



**State of Connecticut
Department of Environmental Protection**



Regulations Regarding Covered Electronic Devices

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DRAFT

Section 1. The Regulations of Connecticut State Agencies are amended by adding section 22a-638-1 as follows:

(NEW) Section 22a-638-1. Standards for the Recycling of Covered Electronic Devices

(a) Definitions. As used in this section and section 22a-630(d)-1 of the Regulations of Connecticut State Agencies:

- (1) “Commissioner” means the Commissioner of Environmental Protection or the commissioner’s designee;
- (2) “Computer” means an electronic, magnetic, optical, electrochemical or other high-speed data processing device performing logical, arithmetic or storage functions and includes, but is not limited to, a central processing unit or both a computer central processing unit and a monitor, such as a notebook, laptop or portable device, but does not include an automated typewriter or typesetter, a portable handheld calculator, a portable digital assistant or other similar device;
- (3) “Covered electronic device” or “CED” means a desktop or personal computer, computer monitor, portable computer, printer, CRT-based television and non-CRT-based television sold to consumers, but does not include:
 - (A) an electronic device that is a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchise dealer, including replacement parts for use in a motor vehicle;
 - (B) an electronic device that is functionally or physically a part of a larger piece of equipment designed and intended for use in an industrial, commercial or medical setting, including diagnostic, monitoring or control equipment;
 - (C) an electronic device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier or air purifier;
 - (D) a telephone of any type unless it contains a video display area greater than four

inches measured diagonally; or

- (E) any handheld device used to access commercial mobile radio service, as such service is defined in 47 CFR 20.3;
- (4) “Disposal facility” means a facility receiving waste or residue, generated from the recycling of CEDs, for disposal when such waste or residue cannot be recycled any further. A disposal facility includes, but is not limited to, an incinerator or a land disposal facility;
- (5) “Household” means a person, or group of people, living in a single detached dwelling, a residential condominium or a single unit of a multiple unit dwelling, who, pursuant to chapter 446n of the Connecticut General Statutes and this section, provides seven or fewer CEDs at one time for reuse, refurbishment or recycling;
- (6) “Mercury-containing device” means a component of a CED or a part of a component of a CED, including, but not limited to, a switch, relay, backlighting or lamp, that contains elemental mercury integral to its function;
- (7) “Operator” means the person responsible for the overall operation of a facility;
- (8) “Owner” means the person who owns a facility or part of a facility;
- (9) “Printer” means a device that prints text or illustrations on paper and includes, but is not limited to, daisy-wheel, dot-matrix, ink-jet, laser, LCD and LED, line printers or thermal printers, including a device that performs other functions in addition to printing. Notwithstanding the foregoing, a printer does not include a device used solely to copy documents, to scan documents or to send documents by facsimile;
- (10) “Recycling” means any process by which a CED that would otherwise become solid waste or hazardous waste is collected, separated and processed to be returned to use in the form of raw materials or products, in accordance with environmental standards established by the department. Recycling includes, but is not limited to, storing or collecting CEDs for recycling, and dismantling or shredding CEDs or components of

CEDs;

- (11) “Recycling facility” means a place or location, including all land and structures or appurtenances, used to collect, separate or process CEDs or components of CEDs into raw materials or products. This includes, but is not limited to, land and structures or appurtenances used for the disassembly and physical recovery of CEDs, including, but not limited to, crushing, shredding, grinding, glass-to-glass recycling or other operations;
- (12) “Refurbishment” means, with respect to a CED that functions for its original intended purpose, to install a new electrical cord, to make aesthetic improvements only, such as polishing or removing scratches or to upgrade the CED by installing a new operating system, memory, video or sound card or software;
- (13) “Responsible official” means:
- (A) for an individual(s) or sole proprietorship, the individual(s) or proprietor, respectively;
 - (B) for a corporation, a principal executive officer of at least the level of vice president;
 - (C) for a limited liability company (LLC), a manager, if management of the LLC is vested in a manager(s) in accordance with the company’s Articles of Organization, or a member of the LLC if no authority is vested in a manager(s);
 - (D) for a partnership, a general partner; and
 - (E) for a municipal, state or federal agency or department, either a principal executive officer, a ranking elected official, or other representative authorized by law.
- (14) “Reuse” means continuing to use a CED, as is, without modification, for its original

intended purpose;

(15) "Television" means a stand-alone display system containing a CRT or any other type of display primarily intended to receive video programming via broadcast, having a viewable area greater than four inches when measured diagonally, able to adhere to standard consumer video formats such as PAL, SECAM, NTSC, ATSC and HDTV and having the capability of selecting different broadcast channels and support sound capability. Television includes a television with a built in VCR, DVD or other player; and

(16) the following terms shall have the meanings given to them in section 22a-629 of the Connecticut General Statutes: cathode ray tube or CRT, covered electronic recycler or CER, department, manufacturer, manufacturer's brand, market share, monitor, orphan device, person, portable computer, retailer, sell or sale, and video display.

(b) Licensing of Covered Electronic Recyclers. (1) In implementing the provisions of chapter 446n of the Connecticut General Statutes and this section, the commissioner may approve of a person who applies to the department to become a CER pursuant to the requirements of this subsection.

(A) A CER shall perform or arrange for:

(i) the transportation and complete recycling of CEDs, including the disposal of waste or residue from recycling activities, or the transportation and reuse or refurbishment of CEDs; and

(ii) the return of CEDs to a manufacturer pursuant to subsection (q) of this section.

(B) (i) a person who performs, or arranges for, only part of the activities necessary to transport and completely recycle CEDs, or only part of the activities necessary to transport and reuse or refurbish CEDs, cannot be approved as a CER.

- (ii) A person who cannot provide for the return of CEDs to a manufacturer pursuant to subsection (q) of this section cannot be approved as a CER.
- (C) A person shall be approved as a CER by the commissioner to be eligible to receive payment from manufacturers when implementing the provisions of chapter 446n of the Connecticut General Statutes and this section. A person that is not approved by the commissioner as a CER, or whose application has been denied by the commissioner, shall not be eligible for reimbursement by a manufacturer pursuant to chapter 446n of the Connecticut General Statutes and this section.
- (2) To apply to become a CER a person shall submit to the commissioner a complete application on a form prescribed by the commissioner. Applications, including renewal applications, will only be accepted for a sixty (60) day period, specified by the commissioner, each year. The commissioner shall provide notice of the commencement of the sixty (60) day period to submit applications at least thirty (30) days before the sixty (60) day period begins. The commissioner may provide such notice through a posting on the department's website, advertising in trade publications, sending notice to trade associations and the most recent list of approved CERs, or any other method intended to provide notice. The commissioner shall provide notice, by mail or by e-mail, directly to anyone who requests that such direct notice be provided. No application will be reviewed if it is submitted before or after the sixty (60) day period designated by the commissioner for the receipt of applications. Nothing in this subdivision shall prevent the commissioner from requesting, or an applicant from submitting, supplemental information regarding an application that was submitted within the sixty (60) day period for receipt of applications.
- (3) An application for a CER shall, at a minimum, include:

- (A) the applicant's name, address, contact information, e-mail address and any similar information, including any such information for any person or entity noted in this subdivision. If the applicant is:
- (i) a corporation, the application shall include, at a minimum, the state of incorporation, and the names of the principals, including the president and all directors;
 - (ii) a limited liability company, the application shall include, at a minimum, the state of registration and the names of the managing members of the company;
 - (iii) a limited partnership, the application shall include, at a minimum, the name of each general and limited partner;
 - (iv) a general partnership, the application shall include, at a minimum, the name of each general partner; or
 - (v) not an entity listed in clauses (i) to (iv) of this subparagraph, the application shall include, at a minimum, the name of the person or persons who will be responsible for compliance with the requirements of chapter 446n of the Connecticut General Statutes and this section;
- (B) a description of the applicant's qualifications and experience for the past five (5) years in managing and recycling electronic waste, specifically including CEDs. This description shall include, but need not be limited to, a list and description of current and previous projects or contracts, the dollar value of such projects or contracts, including the price per pound, if ascertainable, charged by the applicant for recycling or other services for any existing project or contract and references regarding the management and recycling of CEDs;

- (C) a detailed description of how the activities performed pursuant to this section will be undertaken in compliance with chapter 446n of the Connecticut General Statutes and this section;
- (D) a detailed description of the process flow for the activities that will be performed pursuant to chapter 446n of the Connecticut General Statutes and this section, regarding the recycling of CEDs. This description:
 - (i) shall include the processes and methods that will be used to recycle CEDs, including a description of disassembly and physical recovery operations such as crushing, shredding, grinding, glass-to-glass recycling or other operations that will be used; and
 - (ii) shall include and begin from the point that the applicant will take possession of CEDs until CEDs are processed into raw materials or products and residue from recycling CEDs is disposed of;
- (E) information, pursuant to section 22a-6m of the Connecticut General Statutes, concerning the applicant's compliance with the environmental protection laws of Connecticut, all other states, the federal government and in addition, the environmental protection laws of any other country. This shall include information regarding the applicant and all other persons that the applicant is proposing to use, including, but not limited to, those persons noted in response to subparagraph (G) of this subdivision, to implement chapter 446n of the Connecticut General Statutes and this section;
- (F) the procedures that an applicant will use to:
 - (i) ensure that a CED came from a household in Connecticut;
 - (ii) separate CEDs for which a CER can obtain reimbursement from a manufacturer, pursuant to chapter 446n of the Connecticut General Statutes

and this section, from other electronic devices for which a CER cannot obtain reimbursement from a manufacturer, including computers, monitors, televisions and printers from non-Connecticut residents or non-household sources;

- (iii) identify the brand owner of a CED, excluding televisions;
 - (iv) record and maintain data required to properly bill manufacturers in accordance with subsection (j) of this section; and
 - (v) separate and return CEDs to a manufacturer, or to a facility designated by a manufacturer, pursuant to subsection (q) of this section;
- (G) a disclosure of all transporters and facilities that will be used to comply with the requirements of chapter 446n of the Connecticut General Statutes and this section. This shall include, but not be limited to, all facilities used to store and recycle CEDs, and dispose of waste or residue generated from the recycling of CEDs. If multiple transporters or multiple facilities are disclosed for the same activity, describe fully the circumstances under which each transporter or facility will be used. For each transporter and facility disclosed provide:
- (i) a description of the transportation, storage, dismantling and processing capacity for each transporter and facility;
 - (ii) a list of all applicable permits, licenses or approvals, if any, issued by a state, the federal government or any other country, that are required and that have been or will be obtained to authorize activities undertaken pursuant to chapter 446n of the Connecticut General Statutes and this section;
 - (iii) a description of environmentally preferable practices, if any, (such as building standards or operation and management practices, including energy

efficiency practices or a certification by others, e.g., LEED certification, ISO 14001 certification, energy efficiency practices) that will be used in implementing chapter 446n of the Connecticut General Statutes and this section; and

