

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

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] ray [Tube] tube” or “CRT” means [Cathode] cathode [Ray] ray [Tube] tube [or CRT] as defined in section 22a-629 of the Connecticut General Statutes;
- (2) “Commissioner” means the [Commissioner] 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 [do] shall not include any of the following, including any of their components:
 - (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;

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

- (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] electronic [Recycler] recycler or CER” means [Covered] covered [Electronic] electronic [Recycler] recycler as defined in section 22a-629 of the Connecticut General Statutes;
- (7) “Department” means [Department] department of Energy and Environmental Protection [as defined in section 22a-629 of the Connecticut General Statutes];
- (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 [land disposal facility] 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] brands” means [Manufacturer’s] manufacturer’s [Brands] brands as defined in section 22a-629 of the Connecticut General Statutes;
- (12) “Market [Share] share” means [Market] market [Share] share as defined in section 22a-629 of the Connecticut General Statutes;
- (13) “Materials of [Concern] 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;

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

(B) whole CRTs;

(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;

~~[(13)]~~[(14)] “Mercury-containing [device] 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;

~~[(14)]~~[(15)] “Monitor” means Monitor as defined in section 22a-629 of the Connecticut General Statutes;

~~[(15)]~~[(16)] “Operator” means the person responsible for the overall operation of a recycling or disposal facility;

~~[(16)]~~[(17)] “Orphan [Device] device” means [Orphan] orphan [Device] device as defined in section 22a-629 of the Connecticut General Statutes;

~~[(17)]~~[(18)] “Owner” means the person who owns a recycling or disposal facility or part of any such facility;

~~[(18)]~~[(19)] “Person” means [Person] person as defined in section 22a-629 of the Connecticut General Statutes;

~~[(19)]~~[(20)] “Portable [Computer] computer” means [Portable] portable [Computer] computer as defined in section 22a-629 of the Connecticut General Statutes;

~~[(20)]~~[(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;

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

[(21)](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;

[(22)](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] recycling facility does not include:

(A) the initial location used to collect CEDs from residents, provided no other activities that would make such facility [is not used for any other purpose specified in this definition.] a recycling facility are conducted; or

(B) a facility where, for no more than ten days, activities incidental to transportation 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;

[(23)](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

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

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

[(24)](25) “Responsible official” means:

- (A) for an individual(s) or sole proprietorship, the individual(s) or proprietor, respectively;
- (B) for a corporation, [a principal executive officer of at least the level of vice president] 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 management of the LLC is vested in a manager(s) in accordance with the company’s Articles of Organization, or a member of the LLC if no authority is vested in a manager(s)] 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, [a general partner] 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.

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

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

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

[(28)](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

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

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;

~~[(29)]~~~~(30)~~ “Total [Weight] weight” means weight expressed in pounds; and

~~[(30)]~~~~(31)~~ “Video [Display] display” means video display as defined in section 22a-629 of the Connecticut General Statutes.

Sec. 2. Subparagraphs (D) and (E) of section 22a-638-1(b)(3) of the Regulations of Connecticut State Agencies are amended to read as follows:

- (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:
- (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 [that the applicant will take possession of CEDs] of initial collection from residents 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 other persons that the applicant is proposing to use, including, but not limited to, those persons noted in response to subparagraph (G)

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

of this subdivision] all transporters noted in response to subparagraph (M) of this subdivision and [those] all facilities noted in response to subparagraph (G) of this subdivision [, to implement chapter 446n of the Connecticut General Statutes and this section] recycling or disposing of materials of concern;

Sec. 3. Section 22a-638-1(b)(3)(G) of the Regulations of Connecticut State Agencies is amended to read as follows:

- (G) a disclosure of all [transporters and] facilities that will be used to comply with the requirements of chapter 446n of the Connecticut General Statutes and this section. This shall include, but not be limited to, all facilities used to [store and] recycle CEDs or components of CEDs, and dispose of waste or residue generated from the recycling of CEDs or components of CEDs. If multiple [transporters or multiple] facilities are disclosed for the same activity, describe fully the circumstances under which each [transporter or] facility will be used. For each [transporter and] facility disclosed provide[:], as applicable:
- (i) a description of the [transportation,] storage, dismantling and processing capacity [for] of each [transporter and] facility;
- [(ii)] [a list of all applicable permits, licenses or approvals, if any, issued by a state, the federal government or any other country, that are required and that have been or will be obtained to authorize activities undertaken pursuant to chapter 446n of the Connecticut General Statutes and this section;]
- [(iii)](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; [and]
- (iii) the following information only for each recycling facility that recycles materials of concern and each disposal facility that disposes of materials of concern:

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

- (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 hazardous waste regulations, emergency response plans, and environmental, health and safety plans; and
- (iv) [for each recycling and disposal facility,] a certification signed by [a responsible official from such facility] the applicant [stating] affirming that:
- [I] such official has read and fully understands all of the standards established in subsections (c), (d) and (e), of this section, as applicable;]
- [(II)](I) based upon reasonable investigation, [including inquiry of those individuals responsible for obtaining the information at the time the certification is executed, the] 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
- [(III)] (II) [the facility is in compliance with all applicable standards regarding activities undertaken pursuant to chapter 446n of the Connecticut General Statutes and this section and that during all times that the facility recycles CEDs, or disposes of waste or residue from the recycling of CEDs, reasonable efforts will be undertaken to ensure that the facility remains in compliance with such standards; and] the applicant has provided the owner or operator of each facility, for

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

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.

