

NOTE

This document contains the Connecticut regulations for Standards for the Recycling of Covered Electronic Devices and Annual Registration Renewal Fee for Manufacturers. These regulations became effective on June 1, 2010, and were amended on November 13, 2012. This document was prepared by the State of Connecticut Department of Energy and Environmental Protection and is provided for the convenience of the reader. This is not the official version of the regulations. The official regulations are published by the State of Connecticut, Judicial Branch, Commission on Official Legal Publications in the Connecticut Law Journal. In the event there is inconsistency between this document and the regulations published in the Connecticut Law Journal, the Connecticut Law Journal publication will serve as the official version.

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(NEW) **Section 1.** Section 22a-638-1(a) of the Regulations of Connecticut State Agencies is amended to read as follows:

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

- (1) “Cathode ray tube” or “CRT” means cathode ray tube as defined in section 22a-629 of the Connecticut General Statutes;
- (2) “Commissioner” means the Commissioner of Energy and Environmental Protection or the Commissioner’s designee;
- (3) “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. Computer does not include an automated typewriter or typesetter, a portable handheld calculator, a portable digital assistant or other similar device;
- (4) “Consumer” means a person from a household.
- (5) “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 any of the following, including any component of the following:
 - (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;

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- (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;
- (6) “Covered electronic recycler or CER” means covered electronic recycler as defined in section 22a-629 of the Connecticut General Statutes;
- (7) “Department” means the Department of Energy and Environmental Protection;
- (8) “Disposal facility” means a facility receiving waste or residue, generated from the recycling of CEDs or their components, 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 facility where waste or residue is placed on the land or water;
- (9) “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;
- (10) “Manufacturer” means Manufacturer as defined in section 22a-629 of the Connecticut General Statutes;
- (11) “Manufacturer’s brands” means manufacturer’s brands as defined in section 22a-629 of the Connecticut General Statutes;
- (12) “Market share” means market share as defined in section 22a-629 of the Connecticut General Statutes;
- (13) “Materials of concern” means CEDs or components of CEDs that contain or consist of any of the following:
- (A) circuit boards, including, but not limited to, whole or shredded circuit boards;
 - (B) whole CRTs;

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- (C) glass from CRTs, except for glass that has been sorted, washed, and culletized and that is destined for use in manufacturing new CRTs or in any other product clearly identified in a CER's application that has been approved by the commissioner;
- (D) batteries;
- (E) any mercury-containing material; or
- (F) any material containing polychlorinated biphenyls (PCBs), including, but not limited to, capacitors and ballasts;
- (14) "Mercury-containing material" 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. Mercury-containing material includes phosphor powder prior to or during the retort process;
- (15) "Monitor" means monitor as defined in section 22a-629 of the Connecticut General Statutes;
- (16) "Operator" means the person responsible for the overall operation of a recycling or disposal facility;
- (17) "Orphan device" means orphan device as defined in section 22a-629 of the Connecticut General Statutes;
- (18) "Owner" means the person who owns a recycling or disposal facility or part of any such facility;
- (19) "Person" means person as defined in section 22a-629 of the Connecticut General Statutes;
- (20) "Portable computer" means portable computer as defined in section 22a-629 of the Connecticut General Statutes;
- (21) "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. Printer does not include a device used solely to copy documents, to scan documents or to send documents by facsimile;

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- (22) “Recycling” or “Recycle” means any process by which a CED or component of 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 or components of CEDs for recycling, and dismantling or shredding CEDs or components of CEDs;
- (23) “Recycling facility” means a place or location, including all land and structures or appurtenances, used to collect, store, separate or process CEDs or components of CEDs into raw materials or products. Recycling facility includes, but is not limited to, land and structures or appurtenances used for the disassembly and physical recovery of CEDs, or components of CEDs, including, but not limited to, crushing, shredding, grinding, glass-to-glass recycling or other operations. A recycling facility does not include:
- (A) the initial location used to collect CEDs from residents, provided no other activities described in this definition that would otherwise make such facility a recycling facility are conducted; or
 - (B) a facility where, for no more than ten days, activities incidental to the transportation of CEDs or components of CEDs are conducted, including, but not limited to:
 - (i) storing pre-packaged CEDs or components of CEDs;
 - (ii) transferring pre-packaged CEDs or components of CEDs from one mode of transportation to another; or,
 - (iii) aggregating pre-packaged CEDs or components of CEDs;
- (24) “Refurbishment” means, with respect to a CED that functions for its original intended purpose, installing a new electrical cord, making aesthetic improvements only, such as polishing or removing scratches, or upgrading a CED by replacing an operating system or other software, memory or component of a CED, such as a video card, sound card, disc drive or hard drive, that is working, with an upgraded system or software, memory or component of a CED. Other than the installation of a new electrical cord, upgrading a CED does not mean or include the repair of a non-functioning CED, including, but not limited to, repairing or replacing a non-functioning operating system or software,

