Consumer Electronics Retailers Coalition
CERC
www.ceretailers.org

December 2, 2005

Mr. Garth Hickle
Minnesota Pollution Control Agency
520 Lafayette Rd. N. – Second Floor
St. Paul, MN 55155-4100

Dear Garth:

The Consumer Electronics Retailers Coalition (CERC) commends the state directors in EPA Region V who are trying to fashion an important, innovative and effective consumer electronics recycling management system based on the foundation of product stewardship. We very much appreciate that you have allowed the various stakeholders, particularly our cross-section of retailers with ongoing operations in each of your states, to provide comments on your initial draft, and we look forward to continuing to work with you on this project. CERC and its members represent the leading consumer and general retailers throughout the United States. Additionally, as you know, we were joined in our appearance before you on November 18th by representatives of the PRO Buying Group, Sears Holding and the North American Retail Dealers Association. Collectively we have hundreds of stores, thousands of employees and have made major economic investments in the local communities that you serve. We have an enormous stake in the outcome of your deliberations and the ongoing work that you are doing.

CERC and the retail community in general have advocated – from the outset of its involvement in the policy issues impacting the management of electronic devices at their end-of-life – that our nation needs a 'national harmonized solution' model. More than two dozen states saw more than four dozen individual bills introduced in legislatures this past year alone. No stakeholder – retailer, manufacturer, consumer or governmental entity – can afford to coordinate or effectively administer multiple programs in multiple states.

And though we continue to support and are working to promote this national harmonized approach to handling consumer electronics at their end-of-life, CERC very much appreciates your efforts to design an innovate and effective 'regional compact' model. Though this should not serve as a substitute for a national solution, it could provide an interim system that could achieve our common goals. We want to reiterate our response to some of the key sections of your draft that we shared with you in Chicago –

- First, we want to restate our acceptance of responsibility to assist in the education of our customers; helping to encourage the reuse, refurbishment and, if necessary, recycling of the products we sell. We believe the *Retailer Responsibility* language found in Section 7 is more than fair, including our acceptance of the responsibility of being deemed to be the 'manufacturer' when the covered device is a private label or when a retailer is the importer of record and the true producer has no presence in the U.S. market.

- Moreover, we support the draft's provisions to include a sunset clause when a national solution is developed. We also want to restate the retailers continued support for the expansion of voluntary take-back efforts where appropriate. These efforts will continue no matter what the legislative outcome is at the state, regional or national levels.

- With regard to the financing mechanism options outlined in the draft we strongly believe that Option A is the only viable/workable solution for all stakeholders. Option B, on the other hand, and the new "Option C" point-of-sale/advanced recycling fee (POS|ARF) proffered by some of the manufacturers at the meeting on the 18th, are nonstarters. Both a "first sale into the state" and a POS|ARF approach and are opposed – not only by the retailers – but by the recyclers, companies like Hewlett Packard, and the public interest community organizations, as well.

  Option B - the 'first sale' approach - would, as we explained in our testimony, simply result in retailer collection because of cross-state and region distribution procedures utilized by retailers. In addition, many retailers are small, one or two store operations, and forcing an individual, who is already handling multiple aspects of the business, to be last entity responsible for the 'first sale' into the state would be incredibly burdensome. Getting such information from thousands of retailers in Region V states versus a couple of hundred manufacturers is an unnecessary administrative task. Even some manufacturers who testified at your meeting mentioned how complex and cumbersome Option B would be to implement successfully.

  The potential "Option C" approach suggested by some manufacturers at the meeting is one that we urge you not to default to. A financing mechanism that involves a POS|ARF is wholly unacceptable to retailers, recyclers and the public interest organizations. Not only would a POS|ARF be considered a new "tax" on consumers, it would create a tremendous burden on all parties. Retailers, for example, may not be able to recoup the enormous costs associated with changing SKUs and registers to accommodate the new fee. There would be no way to impose the fee on remote sellers and no incentive for manufacturers to design environmentally friendly products.

It is for all these reasons that while CERC still feels a national approach implemented on the local level remains the most efficient, effective and potentially successful model, we believe that the Option A financing mechanism is the best approach if you move forward on crafting a regional compact.

CERC believes this effort is a positive step in the right direction, and hope that you will take our comments into consideration. We look forward to working with you all in crafting a solution that meets our common goals of conservation and shared responsibility.

Please do not hesitate to contact me if we can be of further assistance.

Sincerely,

Marc A. Pearl
Executive Director, CERC