

Holliday, Kenneth C

From: Jason Linnell <jlinnell@electronicsrecycling.org>
Sent: Tuesday, August 07, 2012 5:02 PM
To: DEP Comments
Cc: Rogers, Sandra D; 'Heather Smith'
Subject: NCER Comments on 33CSR12 -- Covered Electronic Device Recycling Rule

The National Center for Electronics Recycling would like to recommend the following revisions to the proposed CED Recycling Rule.

- Delete "and collection events" from Section 3.4 and 3.4.a

Proposed Revised Text:

"3.4. Exception to Prohibiting Covered Electronic Devices from Disposal in Landfills. – Commercial solid waste landfills may only dispose of CEDs generated from Department of Environmental Protection (DEP) remediation ~~or collection events~~ when the DEP has determined that there is no other reasonable disposal alternative available.

3.4.a. CEDs accepted from DEP as a result of DEP remediation ~~or collection events~~ that are permanently disposed of in a landfill are not exempt from the calculation of monthly tonnage limits or any solid waste disposal assessment fees."

Reason:

The text as currently draft can be interpreted to mean that DEP, or a recipient of a DEP grant for electronics recycling such as under the CED or REAP program, may collect CEDs from the public at a collection event and determine that those devices can be put into a landfill. West Virginia citizens should not be offered a collection event for recycling CEDs if DEP can later determine that the devices will be disposed in landfill. If the purpose of this exemption in 3.4 and 3.4.a. is to allow for limited landfill of CEDs found in open dumps or other cleanup sites, the words "or collection events" can be deleted and still fulfill that purpose.

- Include a definition of "recycler" in addition to "collector"

The current draft provides a definition of collector that seems to preclude any recycling activity (such as manual disassembly): *"Covered Electronic Device Collector" means any person that accepts and stores CEDs for the purpose of sending them to an electronics recycling facility.* However, section 4.1.d allows for the possibility of CED collectors removing circuit boards, which is not consistent with a collector simply "accepting" or "storing" CEDs. To clarify this contradiction, DEP should develop a definition for "CED Recycler" and include activities such as 4.1.d as well as others, and make a distinction between "CED Collectors" who simply accept and store CEDs from "CED Recyclers" who take apart CED in any way for refurbishment or recycling.

- Require R2, e-Steward or equivalent certification

The definition of "CED Recycler" should include requirements for recyclers to become certified to one of the third party accreditation systems now available. The requirements in the draft rules do not allow for an independent verification that recyclers are following best practices and may lead to negative environmental outcomes for CEDs sent to recyclers in West Virginia. This is currently required in the border state of Pennsylvania: *"facilities that manage or recycle covered devices that are gathered from consumers through any electronics collection program in Pennsylvania must have achieved and maintained one of the following certifications:*

R2 (Responsible Recycling Practices Standard) Certification (www.r2solutions.org)

e-Stewards Certification (www.e-stewards.org)

An internationally accredited third-party environmental management standard for the safe and responsible handling of covered devices."

See:

http://www.portal.state.pa.us/portal/server.pt/community/electronics_recycling_management_program/20342/electronic_recycling_facilities/980757

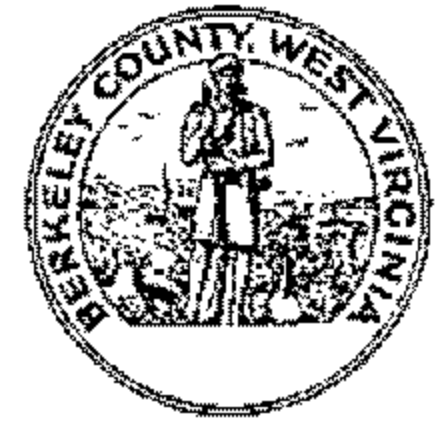
An appropriate lead time to allow for recyclers to obtain certification could be included so that all CED Recyclers would need certification in by 2014.