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memory or component of a CED, with a functioning one;

(25) “Responsible official” means:

- (A) for an individual(s) or sole proprietorship, the individual(s) or proprietor, respectively;
- (B) for a corporation, any director or officer empowered by the Board of Directors pursuant to the corporation’s Certificate of Incorporation and any bylaws;
- (C) for a limited liability company (LLC), a manager, if the LLC’s Articles of Incorporation vest management of the LLC in one or more managers, otherwise, any member of the LLC;
- (D) for a partnership, any partner, subject to the provisions of a statement of partnership authority; 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.

(26) “Retailer” means retailer as defined in section 22a-629 of the Connecticut General Statutes;

(27) “Reuse” means continuing to use a CED, as is, without modification, for its original intended purpose;

(28) “Sell” or “sale” means sell or sale as defined in section 22a-629 of the Connecticut General Statutes;

(29) “Television” means a stand-alone display system containing a CRT or any other type of display primarily intended to receive video programming via broadcast transmitted over the air or by cable, satellite or other means, 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;

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(30) "Total weight" means weight expressed in pounds; and

(31) "Video display" means video display as defined in section 22a-629 of the Connecticut General Statutes.

(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) (A) 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

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renewal applications, will only be accepted for a sixty (60) day period specified by the commissioner each year. For renewal applications, such period shall be at least sixty (60) days before the expiration of an approval issued to a CER under this section. 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.

- (B) 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, except at no time shall the commissioner solicit or seek from, or recommend to, an applicant or any other person, a revision or modification to the fee proposed by an applicant pursuant to subdivisions (3)(H) and (I) and subdivision (5)(B) of this subsection. In addition, the commissioner shall not indicate or inform an applicant or any other person, at any time, that a particular fee be proposed pursuant to subdivisions (3)(H) and (I) and subdivision (5)(B) of this subsection, or that a revision or modification to any such fee proposed in an application submitted pursuant to this subdivision or subdivision (11) of this subsection, will increase, decrease or alter, in any way, the likelihood that such application will be approved or disapproved.
- (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:

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- (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 and components of CEDs. This description:

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- (i) shall include the processes and methods that will be used to recycle CEDs and components of 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 of initial collection from consumers until CEDs or components of CEDs are processed into raw materials or products and residue from recycling CEDs or components of CEDs is disposed of. This description shall include each recycling facility and each disposal facility used to recycle or dispose of CEDs or components of CEDs;
- (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 transporters noted in response to subparagraph (M) of this subdivision and all facilities noted in response to subparagraph (G) of this subdivision recycling or disposing of materials of concern;
- (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

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- (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 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 recycle CEDs or components of CEDs, and dispose of waste or residue generated from the recycling of CEDs or components of CEDs. If multiple facilities are disclosed for the same activity, describe fully the circumstances under which each facility will be used. For each facility disclosed provide, as applicable:
 - (i) a description of the storage, dismantling and processing capacity of each facility;
 - (ii) 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;
 - (iii) the following information only for each recycling facility that recycles materials of concern and each disposal facility that disposes of materials of concern:
 - (I) a list of all applicable permits, licenses or approvals, if any, issued by a municipality, 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; and
 - (II) 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

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applicable hazardous waste regulations, emergency response plans, and
environmental, health and safety plans; and

- (iv) a certification signed by the applicant affirming that:
 - (I) based upon reasonable investigation, that every facility for which information is being provided under subparagraph (G)(iii) of this subdivision 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; and
 - (II) the applicant has provided the owner or operator of each facility, for which information is being provided under subparagraph (G)(iii) of this subdivision, with a copy of the standards established in subsections (c) to (e), inclusive of this section.
- (v) for each recycling facility and each disposal facility subject to the requirements of subparagraph (e)(6)(A) of this section, evidence that each facility has the insurance required by subdivision (e)(6) of this section; and
- (vi) for each recycling facility and each disposal facility subject to the requirements of subparagraph (e)(7)(A) of this section, evidence that each facility has the financial assurance or other guarantee, as may be required by subdivision (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;

