



## “ E-WASTE ” : KNOW YOUR RECYCLER

by [Brett E. Slensky](#) – Associate, Manko, Gold, Katcher & Fox, LLP

The management and disposal of old and obsolete electronic equipment (e.g., computers, Cathode Ray Tubes, printers, scanners, and copiers, etc.), or “E-waste,” presents certain challenges and potential environmental risks for many companies. The challenges, in part, stem from a federal regulatory framework that casts E-waste as a potential hazardous waste issue. There are, however, a number of federal regulatory exemptions and exclusions available that are intended to promote the recycling of these wastes and to therefore potentially reduce the federal regulatory burden. E-waste may also be regulated at the state level under a growing number of [state E-waste programs](#) (twenty-three states have adopted programs thus far), which in general also promote, and in some cases mandate, the recycling of these wastes. As a result of this regulatory structure, as well as emerging corporate notions of sustainability, more and more companies are turning to specialized electronics recyclers for assistance with the management of this waste stream in an environmentally responsible manner.

As the market demand for these specialized recycling services has grown, so too has the need for mechanisms to help businesses and their legal teams assess recyclers’ operating practices and to provide some level of assurance that the company’s E-waste will be handled appropriately. In this regard, two voluntary standards have emerged, each with their own independent certification process for participating recyclers: the Responsible Recycling Practices for Electronics Recyclers (the “R2 Standard”); and the e-Stewards Standard for Responsible Recycling and Reuse of Electronic Equipment (the “e-Stewards Standard”).

The [R2 Standard](#), which was launched in July 2009 following a multi-stakeholder process that involved the U.S. Environmental Protection Agency, recyclers, equipment manufacturers, representatives of state government, trade associations, and public interest groups, outlines thirteen responsible practices for participating recyclers to follow. These practices include the development and use of a written environmental, health and safety management system and a written policy that addresses the on-site and downstream management of E-waste. The standard requires recyclers to perform due diligence on downstream vendors and allows the export of E-waste only to countries that have legally authorized the acceptance of the waste (recyclers are required to obtain documentation to this effect when exporting to certain countries). The standard also requires recyclers to employ generally accepted data destruction procedures and to maintain certain documentation and business records.

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The [e-Stewards Standard](#) was formally launched in April 2010 by the [Basel Action Network](#) (“BAN”) and builds upon the R2 Standard’s principles. Although similar to the R2 Standard in some respects, in general, the e-Stewards Standard imposes more rigorous requirements on participating recyclers in a number of key areas, including the organization’s environmental management system, workplace safety and worker protection and on-site recycling operations. The e-Stewards Standard also requires a greater level of accountability from the recycler for the operations and practices of its downstream vendors, and unlike the R2 Standard, the export of E-waste to facilities located in developing countries and the landfill disposal or incineration of certain types of E-waste are expressly prohibited.

In light of the potential business and environmental risks associated with E-waste, counsel should approach this issue with care. In the event a specialized recycler is retained to assist the organization with the management and disposal of these wastes, using a service provider that possesses one or both of these certifications is one means to potentially minimize these risks and to help ensure that the company’s E-waste is handled appropriately.