- (iv) for each recycling facility and each disposal facility, a certification signed by a responsible official from such facility, stating that:
 - (I) such official has read and fully understands all of the standards established in subsections (c), (d) and (e), of this section, as applicable;
 - (II) based upon reasonable investigation, including inquiry of those individuals responsible for obtaining the information at the time the certification is executed, the facility has obtained or will obtain all permits, licenses or approvals needed to authorize activities undertaken pursuant to chapter 446n of the Connecticut General Statutes and this section;
 - (III) the facility is in compliance with all applicable standards regarding activities undertaken pursuant to chapter 446n of the Connecticut General Statutes and this section and that during all times that the facility recycles CEDs, or disposes of waste or residue from the recycling of CEDs, reasonable efforts will be undertaken to ensure that the facility remains in compliance with such standards; and
 - (IV) such official understands that any false statement made in connection with this certification is punishable as a criminal offense under section 53a-157b of the Connecticut General Statutes and any other applicable law;

- (v) for each recycling facility and each disposal facility, a list of the plans in effect at the facility to ensure worker safety, emergency preparedness and prevention, including but not limited to, a contingency plan and emergency procedures, if required by the hazardous waste regulations, emergency response plans, and environmental, health and safety plans; and
 - (vi) for each recycling facility and each disposal facility subject to the requirements of subsections (e)(6)(A) and (e)(7)(A) of this section, evidence that each facility has the insurance and financial assurance or other guarantee required by subsections (e)(6) and (e)(7) of this section.
- (H) the fee, expressed as a price per pound, that the applicant proposes to charge manufacturers for the total cost of transporting and recycling CEDs. The fee may include a reasonable rate of profit or return on investment and costs associated with the following, collectively known as qualified reimbursable costs, provided that any such qualified reimbursable cost is incurred to implement chapter 446n of the Connecticut General Statutes or this section:
- (i) providing a storage container;
 - (ii) loading and unloading CEDs, not including services provided by municipal personnel;
 - (iii) packaging and labeling CEDs for transport;
 - (iv) transporting CEDs;
 - (v) materials, labor, equipment and transportation costs associated with one-day collection events;
 - (vi) tracking and accounting for CEDs and, for computers, monitors and printers, tracking and accounting by brand and manufacturer;

- (vii) recycling CEDs for recovery of useable materials, including, but not limited to, storage of CEDs prior to recycling;
 - (viii) disposal of the waste or residue from the recycling of CEDs;
 - (ix) the collection of information required by this section;
 - (x) billing, recordkeeping and reporting required by this section; and
 - (xi) general administrative costs, including, but not limited to, billing preparation, telephone and mailing charges;
- (I) the fee, expressed as a price per pound, that the applicant proposes to charge if CEDs are returned to a manufacturer, or a facility designated by a manufacturer, pursuant to subsection (q) of this section. The fee may include a reasonable rate of profit or return on investment and costs associated with the following, collectively known as qualified reimbursable costs, provided that any such qualified reimbursable cost is incurred to implement chapter 446n of the Connecticut General Statutes or this section:
- (i) providing a storage container;
 - (ii) loading and unloading CEDs, not including services provided by municipal personnel;
 - (iii) packaging and labeling CEDs for transport;
 - (iv) transporting CEDs to a storage facility;

- (v) materials, labor, equipment and transportation costs associated with one-day collection events;
 - (vi) tracking and accounting for CEDs, and for computers, monitors and printers, tracking and accounting by brand and manufacturer;
 - (vii) storage of CEDs prior to physical transfer to a manufacturer or to a facility designated by the manufacturer;
 - (vii) the collection of information required by this section;
 - (viii) billing, recordkeeping and reporting required by this section; and
 - (ix) general administrative costs, including but not limited to, billing preparation, telephone, and mailing charges;
- (J) to the extent that the fees proposed by the applicant in subparagraphs (H) and (I) of this subdivision are greater than the fees charged or received by the applicant for equivalent or similar services in any existing contract or agreement to which the applicant is a party, a detailed explanation of the reasons for any such difference;
- (K) for CEDs to be reused or refurbished, a description of how CEDs will be reused or refurbished and how the applicant will comply with the requirements of this section. This includes, but is not limited to, information concerning procedures for pre-screening CEDs, erasure or destruction of data, labeling, packaging, storing and transporting CEDs, ensuring that CEDs meet legitimate reuse and refurbishment specifications and the disposition of off-specification CEDs or CEDs that may break in transit;
- (L) for CEDs to be exported, a description of how the applicant will comply with the requirements of this section, including, but not limited to, whether and how the

CEDs will be reused, refurbished or recycled once exported, a disclosure of all of the countries to which CEDs are to be exported, the countries through which CEDs will travel, the import and export requirements for all such countries, and the disposition of off-specification CEDs, CEDs that may break in transit or CEDs that are not reused, refurbished or recycled for other reasons;

(M) any other information deemed necessary by the commissioner; and

(N) a \$250.00 initial application fee.

(4) An applicant shall use best efforts to submit to the commissioner all documents required by subdivision (3) of this subsection in a complete and approvable form. If the commissioner notifies the applicant that any document or submittal is deficient or incomplete, the applicant shall correct the deficiencies and resubmit it within the time specified by the commissioner or, if no time is specified, not later than thirty (30) days after receipt of the commissioner's notice of deficiency or incompleteness. Incompleteness or deficiency shall be a reason for the commissioner to deny an application.

(5) (A) The commissioner shall approve or deny an application and shall notify the applicant, in writing, of the commissioner's decision. For purposes of clauses (i) to (vii), inclusive, and clause (ix) of this subparagraph only, the term applicant shall mean not only the applicant, but shall also include all other persons that the applicant is proposing to use to implement chapter 446n of the Connecticut General Statutes and this section. In deciding whether or not to approve an application, the commissioner shall consider the criteria set forth in clauses (i) to (ix), inclusive, of this subparagraph, based upon the information provided by each applicant and any other information obtained by the commissioner. In deciding whether or not to approve an application, the commissioner shall consider:

- (i) whether the application is sufficient and complete, including payment of the required fee, and whether the application provides all of the information required by subdivision (3) of this subsection and clearly and completely describes how CEDs will be reused or recycled;
- (ii) whether the qualifications and experience of the applicant demonstrate an ability to transport, manage and recycle or reuse CEDs;
- (iii) whether the activities an applicant is proposing to undertake comply with the requirements of chapter 446n of the Connecticut General Statutes and this section;
- (iv) whether the compliance history of an applicant demonstrates either an unwillingness or an inability to comply with applicable environmental requirements;
- (v) whether the procedures an applicant is proposing to utilize to manage CEDs will be able to effectively perform the tasks specified in subdivision (3)(E) of this subsection;
- (vi) whether the transporters and facilities that the applicant is proposing to use to implement chapter 446n of the Connecticut General Statutes and this section, comply with the requirements of chapter 446n of the Connecticut General Statutes, this section and any other applicable requirements;
- (vii) whether the transporters and facilities that the applicant is proposing to use to implement chapter 446n of the Connecticut General Statutes and this section use practices, that the commissioner may determine are environmentally preferable, which shall be given a preference in the consideration of whether or not to approve a CER;

(viii) the fees proposed by an applicant, including the following, any of which may provide a basis for denying an application:

(I) whether the fee proposed under subdivision (3)(H) of this subsection exceeds one population standard deviation above the mean, as determined by the commissioner, for the applications under consideration by the commissioner;

(II) whether the proposed fee under subdivision (3)(I) of this subsection exceeds one and half times the population standard deviation above the mean, as determined by the commissioner, for the applications under consideration by the commissioner;

(III) whether the proposed fees exceed the prevailing rates charged in the industry as determined by the commissioner; or

(IV) whether the proposed fees exceed those charged for equivalent or similar services in any existing contract or agreement to which the applicant is a party, and if so, the sufficiency of any reason for such difference; and

(ix) any other information provided to or obtained by the commissioner and any other factor deemed significant by the commissioner regarding an applicant and the requirements of chapter 446n of the Connecticut General Statutes and this section.

(B) The commissioner may issue an approval for up to, but no more than, three (3) years, provided that if an approval is issued for more than one year:

(i) a CER shall submit, in writing, for the commissioner's review and approval, proposed fees as specified in subdivisions (3)(H) and (3)(I) of this subsection. The proposed fees shall be submitted during the sixty (60) day time period for

acceptance of applications, including renewals applications, specified by the commissioner pursuant to subdivision (2) of this subsection;

(ii) fees proposed by a CER pursuant to clause (i) of this subparagraph shall be evaluated and may be denied by the commissioner based upon the criteria specified in subparagraph (A)(viii) of this subdivision;

(iii) the previous fees charged by the CER shall remain in effect until the commissioner approves new fees pursuant to this subparagraph, ; and

(iv) failure to make a timely submission of proposed fees required by this subparagraph, or the denial of the fees proposed by a CER pursuant to this subparagraph, may be grounds for the revocation of a CER's approval.

(6) Any approval issued to a CER by the commissioner may contain any conditions the commissioner deems necessary to ensure compliance with chapter 446n of the General Statutes and this section or to protect human health or the environment. If an application is denied, the commissioner shall indicate, in writing, the reasons for any such denial.

(7) (A) Provided the requirements of subdivisions (8) and (9) of this subsection do not apply, whenever any information in a CER's most recent application submitted to the commissioner pursuant to subdivision (3) of this subsection, is inaccurate or misleading, or any relevant information was omitted, a CER shall submit corrected or omitted information, in writing, on a form prescribed by the commissioner, not later than thirty (30) days after the information is no longer accurate or the CER knows or should have known that relevant information was omitted. This requirement shall remain in effect at all times, including after the commissioner issues a CER an approval.

- (B) The commissioner may revoke, suspend or modify an approval based upon any information obtained under this subdivision. The commissioner may, at anytime, request updated information from a CER.
- (8) (A) Except as provided for in this subdivision (9) of this subsection, with respect to chapter 446n of the Connecticut General Statutes and this section, a CER approved by the commissioner shall not engage in or utilize any activity, facility or procedure not described or contained in such CER's application approved by the commissioner or approved by the commissioner pursuant to this subdivision.
- (B) A CER shall request that the commissioner approve any modification to any information, activity, facility or procedure described or contained in such CER's application in response to subdivision (3)(C), (3)(K) or (3)(L) of this subsection, to any facility listed in response to subdivisions (3)(G) of this subsection which application has been approved by the commissioner, or to any change previously approved by the commissioner pursuant to this subdivision. This requirement shall apply while any approval issued to a CER remains in effect. Any request for a modification pursuant to this subparagraph shall be in writing, on a form prescribed by the commissioner and shall contain the information specified in subdivision (3)(C), (3)(G), (3)(K) or (3)(L), as applicable, depending upon the modification requested by the CER. The provisions of subdivisions (4) and (5) of this subsection shall apply to any such request for a modification. A CER shall not be eligible to receive reimbursement, pursuant to chapter 446n of the Connecticut General Statutes and this section, for costs incurred regarding an activity, facility or procedure that is not in described or contained in its application or approved by the commissioner pursuant to this subparagraph.
- (C) Except as provided for in subdivision (5)(B) of this subsection, the fees approved by the commissioner for the activities specified in subdivisions (3)(H) and (3)(I) of this subsection shall not be modified during the term of any approval issued to a CER. If the commissioner issues an approval for more than one year, the fees for

the activities specified in subdivisions (3)(H) and (3)(I) of this subsection may be modified only as provided for in subdivision (5)(B) of this subsection.

