

Small Business Impact Statement

Prior to adopting a new section or amendment, Section 4-168a of the Connecticut General Statutes (C.G.S.) requires that each state agency consider the effect of such action on small businesses as defined in C.G.S. Section 4-168a. When such regulatory action may have an adverse effect on small businesses, C.G.S. Section 4-168a directs the agency to consider regulatory requirements that will minimize the adverse impacts on small businesses if the addition of such requirements (1) will not interfere with the intended objectives of the regulatory action and (2) will allow the new section or amendment to remain consistent with public health, safety and welfare.

State Agency submitting proposed regulations: Department of Energy and Environmental Protection

Subject matter of Regulation: Regulation Concerning Revisions to Standards for Recycling of Covered Electronic Devices

In accordance with C.G.S. Section 4-168a, staff analyzed the effect on small businesses of the proposed regulations and determined the following:

Check all appropriate boxes:

- The regulatory action will not have an effect on small businesses.
- The regulatory action will have an effect on small businesses, but will not have an adverse effect on such small businesses.
- The regulatory action may have an adverse effect on small businesses, and no alternative considered would be both as effective in achieving the purpose of the action and less burdensome to potentially effected small business. Alternatives considered include the following:
- (1) The establishment of less stringent compliance or reporting requirements for small businesses;
 - (2) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
 - (3) The consolidation or simplification of compliance or reporting requirements for small businesses;
 - (4) The establishment of performance standards for small businesses to replace design or operational standards required in the new section or amendment; and
 - (5) The exemption of small businesses from all or any part of the requirements contained in the new section or amendment.
- The regulatory action will have an adverse effect on small businesses that cannot be minimized in a manner that is consistent with public health, safety and welfare.

Has the State agency listed above notified the Department of Economic and Community Development of its intent to take the proposed action and completed the Agency Fiscal Estimate of Proposed Regulations?

The agency will notify DECD at time of public notice.

AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

Agency Submitting Regulation: Energy and Environmental Protection Date: 8-1-12

Subject Matter of Regulation: Regulation Concerning Revision to E-Waste Recycling Program

Regulation Section No.: 22a-638-1 Statutory Authority: 22a-630(d) and 22a-638

Other Agencies Effected: None

Effective Date Used In Cost Estimate: _____

Estimate Prepared By: Mark Latham Telephone No.: 860-418-5930

ESTIMATE OF COST OR REVENUE IMPACT OF PROPOSED REGULATION

Agency: Energy and Environmental Protection Fund Effected: Not Applicable

	First Year	Second Year	Full Operation
<u>Number of Positions</u>	0	0	0
Personal Services	0	0	0
Other Expenses	0	0	0
Equipment	0	0	0
Grants	0	0	0
Total State Cost or (Savings)	0	0	0
Estimated Revenue Gain or (Loss)	0	0	0
Total Net State Cost or (Savings)	0	0	0

Note: No additional resources needed for this package. Original regulation packet anticipated three FTEs to administer the new electronic waste (“E-Waste”) program using a dedicated revenue stream from electronic device manufacturers to cover all administrative costs borne by the Department. Given recent state fiscal constraints, the Department is accommodating the E-Waste program by shifting existing resources and prioritizing and juggling programmatic work in this and other programs. In the near future, the Department hopes to be able to pursue new staff and resources to administer this program.

Explanation of State Impact of Regulation:

No Impact. It is anticipated that existing resources, as available, will be used to develop the regulations, provide the necessary outreach and compliance assistance and program oversight.

Explanation of Municipal Impact of Regulation:

Minimal to Positive Impact. Based on current law, municipalities are required to participate in the statewide electronic recycling program and provide convenient and accessible recycling opportunities for their residents. The municipalities are not required to pay for the recycling program as electronics manufacturers have agreed to take responsibility for paying the collection, recycling and disposal costs. Most of the municipalities are already collecting covered electronic devices (“CED”). Thus, the regulation revision is

not expected to result in a fiscal impact on municipalities. Some municipalities that have previously charged residents to recycle electronic devices may realize a savings from the implementation of the statewide electronic recycling program. With the implementation of the E-Waste program, municipalities no longer need to finance the costs associated with discarded CEDs through solid waste tipping fees or by paying for the recycling of these units. The revision may also facilitate new electronic recyclers to seek approval under the program, since some of the standards in the regulation were more stringent than necessary and may have dissuaded otherwise acceptable businesses from registering and provide municipalities greater opportunities for competition of services.