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- (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;

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- (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 transporter who will transport the CEDs for or on behalf of a manufacturer, at the manufacturer's expense;
 - (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;

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- (L) for CEDs or components of 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 CEDs will be reused or refurbished or how CEDs or components of CEDs will be recycled once exported, a disclosure of all of the countries to which CEDs or components of CEDs are to be exported, the countries through which CEDs or components of CEDs will travel, the import and export requirements for all such countries, and the disposition of CEDs or components of CEDs that are off-specification, that may break in transit or that are not reused, refurbished or recycled for other reasons;
 - (M) a disclosure of each transporter used to transport CEDs from the initial site used to collect CEDs from consumers to the initial recycling facility, where CEDs are first dismantled, crushed, shredded or processed in a similar manner. For each such transporter provide:
 - (i) a description of the transportation and storage capacity for such transporter;
 - (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; and
 - (iii) a description of environmentally preferable practices, if any, (such as alternative fuels, fleet operations or energy efficiency practices) that will be used in implementing chapter 446n of the Connecticut General Statutes and this section;
 - (N) any other information deemed necessary by the commissioner; and
 - (O) a \$250.00 initial application fee.
- (4) An applicant shall 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,

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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 regarding an applicant relating to the requirements of chapter 446n of the Connecticut General Statutes and this section. 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)(F) of this subsection;

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- (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 one half times the population standard deviation above the mean, as determined by the commissioner, for the applications under consideration by the commissioner;
 - (II) whether the proposed fees exceed the prevailing rates charged in the industry as determined by the commissioner; or
 - (III) 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 factor deemed significant by the commissioner regarding an applicant relating to the requirements of chapter 446n of the Connecticut General Statutes and this section.

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- (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.

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- (B) In addition to actions taken under subdivision (12) of this subsection, 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.

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- (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 any transporter listed in response to subdivision (3)(M) 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)(M), 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

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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) or (3)(M) 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) or (3)(M) 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.

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- (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

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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, or to a registered manufacturer, 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. A CER shall also determine the total weight of each type of CED (meaning the total weight of computers, of monitors and of printers, each figured separately) returned to a manufacturer or a facility designated by a manufacturer pursuant to subsection (q) of this section and shall maintain written documentation of the total weight of each type of CED. 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. 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. A CER shall also determine the total weight of all televisions returned to a manufacturer or a facility designated by a manufacturer pursuant to subsection (q) of this section and shall maintain written documentation of the total weight of all such televisions. 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.

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(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, possesses 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.

A CER may comply with the requirements of this subdivision through various means, including, but not limited to, contractual arrangements, audits, or certifications statements.

(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 pursuant to an agreement with, on behalf of or at the direction of such CER:
 - (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

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exporting such CED or component of a CED, pursuant to an agreement with, on behalf of or at the direction of such CER, 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 pursuant to an agreement with, on behalf of or at the direction of such CER:
- (i) removes and handles separately all materials of concern; 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 materials of concern will be removed in member countries of the Organisation for Economic Co-operation and Development.

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- (D) A CER shall ensure that CEDs or components of CEDs that are exported, pursuant to an agreement with, on behalf of or at the direction of such CER, are not stored, managed, handled, processed or disposed of in a manner that:
- (i) conflicts with any applicable requirement of the locality or country into which CEDs are exported; or
 - (ii) 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;

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- (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

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- (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 (3) 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.

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- (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;

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- (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

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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

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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 that is 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 an 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:

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- (i) ensure that the owner or operator of each recycling facility or each disposal facility, as applicable, maintains 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 certification or credential ceases to exist or is no longer offered or issued.

For purposes of this subdivision an independent entity means an entity that issues a certification or credential concerning environmental management systems and that is not affiliated, employed or subject to control, restriction or limitation by the owner or operator of the recycling or disposal facility issued such certification or credential. Any such entity shall not be affiliated with the owner or operator of any such recycling or disposal facility through any indirect or direct, familial, corporate or financial relationship and shall not render services or provide a certification or credential under an arrangement whereby no fee will be charged if a specified finding or result is attained, or where the payment of a fee, or the amount of the fee, is in any way dependent upon a specified finding or result of such services, 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;

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- (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.

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- (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 an 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) ensure that the owner or operator of each recycling facility or each disposal facility, as applicable, maintains 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 certification or credential ceases to exist or is no longer offered or issued.