- (9) A CER approved by the commissioner, shall notify the commissioner of any modification to any information, activity, facility or procedure described or contained in the CER's application in response to subdivision (3)(A), (3)(E) or (3)(F) of this subsection, or a change to the transporter listed in response to subdivision (3)(G) of this subsection which application has been approved by the commissioner, or to any change for which notice has been previously provided to the commissioner pursuant to this subdivision. This requirement shall apply while any approval issued to a CER remains in effect. Any notification of a modification pursuant to this subdivision shall be in writing, on a form prescribed by the commissioner and shall contain the information specified in subdivision (3)(A), (3)(E), (3)(F) or (3)(G), as applicable, depending upon the modification for which a CER is providing notice. Any such notice shall be provided as soon as practicable before or after any such modification, but not later than thirty (30) days after such modification has been made.
- (10) A CER may seek to modify any condition in an approval issued by the commissioner. Any such request shall be in writing and shall state the provision for which a modification is requested and the reason for the requested modification. The commissioner shall grant or deny any such request, in writing.
- (11) (A) A CER may apply for renewal of its approval by the commissioner and shall do so in the manner prescribed in subdivision (2) of this subsection, using a form prescribed by the commissioner. Unless the form prescribed by the commissioner provides otherwise, a CER shall provide the information prescribed in subdivision (3) of this subsection. The commissioner may require the submission of additional information to determine whether or not to renew the approval for a CER.
- (B) Notwithstanding any previous approvals, the commissioner may deny an application for renewal from a previously approved CER. In considering whether to

approve or deny a CER's renewal application the commissioner shall consider the information and factors specified in subdivision (5) of this subsection, the CER's performance in implementing chapter 446n of the Connecticut General Statutes and this section and any other information obtained by the commissioner.

(C) A CER's current approval shall remain in effect until the commissioner makes a final determination regarding such CER's renewal application, provided that the CER has submitted the renewal application in a timely manner and the information provided in the renewal application is complete.

(D) There shall be no fee for submitting a renewal application.

(12) In addition to any other reason provided for by law, including, but not limited to, subdivision (5)(B)(iv) of this subsection, the commissioner may revoke, suspend or modify a CER's approval for any of the following reasons:

(A) the commissioner determines that a CER is unwilling or unable to comply with the requirements of chapter 446n of the Connecticut General Statutes or this section;

(B) the CER has failed to disclose all relevant and material facts in its application during any department proceeding associated with the application, or when required by chapter 446n of the Connecticut General Statutes or this section;

(C) for violations of the environmental protection laws of Connecticut, any other state, the federal government, or any other country, by a CER or any person a CER lists in subdivision (3)(G) of this subsection regarding the implementation of chapter 446n of the Connecticut General Statutes or this section; or

(D) the activities engaged in, or arranged for, by a CER, or any of the persons a CER lists in subdivision (3)(G) of this subsection, regarding the implementation of

chapter 446n of the Connecticut General Statutes or this section, are causing, or are reasonably likely to cause pollution, or are endangering, or may endanger, human health, safety, welfare or the environment.

(13) (A) No person shall act or purport to act under the authority of an approval issued to another CER. An approval issued to a CER may be transferred, provided, that before any transfer occurs, the transfer has been approved, in writing, by the commissioner.

(B) A request to transfer an approval shall be made on a form prescribed by the commissioner. The commissioner may require the submission of additional information to determine whether or not to transfer an approval.

(C) In considering a request to transfer an approval, the commissioner may consider any matter that the commissioner would consider when deciding whether or not to approve an application submitted by a CER, and shall consider whether the proposed transferee is able to comply with any terms and conditions of the approval.

(D) When transferring an approval issued to a CER, the commissioner may include any conditions the commissioner deems necessary to ensure compliance with chapter 446n of the General Statutes and this section or to protect human health or the environment.

(14) The commissioner shall post and maintain a list of the currently approved CERs on the department's website and shall provide any person with such list upon request.

(c) General Standards for the Reuse, Refurbishment and Recycling of CEDs and the Disposal of Waste or Residue Generated from the Recycling of CEDs. A CER shall comply with the requirements of this subsection regarding the reuse, refurbishment or

recycling of CEDs and the disposal of waste or residue generated from the recycling of CEDs.

- (1) Hierarchy of Management Strategies. A CER shall ensure that reuse, refurbishment and recycling techniques are used to the fullest extent practicable, taking into account technical and economic feasibility, in an effort to minimize disposal of CEDs and their components. A CER shall maintain records to demonstrate its efforts to minimize the disposal of CEDs and their components, including all attempts made to reuse, refurbish or recycle such CEDs and their components.
- (2) Separation of CEDs. A CER shall ensure that from the initial collection of a CED by a municipality or other person, until it is weighed and inventoried for billing purposes, there is a system in place to identify, track and differentiate CEDs from all other computers, monitors, printers and televisions from households outside Connecticut or from non-household sources. A CER shall maintain written procedures regarding such identification, tracking and differentiation and shall make such procedures available to the commissioner upon request.
- (3) Record of Computers, Monitors and Printers and Verification of Manufacturers. For each computer, monitor and printer collected pursuant to this section, a CER shall maintain written documentation that identifies, for each calendar month, the manufacturer's name, the brand and weight of each computer, monitor and printer received, and whether at receipt, the computer, monitor or printer was identified as having been generated by a household in Connecticut. If a CER receives a computer, monitor or printer that is labeled with a manufacturer's brand and that manufacturer is not on the list of registered manufacturers or the list of manufacturers of orphan devices maintained by the commissioner and posted on the department's website, the CER shall notify the commissioner, in writing, not later than ten (10) days after the receipt of any such computer, monitor or printer. The notification shall include the manufacturer and brand of any such computer, monitor or printer, if known.

- (4) Record of Televisions and Verification of Manufacturers. For each television collected pursuant to this section, a CER shall maintain written documentation of the total weight and number of televisions received each calendar month, and identified at receipt, as generated by a household in Connecticut. If a CER receives a television that is labeled with a manufacturer's brand and that manufacturer is not on the list of registered manufacturers maintained by the commissioner and posted on the department's website or on the list, if one is maintained and posted on the department's website, of television brands for which no manufacturer can be identified or for which the manufacturer is no longer in business, the CER shall notify the commissioner, in writing, not later than ten (10) days after the receipt of any such television. The notification shall include the manufacturer and brand of any such television, if known.
- (5) Compliance with Applicable Requirements. A CER shall ensure that each transporter and the owner or operator of each recycling facility and each disposal facility, used to implement the requirements of chapter 446n of the Connecticut General Statutes and this section, obtains any license, permit, authorization or approval required by any governmental entity and remains in compliance with such license, permit authorization or approval and all applicable federal, state and local requirements pertaining to:
- (A) the transportation, storage, processing, handling, management and recycling of CEDs and their components; and
 - (B) the disposal of waste or residue generated from the recycling of CEDs and their components.
- (6) Exports.
- (A) With respect to any CED collected pursuant to chapter 446n of the Connecticut General Statutes and this section, a CER shall ensure that any person exporting CEDs or components of CEDs:

- (i) complies with all applicable export requirements of the United States;
 - (ii) complies with all applicable requirements of importing and transit countries regarding the importing and exporting of CEDs, or components of CEDs, into and out of such countries; and
 - (iii) maintains records documenting such compliance.
- (B) (i) Before a CED, or component of a CED, is exported to a country that is not a member of the Organisation for Economic Co-operation and Development, commonly known as an OECD country, a CER shall ensure that any person exporting such CED or component of a CED requests and receives, prior to shipping:
- (I) documentation from the Competent Authority of each such transit or import country, that clearly verifies in English that the country legally accepts such imports; or
 - (II) confirmation from the United States Environmental Protection Agency or other federal agency, that the country legally accepts such imports.
- (ii) For purposes of this subparagraph, the term “Competent Authority” means, for countries that have ratified the Basel Convention, the entity that provides documentation concerning the legality of transboundary transactions involving CEDs that the country classifies as Basel wastes. For countries that have not ratified the Basel Convention, the term “Competent Authority” means the national government entity legally responsible for determining the legality of transboundary transactions.
- (C) Prior to export, a CER shall ensure that any person exporting a CED or component of a CED:

- (i) removes and handles separately batteries, mercury-containing devices, circuit boards, CRTs and CRT glass and any materials containing polychlorinated biphenyls (PCBs), including, but not limited to, ballasts; and
 - (ii) adequately processes CRTs and CRT glass for use as an industrial feedstock prior to export.
 - (iii) The provisions of clauses (i) and (ii) of this subparagraph do not apply if:
 - (I) the export is for purposes of legitimate reuse or refurbishment; or
 - (II) the CER has documented and ensures that there are regularly monitored controls in place to assure that all batteries, mercury-containing devices, circuit boards, CRTs and CRT glass, and any materials containing polychlorinated biphenyls (PCBs), including, but not limited to, ballasts, will be removed in member countries of the Organisation for Economic Co-operation and Development.
 - (D) A CER shall ensure that CEDs or components of CEDs that are exported are not stored, managed, handled, processed or disposed of in a manner that poses an unreasonable risk to human health or which reasonably can or may be expected to create a source of pollution.
- (7) Reporting. A CER shall submit to the commissioner, in accordance with a schedule and form prescribed by the commissioner, a report regarding activities undertaken pursuant to this section. The commissioner may require the submission of the following information in any such report:
- (A) a narrative summary of the CER's activities regarding the reuse, refurbishment and recycling of CEDs, including, but not limited to, information concerning the

reuse, refurbishment, transportation, storage, recycling of CEDs, including, components of CEDs. This summary may include information concerning CEDs that were exported, the identification of all entities to whom CEDs were exported, how any exported CEDs were either reused, refurbished or recycled, or the number of CEDs that were intended to be reused or refurbished but due to breakage in transit, a determination that a CED is off-specification, or for any other reason, were not reused or refurbished and the disposition of such CEDs;

(B) for computers, monitors, and printers, an accounting, by manufacturer, of the brand, type of device (i.e., computer, monitor, printer), number of units, and total weight by type of device that each month was sent for refurbishment or reuse, was transported or stored, or was sent for recycling, and information about the waste or residue from the recycling of CEDs that was sent for disposal. This accounting shall include computers, monitors and printers received by a CER from all sources, including, but not limited to, a municipality, a one-day collection event or any other source during the reporting period. This accounting shall also clearly identify all computers, monitors and printers that were transported, separated and stored for return to a manufacturer or for transport to a recycling facility of the manufacturer's choice pursuant subsection (q) of this section;

(C) for televisions, an accounting of the number of units and total weight of televisions that each month was sent for refurbishment or reuse, was transported or stored, or was sent for recycling, and information about the waste or residue from the recycling of televisions that was sent for disposal. This accounting shall include televisions received by a CER from all sources, including, but not limited to, a municipality, a one-day collection event, or any other source during the reporting period. This accounting shall also clearly identify all televisions that were transported, separated and stored for return to a manufacturer or for transport to a recycling facility of the manufacturer's choice pursuant subsection (q) of this section;

- (D) the total weight, in pounds, of all electronic waste received by a CER from each municipality or regional collection point in Connecticut on a monthly basis. This shall include electronic wastes received from all sources, including, but not limited to, a municipality, a one-day collection event or any other source during the reporting period. For purposes of this subparagraph, the term “electronic waste” means CEDs and non-CEDs, including, but not limited to, computer peripherals such as keyboards and mice, as well as VCRs, DVD players, telephones, cellular telephones, gaming devices, ipods, MP3 players, and similar electronic devices; and
 - (E) any other information requested by the commissioner.
- (8) Recordkeeping.
- (A) A CER shall ensure that the owner or operator of each recycling and disposal facility, used to implement the requirements of chapter 446n of the Connecticut General Statutes and this section, maintains for at least three years:
 - (i) all records required under this section, including, but not limited to, the records required by subsections (c)(1), (c)(2), (c)(3), (c)(4), (c)(6)(A)(iii), (c)(6)(B)(i)(I), (c)(6)(B)(i)(II), (c)(6)(C)(iii)(II), (d)(2), (d)(5), (e)(1)(B)(i), (e)(1)(B)(ii), (e)(2)(B), (e)(5)(A)(vi), and (e)(5)(B) of this section; and
 - (ii) records sufficient to demonstrate the movement of CEDs, including components of CEDs into and out of each facility used for the storage or recycling of CEDs, and the disposal of waste or residue generated from the recycling of CEDs, including, but not limited to, commercial contracts, bills of lading or other commercially-accepted documentation, as well as documentation of any brokering transactions.