Explanation of Small Business Impact of Regulation:

Positive Impact. The regulation revisions harmonize the performance standards for covered electronic recyclers with generally-accepted business practices to potentially provide opportunities for small businesses in Connecticut to develop or expand use of recyclable materials, given increased availability of materials to the marketplace and enhanced program implementation.

In general, CGS sections 22a-629 to 640, inclusive, and the regulations have the potential to impact small businesses as follows:

Manufacturers of covered CEDs, which includes computers, monitors, printers and televisions, are required to pay the reasonable costs of transporting and recycling CEDs generated by households in Connecticut. In addition, CED manufacturers must also pay an annual fee which is to be used to cover the commissioner's costs to administer the program. Therefore, small businesses in Connecticut that manufacture and sell CEDs will be required to pay their share of these costs. To date, the DEEP has identified 26 potential computer manufacturers in Connecticut.

The law and existing regulations positively impact small businesses that generate CEDs. While the law does not require manufacturers to pay the costs of recycling CEDs generated by businesses, it has the potential to provide small businesses more options for managing their CEDs. Municipalities that provide their residents convenient and accessible recycling opportunities may also accept commercially generated CEDs which would provide small businesses a more convenient and, based upon economy of scale, more affordable recycling option for their CEDs. In addition, the cost of current recycling options should decrease as the implementation of this program increases recycling capacities and competition for services in the state.

The regulations may have a positive impact on those small businesses choosing to participate in this program as an approved CED recycler. Currently, there are six covered electronic recyclers ("CERs") approved to operate under the statewide electronic recycling program. Of the six, one is a business located in Connecticut and the other five are businesses located in nearby states. In addition, DEEP is aware of at least six other small businesses in Connecticut engaged in electronics recycling per a newer General Permit to Disassemble Used Electronics. The CER approval period is one (1) year from the date of approval, and the six current CER approvals will expire on February 4, 2013. Prior to this expiration, DEEP must open an application period, at which time any company may apply to become a CER for a period of up to three years per the current regulations.

While a small business choosing to seek approval to become a CER has the potential to expand its services and staff through participation in this program, a small business not seeking such approval may also benefit from expanded business opportunities by partnering with a CER to provide that recycler transportation, storage or processing services related to the management of CEDs.

Is a regulatory flexibility analysis required pursuant to C.G.S. 4-168a? No.

The following methods were considered and used to reduce adverse impacts of the existing regulations on small businesses:

- 1.) establishment of performance standards to replace design or operational standards;
- 2.) recycling costs and annual fees assessed based on the units attributable to the manufacturer or on the manufacturer's market share; and
- 3.) use of a stakeholder process.

Using these methods, adverse impacts on businesses have been reduced as follows:

- 1.) Whenever possible, the regulations establish general performance standards for facility design and operation rather than prescribing specific standards with which electronics recyclers must comply. To receive approval to be a CER, an electronics recycler must include in his or her approval application a description of how the design and operation of the facility complies with the standards.
- 2.) Under this program, CED manufacturers must pay the reasonable costs of transporting and recycling CEDs generated by households in Connecticut. The burden of these costs has been made as equitable as possible by basing the cost billed to a manufacturer either on the manufacturer's market share or on the units attributable to that manufacturer. Specifically, a television manufacturer will pay transportation and recycling costs based on its market share of televisions sold during the previous year. A computer, monitor or printer manufacturer will pay these costs based on the weight of all the units it manufactured that are received by a DEEP-approved CER for processing.
- 3.) Pursuant to section 22a-630(d) of the Connecticut General Statutes, CED manufacturers must pay an annual fee to cover the commissioner's costs for administering the program. Such fees must cover, but not exceed, the expenses incurred by the commissioner. Rather than assessing each manufacturer the same annual fee, the law and the proposed regulations require DEEP to calculate these fees based on a sliding scale that represents a manufacturer's market share of CEDs it sold in the state during the prior year. This approach provides an equitable way to calculate a CED manufacturer's annual fee. A manufacturer is only responsible for that portion of the commissioner's administrative costs attributable to the type(s) of CEDs it manufactures and, within each category of CED, larger manufacturers pay a greater percentage of the commissioner's administrative costs than smaller manufacturers.
- 4.) Through contact with trade associations, regional municipal planning agencies and individuals seeking information about the new law following its adoption, a stakeholder workgroup was formed to assist the department in drafting the regulations. This workgroup, which was comprised of manufacturers, electronics recyclers, municipalities and representatives from other states, was consulted throughout the regulation drafting process. Through this workgroup, affected parties, including any participating small businesses, could voice their concerns and ideas regarding the content of the regulations. In an effort to draft the most equitable regulations possible, the department considered each comment and, to the extent possible, drafted the regulations to address the issues and concerns that were raised.