

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF WASTE MANAGEMENT**

**Notice of Public Hearing and Comment Period
Concerning Proposed “*Regulations Governing the Administration and Enforcement of the Electronic Waste Prevention, Reuse and Recycling Act*”**

Notice is hereby given that a public hearing regarding proposed regulations entitled “*Regulations Governing the Administration and Enforcement of the Electronic Waste Prevention, Reuse and Recycling Act*” will be held in Room 300 of the RI Department of Environmental Management, at 235 Promenade Street, Providence, Rhode Island on Friday, July 26 at 10:00 am, at which time interested parties will be heard.

The proposed amendments would serve to implement RI’s Electronic Waste Law (R.I. Gen. Laws Chapter 23-24.10). The regulations address general issues related to program implementation and operation, and closely mirror the language found in R.I. Gen. Laws Chapter 23-24.10.

DEM has complied with the requirements of R.I. Gen. Laws Section 42-35-3 by considering alternative approaches to the proposed regulations and has determined that there is no alternative approach that would be as effective and less burdensome. DEM has also determined that the proposed regulations do not overlap or duplicate any other state regulation. DEM has complied with the requirements of R.I. Gen. Laws Section 22-12-1.1 and R.I. Gen. Laws Chapter 42-35.1 by preparing a Fiscal Note and Small Business Impact Statement for the Office of Regulatory Reform, the Economic Development Corporation, and the RI Budget Office.

Copies of the proposed regulations and a Concise Explanatory Statement are available at DEM’s Office of Customer & Technical Assistance at 235 Promenade Street, Providence, Rhode Island, 02908 or on the Department’s web site for ‘Regulations’ at <http://www.dem.ri.gov/pubs/regs/index.htm>. Written comments on the proposed regulations may be sent to: Elizabeth Stone, RIDEM, Office of the Director, 235 Promenade Street, Providence, RI, 02908 until 4:00 PM, July 26, 2013. At that time the comment period will end, unless extended by the hearing officer. It is requested that persons who wish to make oral comments during the public hearing submit a copy of their statement for the record. All oral and written comments will be considered in the same manner.

The Department of Environmental Management building is accessible to those with disabilities. Persons with disabilities requiring special accommodation should contact Elizabeth Stone, RIDEM, Office of the Director at (401) 222-2771 at least three business days prior to the hearing.

Signed this 25th day of June 2013
Terrence Gray, PE
Associate Director for Environmental Protection

**Concise Explanatory Statement for
Proposed Regulations Governing the Administration and Enforcement of the Electronic
Waste Prevention, Reuse and Recycling Act**

June 2013

The primary purpose of these regulations is to implement RI's Electronic Waste Law (RIGL Chapter 23-24.10) as approved by the RI General Assembly in 2008 (and subsequently amended in 2010). This is the first time the Department has adopted regulations to help implement this new law. The regulations address general issues related to program implementation/operation and closely mirror the language found in RIGL Chapter 23-24.10.

RI's Electronic Waste Law creates a comprehensive electronic waste recycling program for households and schools (specifically, public/private elementary & secondary schools) here in Rhode Island. This extended producer responsibility law helps Rhode Island better manage an increasing portion of its solid waste stream and products commonly considered difficult to dispose of at the end of their useful lives.

Manufacturers of covered electronic products (e.g. computers, laptops, monitors and TVs) have individual financial responsibility to take back and recycle their products at the end of the product's useful life from both households and public/private elementary & secondary schools. Pursuant to the law, manufacturers who sell covered electronic products in RI are required to register with the Department and pay a \$5,000 annual registration fee to the Department. Similarly, any manufacturer that is part of the state-run electronic waste program (as administered by the RI Resource Recovery Corporation) must pay an annual recycling fee directly to RIRRC. These fees have been collected every year since 2009 when the program began, and nothing in the proposed regulations alters the fees paid to DEM and RIRRC.

Two specific portions of these regulations are worth noting. First, pursuant to RIGL Section 23-24.10-4 the Department has the authority to modify the scope of products covered under RI's Electronic Waste Law. With these new regulations, DEM is proposing to add tablet computers to the list of covered products. Second, pursuant to RIGL Section 23-24.10-12(i) the Department is required to define - by regulation - "*environmentally sound recycling and reuse practices*" for electronics manufacturers participating in the state collection program as administered by the RI Resource Recovery Corporation and those running their own independent collection/recycling programs with the approval of the Department. With these regulations, DEM has decided to make the *Responsible Recycling ("R2") Practices for Use in Accredited Certification Programs for Electronics Recyclers* the approved recycling standard for Rhode Island.

*State of Rhode Island and Providence Plantations
Department of Administration
Budget Office*

Fiscal Note for Proposed Administrative Rules (R.I.G.L. 22-12-1.1)

Name of Administrative Rule: Rules and Regulations Governing the Management & Disposal of Electronic Waste

Date of Notice: Anticipated – April 2013

Date of Hearing: Anticipated – May 2013

RIGL: Promulgated pursuant to the Electronic Waste Prevention, Reuse and Recycling Act (23-24.10), the Refuse Disposal Act (23-18.9), the Hazardous Waste Management Act (23-19.1), the Department of Environmental Management enabling statute (42-17.1), and the RI Administrative Procedures Act (42-35).