- (B) With respect to CEDs to be reused or refurbished, a CER shall maintain for at least three years, records sufficient to demonstrate the movement of intact CEDs sent for reuse and refurbishment, including, but not limited to, commercial contracts, bills of lading or other commercially-accepted documentation, as well as documentation of any brokering transactions.
 - (C) All records that are required to be maintained under this section shall be provided to the commissioner upon request. The records shall be provided within the time period specified in any request, or if no time period is specified, not later than fourteen (14) days after the receipt of any such request.
 - (D) The retention period for all records required by this section shall be extended automatically during the course of any unresolved enforcement action regarding compliance with chapter 446n of the Connecticut General Statutes or this section.
- (9) Notification of Cessation of Services. At least forty-five (45) days before a CER ceases to provide services under chapter 446n of the Connecticut General Statutes and this section, a CER shall provide the commissioner and all customers to whom the CER is providing such services, a written notice of its intent to cease providing services.

(d) Specific Standards for the Reuse or Refurbishment of an Intact CED for Its Original Intended Purpose. In addition to the requirements in subsection (c) of this section, a CER shall comply with the requirements in this subsection regarding the reuse or refurbishment of CEDs. The requirements of this subsection apply to an intact CED being reused or refurbished for its original intended purpose and do not apply to a CED being recycled. The requirements of this subsection do not apply to components of a CED that are reused or refurbished after dismantling or after being removed from a CED. For purposes of this section, such components shall be considered to be recycled and remain subject to all of the provisions of this section regarding the recycling of CEDs.

- (1) Any activity associated with the reuse or refurbishment of any CED shall not be eligible for reimbursement by a manufacturer pursuant to chapter 446n of the Connecticut General Statutes and this section, except as provided for by agreement pursuant to subsection (k) of this section.

- (2) Unless a CER has already determined that a CED will be recycled, a CER shall ensure that each CED is pre-screened to determine if it is practical to reuse or refurbish the CED intact, for its original intended purpose. Any such pre-screening shall, at a minimum, include the testing of each CED to ensure that it can be reused or refurbished for its intended purpose. A CER shall ensure that each CED that successfully passes pre-screening testing is accompanied by a written certification from the tester certifying that such CED is intact and is functioning properly for its original intended purpose. A CER shall maintain a copy of each written certification provided pursuant to this subdivision. Immediately after determining, based upon pre-screening, that a CED is eligible to be reused or refurbished, a CER shall ensure that any hard drive or similar data storage device in or from such CED meets the Department of Defense, National Institute of Standards and Technology or National Association for Information Destruction standards for data erasure or destruction, or an equivalent standard approved in writing by the commissioner.

- (3) Shipments of CEDs that have not been prescreened, as provided for in subdivision (2) of this subsection, or shipments containing both CEDs that have been prescreened for reuse or refurbishment and CEDs that have not been prescreened, shall be considered shipments for recycling and remain subject to all of the provisions of this section regarding the recycling of CEDs. Before shipping any CEDs for reuse or refurbishment a CER shall ensure that:
 - (A) a CED to be reused or refurbished for its original intended purpose meets legitimate reuse or refurbishment specifications as well as any additional specifications of the consignee or the person that will reuse or refurbish the CEDs; and

- (B) the consignee, or if different, the person that will receive any CEDs, has a verified market for the reuse or refurbishment of all CEDs being shipped.
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- (4) A CER shall ensure that before being transported for reuse or refurbishment a CED is labeled and packaged in a manner that is consistent with preservation of the CED for reuse or refurbishment. Any such CED shall be stored and transported in a manner that does not diminish the value or the usability of the CED for its original intended purpose.
 - (5) A CER shall maintain records documenting the shipment of CEDs to the consignee for reuse or refurbishment, or if different, the person that will reuse or refurbish such CEDs. At a minimum, such records shall include:
 - (A) the name and address of the consignee, or if different, the person that will reuse or refurbish such CEDs;
 - (B) a description of the contents of the shipment and the quantity of each type of CED shipped expressed in pounds;
 - (C) the specifications of the consignee for the CEDs being shipped, or if different, the person that will reuse or refurbish CEDs and a description of how the transportation of the CEDs is in conformance with any such specifications;
 - (D) the amount paid for such CEDs, including any contract or similar document reflecting such payment; and
 - (E) a bill of lading or similar shipping document noting the shipment and acceptance of the CEDs.

(6) A CER claiming that CEDs are reused or refurbished under this subsection shall, in accordance with a request by the commissioner, including any time frame specified therein, provide:

- (A) information demonstrating that there is a known market or disposition for the reuse or refurbishment of intact CEDs for their original intended purpose;
- (B) information demonstrating that all CEDs shipped for reuse or refurbishment have been tested and are able to function for their original intended purpose;
- (C) information demonstrating that all CEDs that a CER claims are reused or refurbished under this subsection, are in fact, reused or refurbished;
- (D) information demonstrating that there is appropriate documentation (such as packaging procedures, contracts or other documents) to substantiate a CER's claim that intact CEDs are being reused or refurbished for their original intended purpose; or
- (E) any other information the commissioner requests regarding CEDs that a CER claims were reused or refurbished.

(e) Specific Standards for the Recycling of CEDs and the Disposal of Waste or Residue Generated from the Recycling of CEDs. A CER shall comply with the requirements of this subsection regarding the recycling of CEDs and the disposal of waste or residue from the recycling of CEDs.

(1) General Standards.

- (A) A CER shall ensure that all CEDs not reused or refurbished are safely managed and are recycled in a manner that generates value and minimizes waste. A CER shall ensure that any shipments of CEDs for recycling are prepared in a manner

appropriate for processing and in a manner that does not diminish the value of any materials to be recovered from the CEDs being shipped. Shipments of CEDs that have not been prescreened, as provided for in subsection (d)(2) of this section, or shipments containing both CEDs that have been prescreened for reuse or refurbishment and CEDs that have not been prescreened, shall be considered shipments for recycling and remain subject to all of the provisions of this section regarding the recycling of CEDs.

- (B) With respect to the waste or residue from the recycling of CEDs which cannot be reused, refurbished or recycled, a CER shall ensure that:
 - (i) consideration is given to whether the waste or residue has value for energy recovery and if so, that the waste or residue is burned for energy recovery. A CER shall ensure that preference is given to waste-to-energy incineration over incineration without energy recovery or land disposal. For wastes or residues that have value for energy recovery, but for which energy recovery is technically or economically infeasible, a CER shall maintain written documentation to demonstrate any such infeasibility; and
 - (ii) all wastes or residues are managed safely at facilities that are fully licensed by all appropriate governing authorities and that a written record substantiating compliance with this clause is maintained.
- (2) Data Security. A CER shall ensure that, as soon as feasible, a hard drive or similar data storage device in or from any CED that is to be recycled, meets the Department of Defense National Institute of Standards and Technology or National Association for Information Destruction standards for data erasure or destruction or is physically destroyed by means of smelting, pulverizing, or shredding. A CER shall ensure that before any hard drive or similar data storage device meets the data erasure or destruction requirements of this subdivision or is physically destroyed, the hard drive or similar data storage device is maintained in a restricted area with controlled access and that the

personal information on any such hard drive or device is secured from access by the general public and any untrained persons or employees. A CER shall also ensure that all employees at any recycling facility where such hard drives or devices are located are trained in data security requirements such that:

(A) any personal information on hard drives or similar data storage devices is secured from access by the general public or any untrained persons or employees; and

(B) a CER maintains records of all employee training provided pursuant to this subdivision, including the content of such training.

(3) Facility Security. A CER shall ensure the owner or operator of each recycling facility and each disposal facility, used to implement chapter 446n of the Connecticut General Statutes and this section, establishes and maintains a functioning security program that controls access to all areas of the facility where CEDs or components of CEDs are present in a manner appropriate for the type of CEDs, or the components of CEDs, being handled and meets the needs of the customer served. A security program shall control access to the facility or the portion of the facility where CEDs or components of CEDs are present and may include, but need not be limited to, badges for employees, an alarm system, metal detectors, surveillance cameras, indoor and outdoor lighting, or perimeter fencing.

(4) Environmental Management System.

(A) A CER shall ensure that the owner or operator of each recycling facility and each disposal facility, used to implement chapter 446n of the Connecticut General Statutes and this section, has an environmental management system in place. The environmental management system shall be reviewed for updates at least annually or updated more often, as necessary. The environmental management system shall, at a minimum, include a plan that:

- (i) describes the facility's risk management objectives for environmental performance and compliance and its plans for attaining these objectives based on a "plan-do-check-act" continual improvement model;
 - (ii) provides for regular re-evaluation of the plan's environmental health and safety objectives and monitoring of the progress toward achievement of these objectives that shall be conducted and documented by or for the owner or operator of the facility; and
 - (iii) shall be kept at the facility at all times and made available to the commissioner upon request.
- (B) In lieu of compliance with subparagraph (A) of this subdivision, a CER may request that the commissioner recognize that a certification or credential granted by a recognized independent entity meets the requirements of subparagraph (A) of this subdivision. Any such request shall be in writing and shall, at a minimum, provide information about the entity issuing the credential or certification and the requirements to obtain any such certification or credential. The commissioner shall have the sole discretion to determine whether or not a certification or credential meets, or continues to meet, the requirements of subparagraph (A) of this subdivision and will notify the CER, in writing, of the commissioner's determination. To be able to continue to rely upon a certification or credential approved by the commissioner pursuant to this subparagraph, in lieu of compliance with subparagraph (A) of this subdivision, a CER shall:
- (i) maintain compliance with all of the requirements of any such certification or credential;
 - (ii) notify the commissioner, in writing, whenever the requirements for obtaining such certification or credential change, including a description of all changes made; and

- (iii) notify the commissioner, in writing, whenever the entity issuing a certification or credential ceases to exist or no longer issues any such certification or credential.

