

### **Perspective of a PA Recycler:**

1 The intent of Covered Device Recycling Act (CDRA) of 2010 was to assure all residents that at the end of useful life  
2 their covered electronic devices (CEDs) would be collected locally and managed in a manner that complies with all  
3 applicable Federal, State, and local laws. This equipment would be handled in a way that poses no significant risk to  
4 the public health or the environment. A disposal ban went into effect in Pennsylvania in January 2013 that prohibited  
5 CEDs from entering the municipal solid waste stream. This provided evidence to the residents that the State was  
6 serious about diverting these devices from the solid waste stream. As an entrepreneur, I started eLoop llc in 2008 in  
7 Pittsburgh to provide a data security and ethical electronic equipment recycling service to the residents and  
8 businesses within the Commonwealth, and the CDRA seemed to create a great opportunity to expand on the need  
9 for responsible management of electronic devices across the State.

10 As a Pennsylvania recycler participating in the CDRA program from the start, eLoop llc had developed a network that  
11 at one point included 35 full service collection sites in 26 counties. It was my belief that by expanding a high level  
12 service to multiple locations within the Commonwealth, eLoop would attract volume from the manufacturers to  
13 service those locations. With volume, we felt we could meet specific economies of scale and offer a high level of  
14 service to the collectors while maintaining a manageable cost to the manufacturers. This proved to be a very  
15 expensive strategy for eLoop; as volumes grew, the manufacturers made other decisions and awarded volume to  
16 other entities. That is business and a hard lesson learned.

17 In 2013, it was very clear that although the PA DEP established rules and regulations on sustaining collection sites in  
18 the manufacturers' recycling plans throughout the year, the manufacturers were not willing to follow those rules which  
19 resulted in an abrupt closing of collection sites during the calendar year around the State. While this was difficult to  
20 manage, ambiguity in the law and its interpretation left room for the manufacturers to make decisions that were  
21 conflicting with the PA DEP. Once again that is business and a tough lesson learned.

22 Disrupting the collection system in many parts of the State in 2014 and 2015 left many counties without free recycling  
23 for CEDs, including both the Philadelphia and Pittsburgh markets. Although many recyclers were engaged in serving  
24 PA in 2013 by the end of 2016 only 3 PA recyclers remained engaged in the State program. Unmanageable swings  
25 in volume left eLoop operating well under the capacity we had built to support the program. What began as an  
26 opportunity to provide as many as 75 to 100 good jobs in PA has stagnated. We have refocused on serving other  
27 markets within the industry and our headcount was reduced to 40 employees.

28 There were many lessons learned through this process that we will never make again, but it is very clear that we  
29 experienced a number of unforeseen consequences that have impacted our business. Most of these consequences  
30 were the direct result of the method by which volume was awarded, the pricing was established, the lack of control  
31 over commodity pricing, and the whims of the Chinese Government as buyers of recycled materials. There is no  
32 reset button when markets drastically change.

**Extended Producer Responsibility:**

33 The law featured extended producer responsibility (EPR) requiring the manufacturer to be responsible for the  
34 collection, transportation, and recycling of the covered electronic devices found in the homes of the PA residents.  
35 While this program was expected to be a statewide program, it has never provided the level of convenience that the  
36 residents of PA deserved. To operate a convenient collection system for the residents required a substantial  
37 investment in infrastructure that was not in place in 2013 and is still not in place today. The CDRA never took into  
38 account the limited infrastructure across the state which led counties and municipalities to implement a wide array of  
39 solutions to these problems. Not all solutions were efficient and most were very costly. Being inefficient led to a  
40 much higher cost of service. Infrastructure development was clearly a Pennsylvania problem for which the  
41 manufacturers have no responsibility.

42 In essence, the manufacturers participate in the current CDRA program for the opportunity to sell their products in the  
43 State of PA, but the current system lacks the continuity and enforcement to assure the system operates fairly for the  
44 residents, collectors, and recyclers.

45 Negotiating for volume in this program was based upon inequitable leverage, and therefore lacked any level of  
46 transparency. Plan administrators acted as intermediaries for the manufacturers. They would offer a specific quantity  
47 of pounds and then establish a price per pound without any type of costing model being deployed. In calculating the  
48 price you were willing to work, there were at least 8-10 variables that you had to calculate. Many of these variables  
49 were out of your control. Most professionals in the waste business set their pricing for the market based on assuring  
50 all of their costs are covered, and they can produce enough margin to overcome unforeseen circumstances and  
51 fluctuations in commodity markets. This is done to assure the handling and processing of the waste is sustainable.  
52 Without any negotiating leverage, the recyclers assume all of the risks of running the program without the opportunity  
53 for oversight of the negotiation process.