For purposes of this subdivision an independent entity means an entity that issues a certification or credential concerning environmental health and safety measures and that is not affiliated, employed or subject to control, restriction or limitation by the owner or operator of the recycling or disposal facility issued such certification or credential. Any such entity shall not be affiliated with the owner or operator of any such recycling or disposal facility through any indirect or direct, familial, corporate or financial relationship and shall not render services or provide a certification or credential under an arrangement whereby no fee will be charged if a specified finding or result is attained, or where the payment of a fee, or the amount of the fee, is in any way dependent upon a specified finding or result of such services, certification or credential.

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(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 either recycles or disposes of materials of concern shall establish and maintain, at a minimum the following insurance coverage for each such facility, unless such insurance coverage is not offered or is unobtainable:
- (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”):
 - (I) for facilities where whole CEDs are dismantled, shredded, crushed or processed in a similar manner: \$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 of CEDs or any facility operation involving CEDs; and
 - (II) for all other recycling or disposal facilities: \$1,000,000 combined and single limit per occurrence with an annual aggregate of \$2,000,000 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 of CEDs or any facility operation involving CEDs.

For the purposes of this subparagraph, insurance coverage shall not be deemed to not be offered or to be unobtainable if the owner or operator of such recycling

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facility or disposal facility is denied insurance coverage or if such owner or operator elects to not obtain such insurance coverage.

- (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) 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.
- (D) 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 recycles or disposes of 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

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emergencies for any such facility in connection with the recycling or disposal of CEDs or components of CEDs 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.

- (E) The commissioner may require that a CER ensure that the owner or operator of a recycling or disposal facility obtain and maintain insurance at a specified minimum level or at a level that exceeds the amounts prescribed in this subdivision.
- (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 recycles or disposes of materials of concern, has and maintains a closure plan for any such facility. 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 company 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.

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- (B) The closure plan and cost estimate required by subparagraph (A) of this subdivision 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) The requirements of subparagraphs (A) and (B) of this subdivision may be met through other means acceptable to the Commissioner, including, but not limited to, a government program that provides the functional equivalent to compliance with such requirements.
- (D) 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 if any such assurance is required by applicable laws and regulations of the state or locality where a facility is located or by a permit issued by a governmental entity for any such facility.
- (E) 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

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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 shall 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 is not 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

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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 attribution 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 attribution 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.

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- (2) For each type of CED, the commissioner shall determine a manufacturer's market share , for the purposes specified in subsection (1) of this section, 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, information provided by the manufacturers, or other nationally available market share data.
- (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

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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

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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 the initial invoice received from a CER not more than ninety (90) days after the date of receipt of such invoice. Thereafter, all invoices from such CER shall be paid within thirty (30) days of receipt by the manufacturer. 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 (8), inclusive, of this subsection may be

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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), (4) and (5) of this subsection.
- (B) Invoices regarding televisions shall, for the period covered by the invoice, include:
- (i) the total weight for all televisions, which shall include separately, the total weight of all televisions recycled and the total weight of all televisions returned to a manufacturer or to a facility designated by a manufacturer;

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- (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 (6), (7) and (8) 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:

$$A_R = [M_R + (O \times S_R)] \times R$$

where:

- A_R = the amount due from the manufacturer in U.S. dollars;
- M_R = total weight, in pounds, of the brands for which the manufacturer is responsible that are recycled;
- O = total weight, in pounds, of orphan devices;
- S_R = the manufacturer's *pro rata* share of orphan devices, expressed as a decimal, if the manufacturer's share for orphan devices is recycled by a CER. This amount will be zero if the manufacturer's share for orphan devices is returned to a manufacturer or a facility designated by a manufacturer; and
- R = fee for the total cost of transporting and recycling CEDs, expressed as a price in U.S. dollars 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:

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$$A_D = [M_D + (O \times S_D)] \times D$$

where:

- A_D = amount due from the manufacturer in U.S. dollars;
 M_D = total weight, in pounds, of the brands for which the manufacturer is responsible that are returned to a manufacturer or a facility designated by a manufacturer;
 O = total weight, in pounds, of orphan devices;
 S_D = the manufacturer's *pro rata* share of orphan devices, expressed as a decimal, if the manufacturer's share for orphan devices is returned to a manufacturer or a facility designated by a manufacturer. This amount will be zero if the manufacturer's share for orphan devices is not returned to a manufacturer or a facility designated by a manufacturer but is recycled by a CER; and
 D = fee for the total cost for a computer, monitor or printer, including any orphan devices, being returned to a manufacturer or a facility designated by a manufacturer, expressed as a price in U.S. dollars per pound, in accordance with the most recent fee approved by the commissioner or agreed to by the CER and the manufacturer.