(5) Environmental Health and Safety Measures.

(A) A CER shall ensure that the owner or operator of each recycling facility and each disposal facility, used to implement chapter 446n of the Connecticut General Statutes and this section, takes sufficient measures to safeguard occupational and environmental health and safety in accordance with local, state, national and international laws, regulations, agreements, principles and standards and guidelines. Such measures shall, at a minimum, include:

- (i) environmental health and safety training of personnel, including training with regard to material and equipment handling, worker exposure, controlling releases and safety and emergency procedures;
- (ii) where materials are shredded or heated, appropriate measures to protect workers, the general public and the environment from hazardous dusts, emissions, and other pollutants. Such measures shall include adaptations in equipment design or operational practices, air flow controls, personal protective devices for workers, pollution control equipment or a combination of these measures;
- (iii) an up-to-date, written hazardous materials identification and management plan that specifically addresses lead, mercury, beryllium, cadmium, batteries, toner, phosphor compounds, polychlorinated biphenyls or PCBs and brominated flame retardants and other halogenated materials, with particular focus on the possible generation of by-product dioxins and furans, and any other substance specified in writing by the commissioner;

- (iv) an up-to-date, written plan for reporting and responding to pollutant releases, including emergencies, such as accidents, spills, fires and explosions;
 - (v) proof of liability insurance for pollutant releases, accidents and other emergencies; and
 - (vi) an environmental health and safety audit performed by a qualified independent auditor. Audits shall be conducted on an annual basis and any recommendations for corrective action resulting from such audits shall be implemented in a timely manner. Documentation of the performance of such audits and of any corrective measures taken in response to such audits shall be retained by the owner or operator of the facility being audited.
- (B) A CER shall ensure that the owner or operator of each recycling facility and each disposal facility, used to implement chapter 446n of the Connecticut General Statutes and this section, has a regularly-implemented and documented monitoring and recordkeeping program that tracks key process parameters, compliance with relevant safety procedures, effluents and emissions, and incoming and outgoing materials, residues and wastes, including storage of such materials, residues and wastes.
- (C) In lieu of compliance with subparagraph (A) of this subdivision, a CER may request that the commissioner recognize that a certification or credential issued by a recognized independent entity meets all or a portion of the requirements of subparagraph (A) of this subdivision. Any such request shall be in writing and shall, at a minimum, provide information about the entity issuing the credential or certification and the requirements to obtain any such certification or credential. The commissioner shall have the sole discretion to determine whether or not a certification or credential meets, or continues to meet, the requirements of subparagraph (A) of this subdivision and will notify the CER, in writing, of the

commissioner's determination. To be able to continue to rely upon a certification or credential approved by the commissioner pursuant to this subparagraph, in lieu of compliance with subparagraph (A) of this subdivision, a CER shall:

- (i) maintain compliance with all of the requirements of any such certification or credential;
- (ii) notify the commissioner, in writing, whenever the requirements for obtaining such certification or credential change, including a description of all changes made; and
- (iii) notify the commissioner, in writing, whenever the entity issuing a certification or credential ceases to exist or no longer issues any such certification or credential.

(6) Insurance.

(A) A CER shall ensure that the owner or operator of each recycling facility and each disposal facility, used to implement chapter 446n of the Connecticut General Statutes and this section, that shreds circuit boards, recycles shredded circuit boards or receives CEDs or components of CEDs that contain or consist of circuit boards, CRTs, batteries, mercury-containing devices, or any materials containing polychlorinated biphenyls (PCBs), including but not limited to ballasts establishes and maintains the following insurance coverage for such facility:

- (i) Commercial General Liability: \$1,000,000 combined single limit per occurrence with an annual aggregate of \$2,000,000 for bodily injury, personal injury and property damage. Coverage shall extend to independent contractors, products and completed operations, contractual liability and broad form property damage; and

- (ii) Pollutant Releases, Accidents, and Other Emergencies (“Pollution Legal Liability”): \$3,000,000 combined single limit per occurrence with an annual aggregate of \$6,000,000 for on-site and off-site bodily injury, property damage or clean up costs including liability for environmental damage resulting from sudden, accidental and gradual pollution in the operation, maintenance, or use of any motor vehicle for transportation or facility operations involving CEDs.
- (B) The insurance used to satisfy the requirements of this subdivision shall:
- (i) not be “claims made coverage” with the exception of Pollution Legal Liability coverage;
 - (ii) be primary and non-contributory and shall be maintained throughout the period that a facility is recycling CEDs or components of CEDs, or a facility is disposing of the waste or residue generated by the recycling of CEDs, for which a CER is seeking reimbursement pursuant to chapter 446n of the Connecticut General Statutes and this section; and
 - (iii) cover any suit, claim, loss, injury, damage, attorney fees, judgments, litigation or any other expense arising out of or alleged to have arisen out of the recycling of CEDs or components of CEDs or the disposal of the waste or residue generated from the recycling of CEDs.
- (C) The commissioner may require that a CER ensure that the owner or operator of a recycling or disposal facility subject to subparagraph (A) of this subdivision obtain and maintain greater levels of insurance coverage than the minimum coverages prescribed in this subdivision.

- (D) A CER shall immediately notify the commissioner, in writing, by certified mail of any cancellations, expirations or other changes that may affect the coverage used to satisfy the requirements of this subdivision. Such notification shall include:
- (i) a detailed description and explanation for such change(s), including corrective action to be taken to rectify the insurance coverage and a schedule for implementing such action; or
 - (ii) if available, evidence of alternate insurance coverage; and
 - (iii) a certification that there will be no lapse in coverage.
- (E) A CER shall ensure that the owner or operator of each recycling facility and each disposal facility, other than those specified in subparagraph (A) of this subdivision, that receives CEDs or components of CEDs pursuant to chapter 446n of the Connecticut General Statutes and this section, establishes and maintains liability insurance for pollutant releases, accidents and other emergencies for any such facility and that such insurance is maintained throughout the period that such facility is recycling CEDs or components of CEDs or disposing of waste or residue from the recycling of CEDs or components of CEDs.
- (7) Closure plan and financial assurance or other guarantees.
- (A) A CER shall ensure that the owner or operator of each recycling facility and each disposal facility, used to implement chapter 446n of the Connecticut General Statutes and this section, that shreds circuit boards or recycles shredded circuit boards, or receives CEDs or components of CEDs that contain or consist of circuit boards, CRTs, batteries, mercury-containing devices, or any materials containing polychlorinated biphenyls (PCBs), including, but not limited to, ballasts, has and maintains a closure plan. Any such closure plan shall provide a detailed description of the methods and procedures to be utilized for the closure of all of the

units or equipment used for recycling CEDs, or components of CEDs, when recycling activities are no longer conducted, and for the disposal of waste or residue generated from the recycling of CEDs, or components of CEDs. The plan shall also include a cost estimate for such closure. The cost estimate shall:

- (i) be based on the costs to the owner or operator of the facility to hire a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. The cost estimate shall include, at a minimum, the cost of transporting and recycling or disposing of all CEDs and components of CEDs and decontaminating recycling areas and equipment or containers used in recycling CEDs or disposing of the waste or residue from the recycling of CEDs; and
 - (ii) not incorporate zero cost for any CED, component of a CED or residue or waste from the recycling of CEDs that may have economic value, but shall incorporate a cost for all of these items.
- (B) The closure plan and cost estimate shall be updated whenever there is a change in operations that affects the cost of closing the facility. Cost estimates shall be adjusted at least annually for inflation using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce in its “Survey of Current Business” or its Bureau of Economic Analysis news release.
- (C) A CER shall ensure that the owner or operator of a facility, subject to subparagraph (A) of this subdivision, establishes and maintains an irrevocable financial assurance instrument or other guarantee to cover 100% of the costs of closing its facility, including any revisions to the closure plan and cost estimate required in subparagraph (B) of this subdivision.

- (D) A CER shall immediately notify the commissioner, in writing, by certified mail of any cancellations, expirations or other changes that may affect the financial assurance coverage used to satisfy the requirements of this subdivision. Such notification shall include:
- (i) a detailed description and explanation for such change(s), including corrective action to be taken to rectify the coverage and a schedule for implementing such actions; or
 - (ii) if available, evidence of alternate financial assurance coverage; and
 - (iii) a certification that there will be no lapse in coverage.
- (8) Audits. A CER shall ensure that a manufacturer, or its designee, is able to conduct an audit of any recycling or disposal facility used to recycle the manufacturer's CEDs or to dispose of waste or residue from the recycling of the manufacturer's CEDs pursuant to chapter 446n of the Connecticut General Statutes and this section. Such audits may include any records that are required to be maintained pursuant to chapter 446n of the Connecticut General Statutes and this section. Such audit shall be conducted by a qualified person during normal business hours and a manufacturer, or its designee, shall provide reasonable notice to the CER and to the owner or operator of the facility to be audited before conducting an audit. The purpose of an audit shall be to evaluate compliance with chapter 446n of the Connecticut General Statutes and this section, and to verify the accuracy of any information provided either to the manufacturer or to the commissioner. A manufacturer may provide the commissioner with the results of any audit it performs and shall provide the results of an audit to the commissioner upon request. Nothing in this subdivision shall affect the commissioner's authority to conduct inspections or to take any other action authorized by law.

(f) Determination of Brands Attributable to a Manufacturer.

- (1) The commissioner shall determine the brand or brands attributable to a manufacturer of computers, monitors and printers. This determination shall be used to implement the requirements of chapter 446n of the Connecticut General Statutes and this section, including, but not limited to, billing by CERs. The commissioner will make this brand determination each year, or more often as necessary, based upon information provided by manufacturers or CERs, or other information obtained by the department. Such information may include, but need not be limited to, information from the department's contractor, the United States Patent and Trademark Office, electronic waste collection programs in other jurisdictions, or information from reputable sources such as the "The Thomas Register", "Gale Trade Name Directory", "Headquarters USA", "Dun and Bradstreet Industry Handbook", trade association directories or other similar sources.
- (2) The commissioner shall post a determination of the brands attributable to each manufacturer on the department's website. This determination shall also be provided to each registered manufacturer, in writing, at the most recent address provided to the commissioner by the manufacturer. The commissioner's determination shall constitute a rebuttable presumption that such brand is attributable to a manufacturer. A manufacturer seeking to rebut the commissioner's brand determination shall provide the commissioner with information, in writing, disputing the determination, including the reasons why the determination is incorrect and, if available, identifying the manufacturer that should be responsible for the brand in question. Any supporting documents shall accompany this submission to the commissioner. After the receipt of such information the commissioner shall make a final determination regarding the brand attributable to a manufacturer.
- (3) A manufacturer that claims that it is no longer legally responsible for a brand shall notify the commissioner, in writing, on a form prescribed by the commissioner. A manufacturer shall remain legally responsible for a brand until the commissioner makes a brand adjustment pursuant to this subdivision. A manufacturer that becomes legally responsible for a brand that it was not previously responsible for shall notify the

commissioner, in writing, on a form prescribed by the commissioner, not later than thirty (30) days after becoming legally responsible for a brand. When providing notice pursuant to this subdivision, a manufacturer shall provide documentation regarding the brand in question and shall provide the commissioner with any information the commissioner requests regarding such brand. After receipt of a notice pursuant to this subdivision, the commissioner shall decide whether or not to make the brand adjustment for which notice was provided. The commissioner's determination shall be posted on the department's website and shall be provided, in writing, to the CERs and all affected manufacturers.