54 Participation in this program requires that the recyclers have other revenue sources to support their participation in  
55 the CDRA program. Our decision to stay engaged hinges on the hope that the CDRA would be improved or repealed  
56 and the collectors have been very patient as well. Originally, the recycler price had to include a payment to the  
57 collectors as a price per pound. Payment terms were extended to 45 days beyond the end of the month, and those  
58 payment dates were not always made in a timely fashion. Over time the price offered by the Plan administrators was  
59 insufficient to pay the collectors, mainly local governments, and they were cut out of receiving any compensation to  
60 cover their costs. By 2014, many collection sites dropped out of the program. Collection sites that have managed to  
61 sustain themselves are more often found in counties with solid waste authorities, which have alternative sources of  
62 income from incinerators, landfills, and large scale recycling centers. The cost of collection of discarded electronics in  
63 other counties is heavily subsidized by the general fund. CDRA is viewed by all counties as an unfunded mandate.

64 There are as many as 7 or more plan administrators competing for work in PA, and they are in competition with each  
65 other for contracts with the manufacturers. This has become a race to the bottom as the pricing paid by the plan  
66 administrators continues to decline while the true cost of processing these materials has risen. Most people view this  
67 as a CRT problem, because we know that millions of these devices remain in homes across the Commonwealth.  
68 Additionally, flat panel displays will require professional management due to the mercury content of the lamps found  
69 in LCD panels and lead content of glass found in plasma televisions. The problem is not the disposal ban, but rather  
70 the ongoing decline in full service collection sites.

71 Pennsylvania needs a legislative change that maintains its focus on environmentally sound management and will  
72 create a sustainable program for the residents to handle the issues of today as well as the problems that future  
73 electronic devices will create. A sustainable collection, transportation, and processing system will create jobs for the  
74 Commonwealth like it has for the solid waste industry.

### **Where do we stand?**

75 In the absence of transparency, it is impossible to know how and from where the manufactures plans achieve the  
76 results that are submitted to the DEP each year. A simple method of checks and balances would be to compare the  
77 manufacturers' annual reports to all of the data that is furnished annually by the State's permitted recyclers. The  
78 recyclers' break out weight allocated and not allocated to manufacturer plans. That would be great start in  
79 reconciling what was actually collected in the state over the last 5 years and what appears to have been. Although  
80 there were claims that as much as 60 million pounds of CEDs had been recycled in 2015 and 2016, there was never

81 any clear evidence where that weight originated. Enforcement is required to assure the accuracy of the actions of all  
82 parties.

**In SB 800 the Residents are the focus of the program:**

83 The time for change has come and the recommendations are spelled out in detail in SB 800. The following list of  
84 objectives will serve the Commonwealth as the focus of the program changes from reducing participation to  
85 increasing participation for the residents.

- 86 • To provide convenience to the residents by reopening collection sites that have sufficient infrastructure to  
87 collect, sort, and prepare loads for shipping.
- 88 • To create infrastructure in counties or municipalities where none exists through grants provided from the  
89 funds collected from the Waste Electronic Equipment Fee.
- 90 • To develop a base compensation program for collectors to recover their costs of participation and assure  
91 they can maintain a sustainable system for their residents.
- 92 • To separate the duties and risks that would allow the recycler to participate in a fair and open bidding  
93 process for work in the State that will be funded by the department or their designated entity.
- 94 • Through communicating costs relevant to the program on a monthly basis, the department or its entity can  
95 assure invoices are paid in a timely fashion to assure cash flow is optimized for those with boots on the  
96 ground doing the work.
- 97 • The recycler in cooperation with the department will use downstream processing capacity available in the  
98 industry to assure proper management of problematic materials, such as CRT glass.
- 99 • The recycler in collaboration with the department will provide industry knowledge and best practices to  
100 assure environmental health and safety compliance.
- 101 • The department assumes the responsibility of working directly with the manufacturers to fund their obligation  
102 to the program since only the State has the power to enforce a manufacturer's obligation to the plan.

- 103           • The program will be introduced to the mainstream media, and the residents will no longer be in the dark as  
104           to where they can take their TV to have it recycled at no cost.
- 105           • Developing a system where collectors, transporters, and recyclers work together will produce efficiencies  
106           and reduce costs for the manufacturers.
- 107           • Having clarity in the law and its interpretation will allow counties to work together to determine the level of  
108           service they offer to their constituents and what they can charge for that service under the law.

109   There is a very compelling case that will allow the Pennsylvania legislature to act with knowledge on SB 800, since it  
110   was created and nurtured by industry professionals that understand the demands of the industry and are willing to  
111   take responsibility for making this system work in Pennsylvania.

With Best Regards



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