- (5) The total amount due for the period covered by an invoice submitted to a manufacturer for computers, monitors and printers, each figured separately, shall be equal to the sum of A_R and A_D as calculated under subdivisions (3) and (4) of this subsection.
- (6) The amount due for the period covered by an invoice submitted to each manufacturer for those televisions that are recycled shall be calculated as follows:

$$A = W_R \times MS \times R$$

where:

- A = amount due from the manufacturer in U.S. dollars;
 W_R = the total weight, in pounds, of all televisions that are recycled;
 MS = the manufacturer's market share expressed as a decimal; and

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

- (7) The amount due for the period covered by an invoice submitted to each manufacturer for those 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:

$$A = W_D \times MS \times D$$

where:

A = amount due from the manufacturer in U.S. dollars;
 W_D = the total weight, in pounds, of all televisions that are returned to a manufacturer or to a facility designated by a manufacturer;
MS = the manufacturer's market share expressed as a decimal; and
D = fee for the total cost of televisions being returned to a manufacturer or facility designated by a manufacturer, expressed as a price in U.S. dollars per pound, in accordance with the most recent fee approved by the commissioner or agreed to by the CER and the manufacturer.

- (8) When an invoice submitted to each manufacturer includes both televisions that are recycled and other televisions that are returned to a manufacturer, or a facility designated by the manufacturer, the amount due from each manufacturer for televisions shall be the sum of the amount due as calculated under subdivisions (6) and (7) of this subsection.

(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;

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- (B) provides for billing arrangements that are different from the arrangements specified in subsections (j) (2) to (8), 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. Notwithstanding the foregoing, compliance with:
 - (A) subsections (a) , (b) and (c) of section 22a-630 of the Connecticut General Statutes regarding printers shall not be required prior to June 1, 2010; and
 - (B) section 22a-633 of the Connecticut General Statutes regarding printers shall not be required until on or after September 29, 2010.
- (2) A manufacturer of printers shall comply with the registration requirements in subsection (o) of this section.

(m) Municipal Requirements.

- (1) Definitions. For purposes of this subsection:

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- (A) “municipality” means any town, city, borough, village, consolidated town and city, consolidated town and borough, or a regional authority representing any such entities; and
- (B) “approved plan” means a municipal plan that has been approved by the commissioner.
- (2) Submission of a Plan.
- (A) Not later than July 1, 2010, 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.

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- (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

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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:

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- (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.

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- (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 June 1, 2010, shall register with the department on a form prescribed by the commissioner no later than July 31, 2010.
 - (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 June 1, 2010, but who sells or offers CEDs for sale by any means in Connecticut after June 1, 2010, 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 June 1, 2010, shall submit a revised registration to the department, on a form prescribed by the commissioner, not later than July 31, 2010.

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- (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 June 1, 2010 shall register with the department, on a form prescribed by the commissioner, not later than July 31, 2010. 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 June 1, 2010, but sells or offers printers for sale by any means in Connecticut after June 1, 2010 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. At least thirty (30) days before the date that any such re-registration is required, the commissioner shall notify 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, of the date when re-registration is required. 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.

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- (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.

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(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

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- (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 CEDs, for the brands attributable to such manufacturer, are returned to the manufacturer or a facility designated by the manufacturer for recycling, reuse or refurbishment. A manufacturer of computers, monitors or printers, may also enter into a cooperative agreement with a CER under which such manufacturer's share of orphan devices, as determined pursuant to subsection (h) of this section, are returned to the manufacturer or a facility designated by the manufacturer for recycling, reuse or refurbishment. 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 to the manufacturer or a facility designated by the manufacturer for recycling, reuse or refurbishment, of CEDs for the brands attributable to a manufacturer. Absent a cooperative agreement, upon the written request of a manufacturer of computers, monitors or printers, provided reasonable advance notice has been provided, a CER shall make provisions for the separation and return to the manufacturer or a facility designated by the manufacturer, such manufacturer's share of orphan devices, as determined pursuant to subsection (h) of this section, for recycling, reuse or refurbishment. Under such an arrangement, the CER shall bill the manufacturer, as provided for in subsection (j) of this section.
- (2) (A) 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. Before a CED is returned pursuant to subdivision (1) of this subsection, a CER shall determine the total weight of each type of CED (meaning

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the total weight of televisions, of computers, of monitors and of printers, each figured separately) returned to a manufacturer or a facility designated by a manufacturer and shall maintain a written record of the total weight of each type of CED.