(4) This subsection shall not be applicable to a manufacturer of televisions.

(g) Determining a Manufacturer's Market Share.

(1) The commissioner shall determine a manufacturer's market share each year. This market share determination shall:

(A) for all manufacturers, be used to determine a manufacturer's annual registration renewal fee;

(B) for manufacturers of televisions, be used for billing by a CER; and

(C) for manufacturers of computers, monitors and printers, be used to determine a manufacturer's responsibility for orphan devices.

(2) For each type of CED, the commissioner shall determine a manufacturer's market share based upon information that approximates the total number of units sold by all manufacturers for the previous year and approximates the number of units sold that are attributable to each manufacturer. This determination shall be based upon nationally available market share data, including, but not limited to, the number of units shipped, retail sales data, consumer surveys or other nationally available market share data. The

number of units sold, attributable to each manufacturer, shall be divided by the total number of units sold attributable to all manufacturers for the type of CED in question. The resulting percentage shall be considered the manufacturer's market share for that type of CED.

- (3) (A) For each type of CED, the commissioner shall post on the department's website a determination of the market share attributable to each manufacturer. This determination shall also be provided to each registered manufacturer, in writing, at the address provided on the manufacturer's registration or a more recent address provided to the commissioner by a manufacturer.
- (B) The commissioner's determination shall constitute a rebuttable presumption of the market share attributable to a manufacturer. From the date that the proposed market share attributable to each manufacturer is posted on the department's website, a manufacturer shall have not more than thirty (30) days to rebut the commissioner's determination. A manufacturer that does not avail itself of this opportunity shall be precluded from contesting the commissioner's determination of such manufacturer's market share.
- (C) A manufacturer seeking to rebut the commissioner's determination shall provide the commissioner with the number of units sold, for the type of CED in question, based upon nationally available data, number of units shipped, retail sales data, consumer surveys or other nationally available data and the source of any such information. The information may concern more than one manufacturer and any supporting documents shall accompany this submission to the commissioner. After the receipt of such information, the commissioner shall make a final determination regarding each manufacturer's market share.
- (4) Subject to the provisions of subdivision (6) of this subsection, if due to inability to pay the manufacturer of a CED no longer pays its market share, or a similar circumstance arises, the commissioner may reallocate the market share of such a manufacturer to the

other manufacturers of that CED. Any such reallocation shall be proportional, based upon the market share of the other manufacturers, provided that:

- (A) if the CED is a television, the market share shall be reallocated to manufacturers that have one tenth of one (0.1%) per cent or more of the market share for televisions; or
 - (B) if the CED is a computer, monitor or printer, the market share shall be reallocated to manufacturers that have one (1%) per cent or more of the market share for the type of CED in question.
- (5) Any reallocation of the market share of manufacturers shall be posted on the department's website and be provided, in writing, to the manufacturers at the most recent address provided to the commissioner by a manufacturer. Any reallocation of a manufacturer's market share shall apply prospectively only, from the date that such recalculated market shares are posted on the department's website.
- (6) Subdivision (4) of this subsection shall not apply to the transfer of a manufacturer's market share to another person. Such transfers shall be governed by this subdivision. With the written approval of the commissioner, for the purposes specified in subdivision (1) of this subsection, a manufacturer's market share may be transferred to another manufacturer, or to a person that purchases, becomes responsible for, or assumes the liabilities of a manufacturer.

(h) Specific Market Share Provisions Applicable to Orphan Devices.

- (1) The commissioner shall post on the department's website and provide each manufacturer, in writing, at the address provided on the manufacturer's registration or a more recent address provided to the commissioner by a manufacturer, the manufacturer's share, based upon its market share, for orphan devices which for

purposes of this section shall be known as its pro rata share. This shall include any de minimis share allocated to a manufacturer under subdivision (2) of this subsection.

(2) If pursuant to subsection (g) of this section, the commissioner determines that a manufacturer's market share for a single type of CED, for a one year period, is less than one (1%) per cent of the total market share for that type of CED, such a share shall be deemed to be de minimis. A manufacturer of a de minimis share shall not be responsible for payment of a pro rata share of the orphan devices that are recycled for the corresponding billing year. Rather, de minimis market shares shall be added together, allocated to, and paid for by the manufacturers that have one percent (1%) or more of the market share for the type of CED in question, proportionally, based upon their market share.

(3) This subsection shall not apply to manufacturers of televisions.

(i) Specific Market Share Provisions Applicable to Televisions. If pursuant to subsection (g) of this section, the commissioner determines that a manufacturer's market share for televisions, for a one year period, is less than one tenth of one per cent (0.1%) of the total market share for televisions, such a share shall be deemed to be de minimis. A manufacturer of a de minimis share shall not be responsible for payment of a pro rata share of the televisions that are recycled for the corresponding billing year. Rather, de minimis market shares shall be added together, allocated to, and paid for by the manufacturers that have one tenth of one (0.1%) per cent or more of the market share for televisions, proportionally, based upon their market share.

(j) Amount Owed by a Manufacturer and Billing.

(1) A CER and a manufacturer shall work cooperatively to ensure implementation of a practical and feasible billing system. A CER shall only submit an invoice regarding a CED generated by a household in Connecticut. Before submission of an invoice to a manufacturer, the CER and each manufacturer shall provide each other with the

information necessary to facilitate billing and payment. A CER shall not seek reimbursement for costs related to a CED that was not recycled, or for costs associated with a CED that was refurbished or reused, except as may be provided for by agreement pursuant to subsection (k) of this section. A manufacturer shall pay invoices received from a CER not more than ninety (90) days after the date of receipt of an invoice. A CER shall notify the commissioner, in writing, as soon as possible, whenever a manufacturer is in arrears, for any amount, more than ninety (90) days. The provisions of subdivisions (2) to (6), inclusive, of this subsection may be varied by agreement between a CER and manufacturer, as provided for in subsection (k) of this section.

(2) At a minimum, a CER shall bill a manufacturer quarterly. Unless varied by agreement pursuant to subsection (k) of this section, for the activities and services described in subsections (b)(3)(H) and (b)(3)(I) of this section, a CER shall not charge more than the fees in the most recent application approved by the commissioner submitted by a CER pursuant to subsection (b)(3) of this subsection, or the fees approved by the commissioner pursuant to subsection (b)(5)(B) of this section. If multiple CERs are involved in the recycling of a CED, only one CER shall submit an invoice to a manufacturer. Each invoice from a CER to a manufacturer shall provide the information described in subparagraphs (A) and (B) of this subdivision. This information shall be provided separately for computers, monitors, printers and televisions.

(A) Invoices regarding computers, monitors and printers, with each broken out separately, shall, for the period covered by the invoice, include:

- (i) the number of units by brand, for each brand attributable to a manufacturer;
- (ii) the total weight by brand, for each brand attributable to a manufacturer;
- (iii) the number of units, total weight by brand, if known, for orphan devices;

- (iv) the manufacturer's pro rata share for orphan devices;
 - (v) the total cost per pound in accordance with the most recent fee approved by the commissioner or agreed to by the CER and the manufacturer; and
 - (vi) the total amount due from the manufacturer, calculated in accordance with subdivisions (3) and (4) of this subsection.
- (B) Invoices regarding televisions shall, for the period covered by the invoice, include:
- (i) the total weight for all televisions;
 - (ii) the manufacturer's market share;
 - (iii) the total cost per pound in accordance with the most recent fee approved by the commissioner or agreed to by the CER and the manufacturer; and
 - (iv) the total amount due from the manufacturer, calculated in accordance with subdivisions (5) and (6) of this subsection.
- (3) The amount due for the period covered by an invoice submitted to a manufacturer for computers, monitors and printers that are recycled, each figured separately, shall be calculated as follows:

$$A = [M + (O \times S)] \times R$$

where:

- A = amount due from the manufacturer;
- M = total weight of the brands for which the manufacturer is responsible;
- O = total weight of orphan devices;
- S = the manufacturer's *pro rata* share of orphan devices; and

R = fee for the total cost of transporting and recycling CEDs, expressed as a price per pound, in accordance with the most recent fee approved by the commissioner or agreed to by the CER and the manufacturer.

- (4) The amount due for the period covered by an invoice submitted to a manufacturer for computers, monitors and printers, each figured separately, that are returned to a manufacturer or a facility designated by a manufacturer pursuant to subsection (q) of this section, shall be calculated as follows:

$$A = [M + (O \times S)] \times D$$

where:

A = amount due from the manufacturer;

M = total weight of the brands for which the manufacturer is responsible;

O = total weight of orphan devices;

S = the manufacturer's *pro rata* share of orphan devices; and

D = fee for the total cost of returning a computer, monitor or printer, including any orphan devices, to a manufacturer or a facility designated by a manufacturer, expressed as a price per pound, in accordance with the most recent fee approved by the commissioner or agreed to by the CER and the manufacturer.

- (5) The amount due for the period covered by an invoice submitted to a manufacturer of televisions that are recycled shall be calculated as follows:

$$A = W \times MS \times R$$

where:

A = amount due from the manufacturer;

W = total weight all televisions;

MS = the manufacturer's market share; and

R = fee for the total cost of transporting and recycling CEDs, expressed as a price per pound, in accordance with the most recent fee approved by the commissioner or agreed to by the CER and the manufacturer.

- (6) The amount due for the period covered by an invoice submitted to a manufacturer of televisions that are returned to a manufacturer or a facility designated by a manufacturer pursuant to subsection (q) of this section, shall be calculated as follows:

$$A = W \times MS \times D$$

where:

- A = amount due from the manufacturer;
W = total weight all televisions;
MS = the manufacturer's market share; and
D = fee for the total cost of returning televisions to a manufacturer or facility designated by a manufacturer, expressed as a price per pound, in accordance with the most recent fee approved by the commissioner or agreed to by the CER and the manufacturer.

(k) Agreements or Arrangements between a CER and a Manufacturer.

- (1) A CER and a manufacturer may enter into an agreement or establish an arrangement that:
- (A) allows the CER to vary the per pound price in its application approved by the commissioner pursuant to subsection (b) of this section or the fees approved by the commissioner pursuant to subsection (b)(5)(B) of this section;
 - (B) provides for billing arrangements that are different from the arrangements specified in subsections (j) (2) to (6), inclusive, of this section; or

(C) allows the CER to bill the manufacturer for costs associated with the reuse or refurbishment of CEDs.

(2) An agreement or arrangement between a CER and manufacturer may include any limitation on services to be provided by the CER that are otherwise eligible as allowable costs, or may make provision for providing additional services. The provisions of any such agreement or arrangement shall be enforced by the entities entering into such agreement or arrangement. Notwithstanding the terms and conditions of any agreement or arrangement between a CER and a manufacturer, including any agreement or arrangement that limits the services a CER may provide, compliance with chapter 446n of the Connecticut General Statutes and this section, except for the provisions specified in the subdivision (1) of this subsection, shall be required and remain in effect.