Sincerely,

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July 18, 2012

West Virginia Department of Environmental Protection
Public Information Office
601 57th St., S.E.,
Charleston, WV 25304

Re: Proposed Rule 33CSR12 -- Covered Electronic Device Recycling Rule

The Berkeley County Solid Waste Authority (BCSWA) respectfully submits these comments in response to the proposed Covered Electronic Device Recycling Rule.

The BCSWA supports the annual reporting requirements in rule 4.2 (below). However, we ask consideration that the proposed rule be amended to require that these reports also be sent to the county solid waste authority. This would allow a better understanding at the county solid waste planning level of e-cycling activities in the county and allow the county solid waste authority to include such activity in its county Comprehensive Litter and Solid Waste Control Plan.

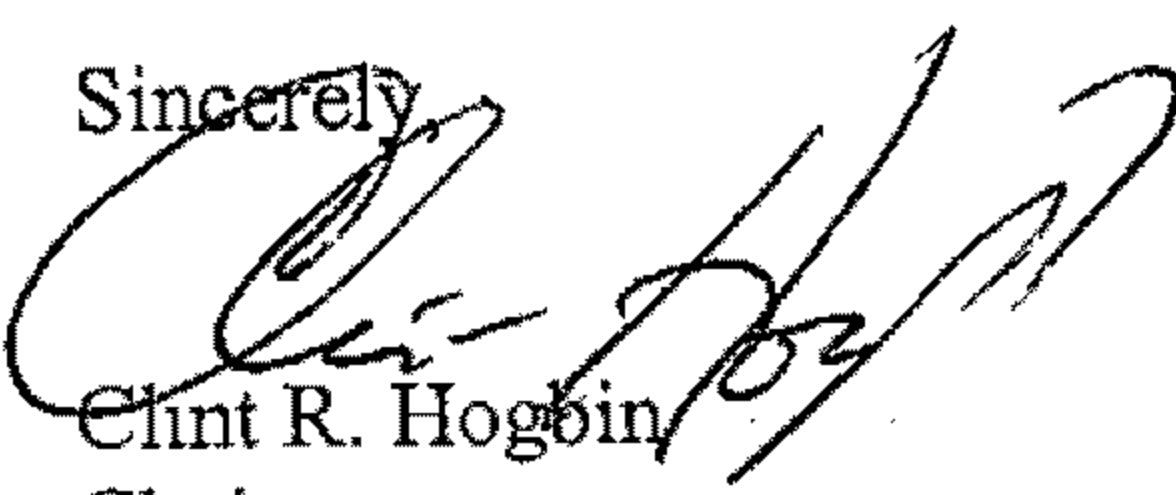
4.2. Annual Reporting Requirements. -- Commercial solid waste landfills and CED collectors shall submit annual reports to the Secretary by December 31 of each year on forms provided by or acceptable to the Secretary.

The BCSWA recognizes that non-commercial, non profit, publicly owned recycling centers, such as those operated by the BCSWA will fall under this proposed rule. Two of the proposed rules will require that CED material be collected under a roof and on an impermeable surface. Grant funds and other publicly available funds are limited for these types of facilities. Therefore, the BCSWA requests that the WV-DEP set the effective date of the proposed rule 12 months from passage.

1.4. Effective Date. --

Should you have questions or comments, please feel free to contact us at 304-267-9370.

Sincerely,


Clint R. Hogbin
Chairman



Environmental, Health & Safety Communications Panel

EHS Support and Advocacy for the Communications Industry

August 7, 2012

By email: dep.comments@wv.gov

Public Information Office
WV Department of Environmental Protection
601 57th St. SE
Charleston, WV 25304

**Re: 33CSR12 Covered Electronic Device Recycling: Proposed Rule (West Virginia Register;
June 29, 2012)**

To Whom It May Concern:

The Environmental, Health & Safety Communications Panel ("EHSCP"), previously known as the National Telecommunications Safety Panel ("NTSP"), is pleased to provide comments in response to proposed revisions to the West Virginia Department of Environmental Protection (WV DEP) Covered Electronic Devices Recycling Rule. The proposed rule would codify the statutory prohibition against the disposal of Covered Electronic Devices (CEDs) in West Virginia landfills, with some exceptions, and would establish new CED handling and recycling requirements for various types of facilities that accept or recycle CEDs.