(B) 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:

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

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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

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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 (1¼ %) 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

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- (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:

The Department of Energy and Environmental Protection “DEEP” or “the Department” is proposing minor revisions to the program through which household generated televisions, computers, monitors and printers, referred to in the regulations as “covered electronic devices” or “CEDs” can be recycled as opposed to simply discarded. This program helps facilitate the reuse of valuable material resources and ensure that these electronic devices are managed in a manner that protects human health and the environment. The regulations implementing this program were first adopted on June 1, 2010. Based upon the Department’s first experience implementing an e-waste program, it became apparent that a few regulatory revisions were needed. The proposed regulations would make these revisions.

Section 1 – RCSA Section 22a-638-1(a) Definitions

“Commissioner” – There is an existing definition of “commissioner”. The proposed modification clarifies that the commissioner is the commissioner of a newer agency which merged energy with environmental protection consistent with Public Act 11-80.

“Covered electronic device” or “CED” – There is an existing definition of covered electronic device, or CED. The definition contains exclusions for certain items that are not CEDs. Consistent with the Department’s understanding of these exclusions, the proposed modification would clarify that the list of excluded items includes components of those excluded items.

“Department” – There is an existing definition of “Department”. The proposed modification clarifies that the former Department of Environmental Protection has been renamed as the Department of Energy with Environmental Protection consistent with Public Act 11-80.

“Disposal facility” – There is an existing definition of disposal facility. Consistent with the Department’s understanding of this term, the proposed modification clarifies that this definition includes facilities that receive waste or residue, generated from the recycling of

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components of CEDs.

“Materials of concern” – The existing regulations impose certain additional requirements for higher risk materials contained in CEDs. Each time these requirements are imposed the existing regulations list these higher risk materials. Rather than specify these materials each time they appear in the regulations the Department is proposing a definition which will be used in the regulations to refer to these items. Also, this definition clarifies when glass from CRTs will be considered a higher risk material.

“Mercury-containing material” – Two changes to this definition are proposed. One is simply editorial, the name for these materials, “mercury-containing devices,” is being changed to “mercury-containing materials.” This is to avoid confusion with the term “mercury-containing devices” and its associated requirements in the hazardous waste regulations. Two, the Department is clarifying that phosphor powder is considered a mercury containing material prior to or during the retort process.

“Recycling” – There is an existing definition of recycling. Consistent with the Department’s understanding of this term, the proposed modification clarifies that recycling includes the recycling of components of CEDs. Also, the term “recycle” was added to clarify that the act of recycling is synonymous with the term “recycle” used in the e-waste regulations.

“Recycling facility” – There is an existing definition of recycling facility. Consistent with the Department’s understanding of this term, the proposed modification clarifies that this definition includes facilities that store CEDs or components of CED and facilities that recycles components of CEDs. Also, there has been some regulatory uncertainty associated with whether certain facilities used during transportation are or are not recycling facilities. The proposed definition describes certain activities considered incidental to transportation and clarifies that facilities used for these purposes only would not be considered a recycling facility. Finally, the Department is making editorial changes to the other exclusion from recycling facility for facilities where CEDs are collected from residents.

“Responsible official” – There is an existing definition of responsible official. The proposed modification clarifies who is a responsible official based on type of business. This person shall also have the legal authority under applicable statute to sign the required certification on behalf of a recycling or disposal facility which is proposed to be used by a CER.

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Grammatical revisions are also being made to reflect: 1) capitalization errors; and 2) changes in numbering of definitions with the insertion of a new definition.

Sec. 2 – Subparagraphs (D) and (E) of RCSA section 22a-638-1(b)(3)

Subparagraphs (D) and (E) describe information that a covered electronic recycler must include in an application submitted to the Department. Subparagraph (D) requires a detailed description of the process flow proposed by an applicant. Subparagraph (E) concerns compliance history information.

(D) and (D)(i) In these provisions, out of an abundance of caution to help applicants, the Department is clarifying that CEDs includes CEDs and components of CEDs.

(D)(ii) The Department is proposing to clarify that the scope of the process flow description begins from the point of initial collection from residents to until CEDs or components of CEDs are processed into raw materials and residue from recycling CEDs is disposed of. Each recycling or disposal facility used in this process must be identified.