(l) Requirements for Printer Manufacturers and Retailers.

(1) Each time the term “CED” is used in chapter 446n of the Connecticut General Statutes and this section, it shall be read to include printers, provided when the term is used in sections 22a-633 and 22a-630(a), (b) and (c) of the Connecticut General Statutes regarding requirements applicable to a manufacturer, compliance shall not be required prior to the effective date of this subsection.

(2) A manufacturer of printers shall comply with the registration requirements in subsection (o) of this section.

(3) On and after {insert date 120 days after the effective date of these regulations}, no manufacturer of printers or retailer shall sell or offer for sale a printer in Connecticut unless it is labeled with the manufacturer’s brand and the label is permanently affixed and readily visible.

(m) Municipal Requirements.

(1) Definitions. For purposes of this subsection:

(A) “municipality” means a municipality or a regional authority representing a municipality; and

(B) “approved plan” means a municipal plan that has been approved by the commissioner.

(2) Submission of a Plan.

(A) Not later than {insert date thirty days after these regulations take effect} a municipality shall submit a plan, in writing, to the commissioner, for the commissioner’s review and written approval. The plan shall be submitted on a form prescribed by the commissioner and shall describe how the municipality will comply with the requirements of section 22a-631(b) of the Connecticut General Statutes, including, but not limited to, how the municipality will give priority to convenience and accessibility in providing collection and recycling opportunities to its residents and any other information deemed necessary by the commissioner.

(B) The commissioner shall notify the municipality, in writing, whether or not the plan submitted is approved. If a plan is not approved, the notification to the municipality shall indicate the reasons for any such disapproval and any municipality receiving such notification shall correct the deficiencies identified by the commissioner and shall submit a revised plan, in writing, within the time frame specified by the commissioner or, if no time is specified, not more than thirty (30) days after receipt of the notification from the commissioner. When approving a plan, the commissioner may include any conditions the commissioner deems necessary to protect human health or the environment, or to ensure compliance with chapter 446n of the Connecticut General Statutes or this section, including, but not limited to, giving priority to convenience and accessibility in providing collection and recycling opportunities to the residents of a municipality.

- (C) A municipality shall implement and comply with the plan approved by the commissioner.
 - (D) Any plan submitted by a municipality and approved by the commissioner before these regulations take effect shall satisfy the requirements of this subdivision.
- (3) Modifying a Plan.
- (A) A municipality may request a modification to a plan previously approved by the commissioner at any time.
 - (B) A municipality shall request a modification to an approved plan not more than fifteen (15) days after the date a municipality becomes aware or should become aware:
 - (i) of any significant or material changes to an approved plan; or
 - (ii) that information submitted to the commissioner, at any time, is or was inaccurate or misleading or that any relevant information is or was omitted.
 - (C) Any request to modify a plan previously approved by the commissioner shall be submitted in writing on a form prescribed by the commissioner and, if applicable, shall include any corrected or omitted information. An approved plan shall be modified in accordance with the procedures specified in subdivision (2) of this subsection.
 - (D) If at any time, the commissioner determines that a municipality's approved plan is deficient or otherwise not in compliance with chapter 446n of the Connecticut General Statutes or this section, the commissioner shall notify the municipality in writing, of such deficiency or non-compliance. Upon receipt of any such notice, the

municipality shall address the deficiencies or issues identified by the commissioner and shall submit a revised plan, in writing, within the time specified by the commissioner or, if no time is specified, not more than thirty (30) days after receipt of the notification from the commissioner.

- (E) When approving a modification to an approved plan, the commissioner may include any conditions the commissioner deems necessary to protect human health or the environment, or to ensure compliance with chapter 446n of the Connecticut General Statutes or this section, including, but not limited to, giving priority to convenience and accessibility in providing collection and recycling opportunities to the residents of a municipality. A modification shall not be considered part of the municipality's approved plan, unless any such modification is approved by the commissioner in writing.
 - (F) A municipality shall implement and comply with the modified plan as approved by the commissioner.
- (4) Notification of CER. Not later than fifteen (15) days after making arrangements with a CER or CERs, a municipality shall provide written notice to the commissioner identifying the CER or CERs with whom the municipality has made arrangements to implement the requirements of chapter 446n of the Connecticut General Statutes and this section. If a previously identified CER changes, not later than fifteen (15) days after such change, the municipality shall notify the commissioner in writing of such change and shall identify the new CER or CERs.
 - (5) No Fee. A municipality shall not charge its residents any fee for the collection, storage, transportation, recycling, reuse or refurbishment of seven or fewer CEDs brought to a collection point, at any one time, pursuant to section 22a-635(b) of the Connecticut General Statutes.
 - (6) Compliance with Applicable Requirements. A municipality shall comply with all applicable requirements, including, but not limited to, obtaining necessary permits or

authorizations, when implementing a plan approved by the commissioner pursuant to this subsection.

- (7) Approved Plan Not a Permit or Authorization. A plan approved by the commissioner pursuant to this subsection shall not constitute a permit or authorization to collect, store, recycle or otherwise manage or handle CEDs.

(n) Adding an Electronic Device to the List of CEDs.

- (1) The commissioner may add an electronic device to the list of CEDs by adoption of regulations, in accordance with the provisions of chapter 54 of the Connecticut General Statutes. To add a device to the list of CEDs, the commissioner may consider:
 - (A) information obtained by the department, which may or may not include estimates of the number of such devices shipped, in use, sold, generated or disposed of;
 - (B) the potential cost savings to municipalities by adding the device to the list of CEDs;
 - (C) whether the device contains substances that may have an adverse impact to human health or the environment;
 - (D) existing programs to manage or recycle the device and the efficacy of such programs;
 - (E) the options available for managing the device, including, but not limited to, the feasibility of reusing or recycling such devices; or
 - (F) any other factor deemed significant by the commissioner.

- (2) When adding an electronic device to the list of CEDs, the commissioner shall make available on the department's website the commissioner's rationale for adding such device, which may include a discussion of the criteria specified in subdivision (1) of this subsection.

(o) Registration Requirements for Manufacturers.

(1) Initial Registration

(A) Requirements for Manufacturers of Computers, Monitors and Televisions.

- (i) In accordance with sections 22a-630(a) and (b) of the Connecticut General Statutes, a manufacturer of CEDs that sold, or offered CEDs for sale by any means in Connecticut prior to January 1, 2008, shall register with the department not later than January 1, 2008 and, if required, shall pay an initial registration fee of five thousand dollars.
- (ii) A manufacturer of CEDs that has not sold CEDs by any means in Connecticut before January 1, 2008, but sold or offers CEDs for sale by any means in Connecticut on or after January 1, 2008, but before {insert the effective date of these regulations}, shall register with the department on a form prescribed by the commissioner no later than {insert date sixty (60) days after the effective date of these regulations}.
- (iii) A manufacturer of CEDs that has not submitted a registration under clause (i) or (ii) of this subparagraph and has not sold or offered CEDs for sale by any means in Connecticut on or before {insert the effective date of these regulations}, but who sells or offers CEDs for sale by any means in Connecticut after {insert effective date of these regulations}, shall register with the department on a form prescribed by the commissioner, before the manufacturer sells or offers CEDs for sale in Connecticut.

(iv) A manufacturer, described in clause (ii) or (iii) of this subparagraph, shall submit with the registration required by clause (ii) or (iii) of this subparagraph an initial registration fee of five thousand dollars and an additional fee equivalent to the greater of:

(I) one (1%) per cent of the prior year's total share of orphan devices, for each category of applicable CEDs, expressed in pounds multiplied by fifty cents; or

(II) one thousand dollars.

(v) For purposes of this subparagraph only, the term "CED" shall not include printers.

(B) Registration Requirements for Manufacturers of Printers.

(i) A manufacturer that has already submitted a registration under subparagraph (A)(i) or (ii) of this subdivision and that has sold or offered printers for sale by any means in Connecticut on or before {insert the effective date of these regulations} shall submit a revised registration to the department, on a form prescribed by the commissioner, not later than {insert date sixty (60) days after the effective date of these regulations}.

(ii) A manufacturer, other than a manufacturer described in clause (i) of this subparagraph, that has sold or offered printers for sale by any means in Connecticut on or before {insert the effective date of these regulations} shall register with the department, on a form prescribed by the commissioner, not later than {insert date sixty (60) days after the effective date of these regulations}. Such registration shall be accompanied by the annual renewal

registration fee determined by the commissioner in accordance with section 22a-630(d)-1 of the Regulations of Connecticut State Agencies.

(iii) A manufacturer, other than a manufacturer described in clause (i) of this subparagraph, that has not sold or offered printers for sale by any means in Connecticut before {insert the effective date of these regulations}, but sells or offers printers for sale by any means in Connecticut after {insert the effective date of the regulations} shall register with the department, on a form prescribed by the commissioner. Any such registration shall be submitted before the manufacturer sells or offers printers for sale in Connecticut and shall also be accompanied by an initial registration fee of five thousand dollars and an additional fee equivalent to the greater of:

(I) one (1%) per cent of the prior year's total share of orphan devices for printers expressed in pounds multiplied by fifty cents; or

(II) one thousand dollars.

(2) Annual Re-Registration Requirements for Manufacturers of All CEDs. Commencing on a date established by the commissioner, and annually thereafter, a manufacturer that sells or offers CEDs for sale by any means in Connecticut shall re-register with the department on a form prescribed by the commissioner. Any date for re-registration established by the commissioner shall provide a manufacturer with a minimum of thirty (30) days to submit a registration. Each annual re-registration shall be accompanied by an annual registration renewal fee as determined by the commissioner in accordance with section 22a-630(d)-1 of the Regulations of Connecticut State Agencies.

(3) Revisions to a Registration.

(A) A manufacturer that has submitted a registration to the department shall submit a revised registration to the department, on a form prescribed by the commissioner, whenever:

- (i) the manufacturer sells, or offers for sale by any means in Connecticut, a type of CED that the manufacturer has not indicated it is selling, or offering for sale, in any registration or revised registration submitted to the department. The manufacturer shall submit a revised registration prior to selling, or offering for sale, by any means in Connecticut, such CED;
- (ii) the manufacturer sells, or offers for sale by any means in Connecticut, a new brand of CED that the manufacturer has not indicated that it is selling or offering for sale in any registration or revised registration submitted to the department. The manufacturer shall submit a revised registration prior to selling, or offering for sale, by any means in Connecticut, such brand of CED;
- (iii) the manufacturer no longer sells or offers to sell by any means in Connecticut, a type of CED or brand of CED that the manufacturer has indicated it is selling or offering for sale in any registration or revised registration submitted to the department. The manufacturer shall submit any such revised registration not later than thirty (30) days after the manufacturer no longer sells, or offers to sell, by any means in Connecticut, a type of CED or brand of CED that the manufacturer has indicated it is selling or offering for sale in any registration or revised registration submitted to the department; or
- (iv) any other information in any registration or revised registration submitted to the department is no longer accurate, or relevant information was omitted. A manufacturer shall submit such revised registration not later than thirty (30)

days after the information is no longer accurate or the manufacturer knows or should have known that relevant information was omitted.