The EHSCP is a consortium of communications environmental, health, and safety professionals dedicated to promoting employee safety and health, and environmental responsibility throughout the communications industry.¹ The EHSCP strives to provide constructive input in the development and implementation of environmental, health, and safety standards and guidelines that affect the varied businesses within the communications industry. As such, the panel maintains an active advocacy role, providing comments and recommendations to federal and state agencies when issues concern the communications industry. More information regarding the EHSCP may be found at www.telsafe.org.

The communications industry has been a leader in product stewardship for wireless devices. Our member companies have been encouraging customers to return used and end-of-life devices for many years through in-store and other recycling venues. Devices accepted through these efforts are refurbished for reuse (either resale or donation to non-profits), or sent for recycling.

The definition of CED under West Virginia law and regulation excludes devices with a video display screen less than four inches measured diagonally. This exclusion helps to avoid disrupting the

¹ The EHSCP member companies include Alcatel - Lucent, AT&T, CenturyLink, Ericsson, Cincinnati Bell, NextG Networks, Sprint-Nextel, T-Mobile, Verizon, Verizon Wireless, and Windstream Communications.

existing successful programs for wireless device recycling. However, as mobile tablets came on the market and the size of cell phone displays grew, the four-inch screen measurement no longer excludes many of these devices. The EHSCP does not believe that the WV DEP intended for §33-12-4 of the proposed rule to be applied to the collection of CEDs by wireless retailers; however, clarification is needed to prevent inadvertent regulation, as further discussed below.

Scope of the CED Recycling Collection System

Our experience had been that convenience is one of the most important contributors to the success of a public recycling program. As such, our member companies make recycling available at each of their retail locations. This enables customers to conveniently recycle their old device as they purchase a new one, with no special effort or separate trips. Member companies have also set up collection booths or kiosks at special events. In addition, the wireless industry has built an extensive secondary market in which charitable organizations, from local schools to the Boy Scouts, collect used devices to raise money for their respective organizations. In all cases, the limited timeframe and/or quantity of devices collected pose little environmental hazard.

Burden of the Proposal on Small Collection Sites

In its June 29, 2012 proposal, the WV Department of Environmental Protection would establish standards for "Covered Electronic Device Collectors", including "any person that accepts and stores CEDs for the purpose of sending them to an electronics recycling facility." On the face of it, this could include hundreds of retail stores, plus kiosks, special event booths and small, non-profit organizations. Requirements proposed for CED Collectors include general engineering performance standards, marking requirements, and very detailed annual reports. While some of the proposed standards may be sensible and reasonable when applied to a warehouse collecting large quantities of televisions and computer monitors, they would be very burdensome on mobile device collection and would likely result in discontinuation of many of the conveniences that have been at the root of the success of our programs. It would also discourage any similar local collection for other CEDs. A CED recycling program that relies on a few large warehouse collection facilities around the state is unlikely to be successful in encouraging consumers to drop off many used CEDs for reuse or recycling.

Clear Definition of CED Collector is Needed

The EHSCP recommends that the WV DEP add language to clarify that facilities such as retail locations, device service centers or non-profit organizations that accept wireless devices as a convenience to the public or as part of a charitable donation drive, and that then send these CEDs to appropriate recycling or refurbishment facilities either are not included in the definition of "Covered Electronic Device Collector" or alternatively are not subject to the requirements of §33-12-3.3.b² and §33-12-4.

² Note, the proposed rule contains two paragraphs numbered §33-12-3.3.b. The numbering on the second should be corrected to §33-12-3.3.c.

If retail locations or device service centers that accept CEDs must be covered under the rule, then we recommend coverage only apply to those locations that accumulate more than a specified amount at any given time (e.g., facilities storing greater than 1,000 lbs of CEDs).