(E) The Department is proposing to change the compliance information that must be submitted by a CER. Instead of requiring compliance information on the CER and all transporters and recycling or disposal facilities that a CER may use, as proposed compliance information would only be required for the CER, initial transporters, and recycling and disposal facilities that receive materials of concern. As proposed, compliance information would not be required for all other transporters and recycling and disposal facilities that do not receive materials of concern.

Sec. 3 – Subparagraph (G) of RCSA section 22a-638-1(b)(3)

Subparagraph (G) requires a covered electronic recycler to disclose certain information about both transporters and recycling and disposal facilities that the CER intends to use. Since the Department is proposing different requirements for transporters than it is for recycling or disposal facilities, the Department is proposing to separate the disclosure requirements for transporters from those for recycling and disposal facilities. In addition, the Department is proposing revisions to the disclosure requirements for recycling and disposal facilities.

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(G) The change to this portion of this subdivision would eliminate transporters from the disclosure requirements of this subdivision. (The disclosure requirements for transporters would now be subdivision (M)). Also consistent with the Department's prior understanding and the changes to the definitions, the disclosure requirements would apply to recycling and disposal facilities that handle components of CEDs. Finally, since storage would now be included in the definition of recycling, the reference to facilities used to store CEDs or their components is being deleted since it is not longer necessary.

(G)(iii) The Department is proposing changes to the current requirement that a CER provide certain information for all the recycling or disposal facilities it intends to use. Instead, information about permits, licenses, or approvals, and plans in effect to ensure worker safety, emergency and preparedness, will only be required for each recycling and disposal facility that recycles or disposes of materials of concern. As a result of these changes a CER would not need to provide such information regarding recycling or disposal facilities that do not receive any materials of concern. Also, since the requirements in what is currently identified in clauses (ii) and (v) are being subsumed in new clause (iii), the Department is proposing to delete clauses (ii) and (v).

(G)(iv) The Department is proposing to change the current requirement that a CER obtain the certification specified in the regulations from all the recycling or disposal facilities it intends to use. This requirement has been problematic in certain situations. Instead, the Department is proposing to require that the applicant seeking to become a CER must provide a certification that based upon reasonable investigation the facility a CER intends to use to recycle or dispose of materials of concerns has the permits, licenses or governmental authorizations to do so and that the CER has provided any such facility with the standards established in subsections (c) to (e) of these regulations. As revised, this provision should prove more workable, while still ensuring that facilities recycling or disposing of CEDs for a CER not only have the necessary authorizations to do so, but have also been provided notice of the standards for the e-waste program.

(G)(v) and (vi) The Department is proposing technical corrections for the term subsection which should be subdivision.

Sec. 4 – Subparagraphs (L) and (M) of RCSA section 22a-638-1(b)(3)

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(L) The regulations currently require that a CER provide certain information about CEDs that will be exported. Consistent with the Department's prior understanding of these requirements, the Department is proposing to clarify that this subdivision applies to the export of components of CEDs.

(M) Consistent with the changes to subparagraph (G), the requirements regarding the disclosure of a transporter are being moved to subparagraph (M) and the existing subparagraph (M) and (N) are being renumbered without change as subparagraph (N) and (O) respectively. In addition, the existing regulations require a CER to provide certain information about all the transporters that a CER intends to use. As proposed, a CER would need to provide such information only about the transporters used to transport CEDs from collection sites to the initial recycling facility where dismantling, shredding, crushing, first occurs. As proposed, A CER would not need to provide information about other transporters it intends to use.

Sec. 5 – Subparagraph (A) of RCSA Section 22a-638-1(b)(5)

(viii)(II) When selecting a CER the Department reviews the proposed fees that a CER intends to charge if CEDs are returned to a manufacturer or to a recycling or disposal facility designated by a manufacturer. In assessing these proposals, the Department shall determine which fees are within one and one-half times the population standard deviation above the mean. The proposed editorial revision makes clear that this assessment concerns one and one half times the population standard deviation.

Sec. 6 – Subdivision (9) of RCSA Section 22a-638-1(b)

(9) The existing regulations make reference to the transporter(s) that a CER intends to use by reference to the transporters listed in response to subparagraph (G). However, the Department is proposing to move the transporter disclosure requirements from subparagraph (G) to subparagraph (M). The changes proposed to subdivision (9) reflect this change in the reference to transporter(s) being listed under subparagraph (M). In addition, the underlying requirement in subdivision (9), that a CER notify the Commissioner of a change in transporter(s), would apply only to the transporters that must be disclosed under subparagraph (M) and not to all transporters.