(B) There shall be no fee for the submission of a revised registration under this subdivision.

(4) Miscellaneous Registration Requirements

(A) No manufacturer shall rely upon or utilize a registration submitted for a CED, or for a brand, that was submitted by another manufacturer.

(B) A manufacturer shall only be required to pay one initial registration fee prescribed in this subsection, even if such manufacturer has submitted an initial registration for one type of CED and later submits another initial registration for another type of CED.

(p) Private Programs. A manufacturer participating in or utilizing a private program shall:

(1) comply with the registration requirements in subsection (o) of this section, including, but not limited to, payment of any required fee;

(2) submit a written description of the private program with its annual registration. The written description shall include, at a minimum, as applied to the private program, the information specified in subparagraphs (C), (D), (E) (G), and if applicable, (K) and (L) of subsection (b)(3) of this section, and any other information specified in section 22a-631(e) of the Connecticut General Statutes. The written description shall also include a written certification attesting to whether all CEDs in the private program will be recycled or reused or refurbished in accordance with chapter 446n of the Connecticut General Statutes and this section. A manufacturer participating in or utilizing a private program shall remain responsible for ensuring that the recycling, reuse or refurbishment

of all CEDs is done in compliance with chapter 446n of the Connecticut General Statutes and this section. Whenever any information in the most recent written description submitted to the commissioner pursuant to this subdivision changes, or is inaccurate or misleading, or any relevant information was omitted, a manufacturer shall submit corrected or omitted information, in writing, to the commissioner not later than thirty (30) days after the information changes or is no longer accurate, or the manufacturer knows, or should have known, that relevant information was omitted; and

- (3) comply with the reporting requirements in subsection (c)(7) of this section and provide any other information that a CER is or may be required to report or provide to the commissioner.

(q) Returning CEDs to a Manufacturer.

- (1) A manufacturer may enter into a cooperative agreement with a CER under which such manufacturer's CEDs, and for a manufacturer of computers, monitors or printers, the manufacturer's orphan share of such CEDs, are returned to a manufacturer or a facility designated by the manufacturer. Absent a cooperative agreement, upon the written request of a manufacturer, provided reasonable advance notice has been provided, a CER shall make provisions for the separation and return of a manufacturer's CEDs and for a manufacturer of computer, monitors or printers, the manufacturer's orphan share of CEDs to the manufacturer, or a facility designated by the manufacturer, for recycling. Under such an arrangement, the CER shall bill the manufacturer, as provided for by subsections (j)(4) and (j)(6) of this section.
- (2) Before CEDs are returned to a manufacturer pursuant to subdivision (1) of this subsection, the manufacturer shall submit to the commissioner a written description of how CEDs being returned will be recycled. This written description shall include, at a minimum, the information specified in subparagraphs (C), (D), (E), (G), and if applicable, (K) and (L) of subsection (b)(3) of this section and any other information specified in section 22a-631(e) of the Connecticut General Statutes. The written description shall also include a written certification attesting to whether all CEDs being

returned to the manufacturer or a facility designated by the manufacturer, will be recycled reused or refurbished in accordance with chapter 446n of the Connecticut General Statutes and this section. A manufacturer requesting that CEDs be returned to it, or to a facility it has designated, pursuant to this subsection shall remain responsible for ensuring that all CEDs are recycled, reused or refurbished in compliance with the requirements of chapter 446n of the Connecticut General Statutes and this section. Whenever any information in the most recent written description submitted to the commissioner pursuant to this subdivision changes, or is inaccurate or misleading, or any relevant information was omitted, a manufacturer shall submit corrected or omitted information, in writing, to the commissioner not later than thirty (30) days after the information changes or is no longer accurate, or the manufacturer knows, or should have known, that relevant information was omitted.

(r) Severability. If any section, subsection, subdivision, subparagraph, clause, subclause, phrase, word or provision of this section shall be adjudged invalid or held unconstitutional, any such final judgment shall not affect the validity of this section as a whole or any part of provision hereof other than the part so adjudged to be invalid or unconstitutional.

Section 2. The Regulations of Connecticut State Agencies are amended by adding section 22a-630(d)-1 as follows:

(NEW) Section 22a-630(d)-1 Annual Registration Renewal Fee for Manufacturers.

(a) Definitions.

Terms used in this section shall have the meanings given to them in section 22a-638-1 of the Regulations of Connecticut State Agencies.

(b) Annual Registration Renewal Fee.

(1) Each year, the commissioner shall determine an annual registration renewal fee for each manufacturer. A manufacturer shall submit its annual registration renewal fee with the

submission of its annual re-registration. The fee shall be effective for one year. The annual registration renewal fee for each manufacturer shall not be less than \$250.00 and shall be based upon:

- (A) the expected costs to the department for administering the program established pursuant to chapter 446n of the Connecticut General Statutes for the upcoming year; and
- (B) each manufacturer's market share as determined pursuant to section 22a-638-1(g) to (i), inclusive, of the Regulations of Connecticut State Agencies and subsection (c) of this section.

(2) The annual registration renewal fee collected from all manufacturers shall cover, but not exceed, the expenses incurred by the department to administer the program established pursuant to chapter 446n of the Connecticut General Statutes.

(c) Annual Budget. Each year the commissioner shall develop an annual budget for administering the program established pursuant to chapter 446n of the Connecticut General Statutes, including, but not limited to, the cost of any program development, licensing, inspections, enforcement and education and outreach to carry out such program. The budget shall indicate categories of projected costs for administering the program and provide the total projected budget for each category. The commissioner shall post the budget on the department's website and shall provide the budget to the manufacturers.

(d) Calculation of Annual Registration Renewal Fee.

(1) To determine a manufacturer's annual registration renewal fee, the commissioner shall determine the approximate number of all computers, monitors, televisions and printers sold for the previous year. To the extent feasible, the number of units sold shall be based upon nationally available data, including but not limited to, the number of units shipped, retail sales data, consumer surveys or other nationally available market share data. The

commissioner shall divide the approximate number of units sold for each type of CED by the approximate total of all CEDs sold. This will yield a percentage of the total of all CEDs sold that is attributable to each type of CED. The total amount of the department's budget for administrative expenses for the upcoming year shall be apportioned to each type of CED such that the budget for each type of CED shall correspond to the percentage of the total units sold that is attributable to each type of CED. If monitors represent twenty-five (25%) per cent of the total of all CEDs sold, then twenty-five (25%) per cent of the department's budget shall be allocated to the manufacturers of monitors. The portion of the department's budget allocated to each type of CED shall then be allocated among the manufacturers based upon their market share as provided for in section 22a-638-1(g) to (i), inclusive, of the Regulations of Connecticut State Agencies.

(2) Notwithstanding the foregoing, regardless of the market share determination made by the commissioner, no manufacturer shall pay less than \$250.00 per year for its annual registration renewal fee.

(e) Notification of Annual Registration Renewal Fee. At least thirty (30) days before the date that an annual registration renewal shall be submitted, the commissioner shall provide a manufacturer, in writing, at the address provided on the manufacturer's registration or a more recent address provided to the commissioner by a manufacturer, the manufacturer's annual registration renewal fee. Where applicable, the notice shall state the amount owed for each type of CED.

(f) Late Fee. A manufacturer who pays its annual registration renewal fee after the date it is due shall pay an additional fee of ten (10%) per cent of such annual registration renewal fee, plus one and one quarter per cent per month or part thereof that the annual registration renewal fee was late. This subsection shall not prevent the commissioner from pursuing other remedies available by law.

(g) Method of Payment. Unless payment by another means is approved by the commissioner, the annual registration renewal fee shall be paid by certified check or money order made payable to “Department of Environmental Protection”.

(h) Failure to Pay. A manufacturer that does not pay its annual registration renewal fee, or any late fee, shall not be in compliance with the provisions of chapter 446n of the Connecticut General Statutes and this section. Such a manufacturer shall:

- (1) not be included in the list of compliant manufacturers posted on the department’s website pursuant to section 22a-634(a) of the Connecticut General Statutes; and
- (2) be subject to all of the consequences of being in non-compliance, including, but not limited to, any action provided for by law.

Statement of Purpose:

Computers, televisions and other electronic devices are one of the fastest growing portions of Connecticut’s waste stream. Currently, many electronic devices end up in the municipal solid waste stream where their hazardous constituents (e.g. lead, mercury, cadmium, nickel, zinc) threaten human health and the environment. In addition, many of the materials used to manufacture these devices are valuable and can be reused to make other products when recycled. These resources are wasted when electronic devices are landfilled or burned at resource recovery facilities as solid waste.

The purpose of these regulations is to remove certain electronic devices from the municipal solid waste stream by establishing a recycling program for household generated televisions, computers, monitors and printers, referred to in the regulations as “covered electronic devices” or “CEDs”.¹ Such a program will help to facilitate the reuse of valuable

¹ Section 22a-629(5) of the Connecticut General Statutes includes computers, monitors and televisions in the definition of “covered electronic device”. The proposed regulations add printers to that definition.

material resources and ensure that these electronic devices are managed in a manner that protects human health and the environment.

The proposed program, mandated by sections 22a-629 to 640, inclusive, of the Connecticut General Statutes requires a) towns to provide convenient and accessible recycling opportunities to their residents and b) CED manufacturers to cover the costs of transporting and recycling CEDs generated by households in Connecticut, rather than the municipalities and their residents. A CED manufacturer accomplishes this by participating in the program established by the law and these regulations or by establishing their own private program that meets the requirements of the law and these regulations. In addition, manufacturers must cover the commissioner's costs to administer the program.

Section 1 of the proposed regulations establishes:

- (1) definitions;
- (2) registration requirements for manufacturers of CEDs;
- (3) rules regarding obtaining and retaining approval from the Department as a CER ;
- (4) both general and specific standards for the reuse and recycling of CEDs, including, but not limited to, standards that a CER or manufacturer must ensure are followed at facilities used for the recycling of CEDs;
- (5) provisions regarding the billing of a manufacturer by a CER;
- (6) a process to determine brands attributable to a manufacturer and the market share for a manufacturer;
- (7) provisions regarding potential agreements or arrangements between a CER and a manufacturer;
- (8) requirements for retailers of printers and municipalities;
- (9) provisions regarding annual registration renewal fees for manufacturers, including, but not limited to, how such fees will be calculated;
- (10) provisions regarding the return of CEDs to a manufacturer and for manufacturers utilizing a private program; and
- (11) provisions for adding an electronic device to the list of CEDs.

Section 2 of the proposed regulations establishes a method for determining annual registration renewal fees to be paid by CED manufacturers to cover the commissioner's costs for administering the program.

These regulations establish standards and criteria for a new and innovative recycling program, based on manufacturer responsibility, for computers, monitors, televisions and printers generated by households in Connecticut. While the purpose of these regulations is to increase the recycling rate for these devices, the proposed regulations in no way relieve any person of his or her obligation to comply with any existing laws or regulations that establish requirements for the management of waste televisions, computers, monitors and printers. Therefore, these regulations do not change, or conflict with, any existing laws or regulations.

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