Clarification of Requirements Related to Circuit Boards Needed

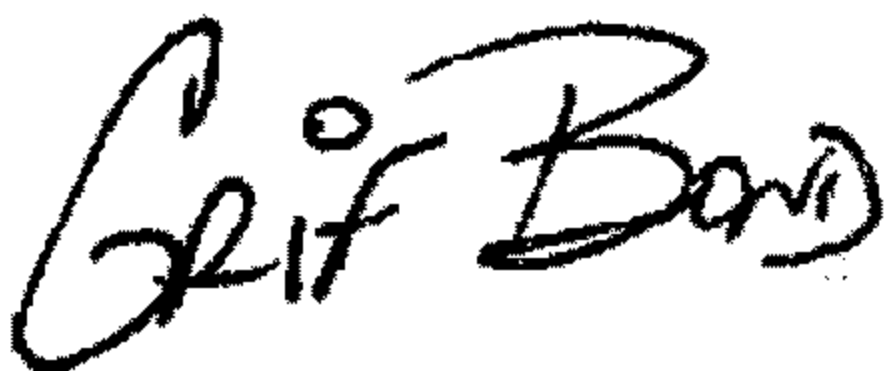
It appears the proposed rule would require the CED Collector to remove all circuit boards from the CEDs they collect. Requiring every CED Collector to disassemble all CEDs received to remove circuit boards would add unnecessary steps, cost and risk and may cause most retailers and others who currently act as initial collectors, but who not seek to disassemble, to cease acting as initial collectors. WV DEP should be facilitating voluntary recycling by consumers by encouraging retail stores, among others, to collect CEDs from consumers and funnel them to other entities at other facilities who are better positioned to test and evaluate such devices for refurbish, repair or recycling. Even the latter type of facility should not be required to remove circuit boards from CEDs, because many CEDs collected can be put back into service without thus being dissembled.

The EHSCP does not believe that it was your intent to require all CED Collectors to remove all circuit boards. We infer that your intent may have been to impose a ceiling, rather than a floor, on the amount of disassembly that a CED Collector may perform. The EHSCP therefore recommends that §33-12-4.1.d. be revised to read:

If circuit boards are removed from CEDs they must be removed, stored, and shipped to the recycler as an intact or whole circuit board.

Thank you for considering the above. Should you have any questions about the information included in these comments please contact Barbara Patton at 205-663-8951 or Julianne Barnum at 972-718-7690. If the EHSCP may be of further assistance in this matter, please contact me.

Sincerely,



Grif Bond, Chair
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Andy Feeney
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August 7, 2012

By email: dep_comments@wv.org
Public Information Office
WV Department of Environmental Protection
601 57th St. SE
Charleston, WV 25304

Re: Covered Electronic Device Recycling: Proposed Rule (West Virginia Register;
June 29, 2012)

To Whom It May Concern:

AT&T Inc., on behalf of itself and its affiliates (collectively, "AT&T"), welcomes this opportunity to provide these comments in response to the proposed West Virginia Department of Environmental Protection Covered Electronic Devices Recycling Rule (the "Proposed Rule"). The proposed rule would codify the statutory prohibition against the disposal of Covered Electronic Devices ("CEDs") in West Virginia landfills, with some exceptions, and would establish new CED handling and recycling requirements for various types of facilities that accept or recycle CEDs.

AT&T provides telecommunications services to households, businesses, and federal, state and local government agencies nationwide. That includes selling a range of wireless devices, some of which would qualify as CEDs under the proposed rule, in AT&T-owned retail stores in West Virginia. These stores and other small facilities, such as kiosks and device service centers, accept used CEDs and other devices from consumers, and return them to their original manufacturers or to AT&T contractors for evaluation for potential repair, refurbishment and reuse. A large fraction of those devices are ultimately re-used. AT&T's concerns and recommendations regarding the Proposed Rule are included in the attached comments of the Environmental, Health & Safety Communications Panel, which AT&T endorses and hereby incorporates by reference.

Sincerely,

Andy Feeney
Andy Feeney

Enclosure

Public Hearing Sign In Sheet

33CSR12 – Covered Electronics Device Recycling Rule

August 7, 2012, Charleston

The Department of Environmental Protection asks for the information below so that agency staff may provide responses and information about decisions to you. The information you voluntarily provide on this sheet becomes part of the public record related to this topic and may be released if requested under the Freedom of Information Act.

[illegible]