[(IV) such official understands that any false statement made in connection with this certification is punishable as a criminal offense under section 53a-157b of the Connecticut General Statutes and any other applicable law.]

[(v) for each recycling facility and each disposal facility, a list of the plans in effect at the facility to ensure worker safety, emergency preparedness and prevention, including but not limited to, a contingency plan and emergency procedures, if required by the hazardous waste regulations, emergency response plans, and environmental, health and safety plans;]

[(vi)](v) for each recycling facility and each disposal facility subject to the requirements of [subsection] subdivision (e)(6)(A) of this section, evidence that each facility has the insurance required by subsection (e)(6) of this section; and

[(vii)] (vi) for each recycling facility and each disposal facility subject to the requirements of [subsection]subdivision (e)(7)(A) of this section, evidence that each facility has the financial assurance or other guarantee, as may be required by [subparagraph]subsection (e)(7)[(C)] of this section.

Sec. 4. Subparagraphs (L) to (N), inclusive, of section 22a-638-1(b)(3) of the Regulations of Connecticut State Agencies are amended to read as follows:

(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 [the] 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 [off-specification]

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

CEDs or components of CEDs that are off-specification, that may break in transit or [CEDs] 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 residents 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;

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

[(N)] (O) a \$250.00 initial application fee.

Sec. 5. Section 22a-638-1(b)(5)(A)(viii)(II) of the Regulations of Connecticut State Agencies is amended to read as follows:

(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;

Sec. 6. Section 22a-638-1(b)(9) of the Regulations of Connecticut State Agencies is amended to read as follows:

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

- (9) A CER approved by the commissioner, shall notify the commissioner of any modification to any information, activity, facility or procedure described or contained in the CER's application in response to subdivision (3)(A), (3)(E) or (3)(F) of this subsection, or a change to [the] any transporter listed in response to subdivision [(3)(G)] (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)(G)](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.

Sec. 7. Section 22a-638-1(b)(12) of the Regulations of Connecticut State Agencies is amended to read as follows:

- (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

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

- (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.

Sec. 8. Section 22a-638-1(c)(6)(C) of the Regulations of Connecticut State Agencies is amended to read as follows:

- (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 [batteries, mercury-containing devices, circuit boards, CRTs and CRT glass and any materials containing polychlorinated biphenyls (PCBs), including, but not limited to, ballasts] 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 [batteries, mercury-containing devices, circuit boards, CRTs and CRT glass and any materials containing polychlorinated biphenyls (PCBs), including, but not limited to, ballasts,] materials of concern will be removed in member countries of the Organisation for Economic Co-operation and Development.

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

Sec. 9. Section 22a-638-1(e)(6) of the Regulations of Connecticut State Agencies is amended to read as follows:

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

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

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.

- (B) The insurance used to satisfy the requirements of this subdivision shall:
- (i) not be “claims made coverage” with the exception of Pollution Legal Liability coverage;
 - (ii) be primary and non-contributory and shall be maintained throughout the period that a facility is recycling CEDs or components of CEDs, or a facility is disposing of the waste or residue generated by the recycling of CEDs, for which a CER is seeking reimbursement pursuant to chapter 446n of the Connecticut General Statutes and this section; and
 - (iii) cover any suit, claim, loss, injury, damage, attorney fees, judgments, litigation or any other expense arising out of or alleged to have arisen out of the recycling of CEDs or components of CEDs or the disposal of the waste or residue generated from the recycling of CEDs.
- [(C) The commissioner may require that a CER ensure that the owner or operator of a recycling or disposal facility subject to subparagraph (A) of this subdivision obtain and maintain greater levels of insurance coverage than the minimum coverage prescribed in this subdivision.]
- [(D)](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

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

(iii) a certification that there will be no lapse in coverage.

~~[(E)](D)~~ A CER shall ensure that the owner or operator of each recycling facility and each disposal facility, other than those specified in ~~[subparagraph]~~ subparagraph (A) of this subdivision that ~~[receives]~~ 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 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.

Sec. 10. Section 22a-638-1(e)(7) of the Regulations of Connecticut State Agencies is amended to read as follows:

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

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

- (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.
- (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 provide the functional equivalent to compliance with these requirements.
- ~~(C)~~(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 [when, apart from this subdivision,] 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.

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

~~(D)~~(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.

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.

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

“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 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.

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

“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.

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

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

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.

(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

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

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)

(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

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

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.

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.

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

(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 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

State of Connecticut
REGULATION
of

NAME OF AGENCY

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

AMENDMENT OF SECTION 22a-638-1 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES

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 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.