, not even from recyclers that could charge us directly since they received no manufacturer support. At the last moment, the County was approached by a manufacturer supported recycler looking for some additional late year poundage and thus willing to do a drop-off event for us. The recycler signed an agreement with the County to do a fall 2015 event plus a spring and fall collection event in 2016.

The fall 2015 event was extremely well attended. In six hours, 151,874 pounds of electronics were collected, 64% of which were TVs by weight. Having done collection events for which the County was charged by a recycler versus doing a collection event with a recycler that was being paid by a manufacturer, it was easy to note drastic differences. The recycler brought nine employees to unload vehicles, sort the material, package, and load into trailers. This was significantly insufficient for the task at hand.

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Even with seven additional laborers provided by the County, we were still understaffed. It was obvious the recycler was working on tight margins.

Despite the law's requirement that manufacturers pay for the collection, transportation, and recycling of covered devices, Cumberland County ended up contributing approximately \$2,000 to provide traffic control, miscellaneous supplies, and additional labor.


The recycler that did the fall 2015 event informed us in early March they were going to breach our Agreement due to an inability to continue operating under the current model. In an attempt to provide a stop gap solution, Cumberland County developed a Request for Proposals and upped the ante by offering to make county building space available for a more permanent type collection program. Courtesy copies of the RFP were sent to fifteen recyclers. Proposals were due on June 13, 2016. Only one proposal was received, and it was from a non-manufacturer supported recycler. The proposed average price per pound was \$0.24. Given the amount of electronics other county permanent collection sites receive, Cumberland County would likely incur tremendous costs to run a permanent collection site under this scenario. It is unreasonable to expect Cumberland County to absorb these costs when the intent of the law was producer responsibility, not to mention that Cumberland County's recycling and waste funding mechanism was stripped away by the courts as mentioned before.

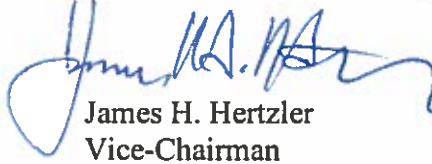
These setbacks, coupled with other collection programs closing, eliminating televisions, and/or implementing geographic restrictions, has resulted in zero television recycling outlets for Cumberland County residents since March 2016. Our Recycling & Waste office receives anywhere from five to twenty calls per day regarding where to recycle televisions. It is unfortunate, but the reality is the CDRA Act is leading to the heightened illegal dumping of electronics.

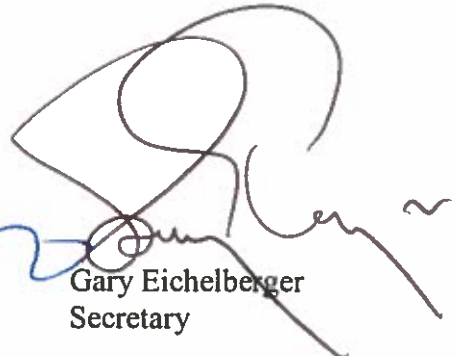
Producer responsibility can be a good thing, because it should encourage manufacturers to think about the environmental impact of the products they design. If it is not comprehensive, governments are continually expected to rush in and save the day, thereby alleviating manufacturers of their responsibility. Clearly manufacturers are not carrying the full responsibility of electronics recycling as envisioned by the CDRA. As such, the law needs amended.

Sincerely,

Cumberland County Commissioners


Vincent T. DiFilippo
Chairman


James H. Hertzler
Vice-Chairman


Gary Eichelberger
Secretary

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cc: Cumberland County Recycling & Waste Authority