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Sec. 7 – Subparagraphs (C) and (D) of RCSA Section 22a-638-1(b)(12)

(C) and (D) Both of these subparagraphs make reference to transporter(s) that a CER intends to use by reference to the transporters listed in response to subparagraph (G). However, the Department is proposing to move the transporter disclosure requirements from subparagraph (G) to subparagraph (M). The changes proposed to subparagraphs (C) and (D) reflect this change in the reference to transporter(s) being listed under subparagraph (M).

Sec. 8 – Subparagraph (C) of Section 22a-638-1(c)(6)

The existing regulations specified certain high risk materials that were subject to certain requirements. The Department is now proposing the use of the term materials of concern to refer to such materials. The proposed revisions to subparagraph (C) are editorial in nature reflecting this change in reference to materials of concern.

Sec. 9 – Subdivision (6) of RCSA Section 22a-638-1(e)

The existing regulations require that a CER ensure that each recycling facility and each disposal facility meet certain insurance requirements. The Department is proposing changes to some of these requirements.

(6)(A) Consistent with the newly proposed definition of materials of concern, the Department is proposing to refer to the high risk materials listed in this subparagraph with the new term materials of concern. In addition, with respect to the facilities required to have insurance, the Department is clarifying that the requirement to have insurance does not apply if the required coverage is not offered or unobtainable, although this exception may not be used when insurance is in fact available, but an entity is denied coverage or chooses to not avail itself of such coverage.

6(A)(ii) Currently, under this clause, the facilities noted in subparagraph (A) must have a specified level of insurance for pollutant releases, accidents and other emergencies. The Department is proposing to change the amount of insurance required depending upon the nature of the facility. For facilities where whole CEDs are dismantled, shredded crushed or similarly processed, the current amount of insurance, 3 million combined single limit per

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occurrence with an annual aggregate of 6 million for on-site and off-site bodily injury, property damage or clean-up costs, remains the same. The Department is proposing to add a new subclause for all other facilities, where the amount of insurance required is 1 million combined single limit per occurrence with an annual aggregate of 2 million for on-site and off-site bodily injury, property damage or clean-up costs. Through this change the insurance requirements for certain recycling or disposal facilities are being reduced.

(6)(D) The Department proposes to clarify that: 1) the term receives means recycles or disposes; and 2) the insurance required for recycling and disposal facilities relates to the recycling and disposal of CEDs or components of CEDs and not other activities.

(6)(E) The existing provisions in subparagraph (C) allow the Commissioner to require that a CER ensure any recycling or disposal facility that recycles or disposes of a list of higher risk materials obtain and maintain greater levels of insurance than those specified in subdivision (6). This provision is being retained so that it includes facilities that do not recycle or dispose of higher risk materials. The provision as revised is being moved to new subparagraph (E).

Sec. 10. Subdivision (7) of RCSA Section 22a-638-1(e)

The existing regulations require that a CER ensure that each recycling facility and each disposal facility meet certain financial assurance and closure requirements. The Department is proposing changes to some of these requirements similar in nature to the changes proposed in Section 9.

(7)(A) Consistent with the newly proposed definition of materials of concern, the Department is proposing to refer to the high risk materials listed in this subparagraph with the new term materials of concern.

(7)(B) Consistent with the change to subparagraph (A), the Department is proposing updates to the closure plan and cost estimate that must only be done for the facilities referenced in subparagraph (A) of subdivision (e)(7).

(7)(C) This new subparagraph concerns the applicability of the closure plan and cost estimate requirements. It provides that compliance with these requirements can be met through other means acceptable to the Commissioner, such as a governmental program, that

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provides functionally equivalent protection. This will provide CERs with additional means to ensure that these requirements are satisfied.

(7)(D) The current regulations require that a CER ensure that each recycling facility and each disposal facility that recycles or disposes of specified higher risk materials must establish and maintain an irrevocable financial assurance instrument or other guarantee to cover the costs of closing its facility whenever such assurance is required by the state or locality where the facility is located. The Department is proposing to change this provision to clarify that the applicable laws and requirements of the state or locality where the facility is located include any permit issued by a governmental entity for the facility. The only other changes to this subparagraph are editorial in nature.