FISCAL IMPACT

	<i>State Revenues</i>		<i>State Expenditures</i>		<i>City/Town Expenditures</i>
FY 2013	\$0	FY 2013	\$0	FY 2013	\$0
FY 2014	\$0	FY 2014	\$0	FY 2014	\$0
FY 2015	\$0	FY 2015	\$0	FY 2015	\$0

Summary of Policy Change: The primary purpose of these regulations is to implement RI’s Electronic Waste Law (RIGL 23-24.10) as approved by the RI General Assembly in 2008 (and subsequently amended in 2010). This is the first time the Department has adopted regulations to help implement this new law. The regulations address general issues related to program implementation/operation and closely mirror the language found in RIGL 23-24.10.

RI’s Electronic Waste Law creates a comprehensive electronic waste recycling program for households and schools (specifically, public/private elementary & secondary schools) here in Rhode Island. This extended producer responsibility law helps Rhode Island better manage an increasing portion of its solid waste stream and products commonly considered difficult to dispose of at the end of their useful lives.

Manufacturers of covered electronic products (e.g. computers, laptops, monitors and TVs) have individual financial responsibility to take back and recycle their products at the end of the product's useful life from both households and public/private elementary & secondary schools. Pursuant to the law, manufacturers who sell covered electronic products in RI are required to register with the Department and pay a \$5,000 annual registration fee to the Department. Similarly, any manufacturer that is part of the state-run electronic waste program (as administered by the RI Resource Recovery Corporation) must pay an annual recycling fee directly to RIRRC. These fees have been collected every year since 2009 when the program began, and nothing in the proposed regulations alters the fees paid to DEM and RIRRC. Hence, these proposed regulations will have no impact on revenues, state expenditures or city/town expenditures.

Two specific portions of these regulations are worth noting. First, pursuant to RIGL 23-24.10-4 the Department has the authority to modify the scope of products covered under RI’s Electronic Waste Law. With these new regulations, DEM is proposing to add tablet computers (e.g. iPads) to the list of covered products. Second, pursuant to RIGL 23-24.10-12(i) the Department is required to define - by regulation - “*environmentally sound recycling and reuse practices*” for electronics manufacturers participating in the state collection program as administered by the RI Resource Recovery Corporation and those running their own collection/recycling programs with the approval of the Department. With these regulations, DEM has decided to make the *Responsible Recycling (“R2”) Practices for Use in Accredited Certification Programs for Electronics Recyclers* (as adopted by the US Environmental Protection Agency) the approved recycling standard for Rhode Island.

Summary of Fiscal Impact: DEM has determined that the proposed amendments will have no effect on state revenues and expenses.

City or Town Impact: The proposed amendments do not impose any new requirements on existing cities and towns and therefore no fiscal impact on cities or towns is anticipated.

Approved:

Thomas Mullaney

3/28/13

Thomas Mullaney
Executive Director/State Budget Officer

Date

**SMALL BUSINESS IMPACT STATEMENT FOR PROPOSED (NEW) REGULATIONS
ADDRESSING RI'S ELECTRONIC WASTE, PREVENTION, REUSE AND
RECYCLING ACT (AS ADOPTED IN 2008)**

Agency Submitting Regulation:

RI Department of Environmental Management (RIDEM)

Subject Matter of Regulation:

New regulations for implementation of RI's Electronic Waste Prevention, Reuse and Recycling Act (commonly called RI's Electronic Waste Law). Adopted in 2008 and further amended in 2010, this law requires electronics manufacturers to be financially responsible for discarded electronic waste (e.g. TVs, computers, monitors and laptops) from households and public/private elementary & secondary schools. It is one of numerous Extended Producer Responsibility laws adopted by the RI General Assembly in recent years. Approximately 25 of the 50 US states have similar laws.

ERLID No:

N/A (new regulations).

Statutory Authority:

Electronic Waste Prevention, Reuse and Recycling Act (23-24.10), the Refuse Disposal Act (23-18.9), the Hazardous Waste Management Act (23-19.1), the Department of Environmental Management enabling statute (42-17.1), and the RI Administrative Procedures Act (42-35).

Other Agencies Affected:

RI Resource Recovery Corporation (RIRRC)

Other Regulations That May Duplicate or Conflict with the Regulation:

None. However, RIDEM's Hazardous Waste Regulations are closely aligned with these regulations and impose related handling requirements on individuals/companies collecting and recycling electronic waste.

Describe the Scope and Objectives of the Regulation:

The primary purpose of these regulations is to implement RI's Electronic Waste Law (RIGL 23-24.10) as approved by the RI General Assembly in 2008 (and subsequently amended in 2010). This is the first time the Department has adopted regulations in order to implement this 2008 law. The regulations address general issues related to program implementation/operation and closely mirror the legislative language found in RIGL 23-24.10.

Pursuant to RIGL 23-24.10-12(i), the Department is required to define - *by regulation* - "environmentally sound recycling and reuse practices" for recyclers participating in the state

collection program (e.g. on a contractual basis) as administered by the RI Resource Recovery Corporation and those recyclers working directly on behalf of manufacturers running their own collection/recycling programs with the approval of the Department. Recyclers not partnering with RIRRC or a manufacturer run collection/recycling program would not be required to meet these new “environmentally sound recycling and reuse practices”.

With these regulations, DEM has decided to make the Responsible Recycling (“R2”) Practices for Use in Accredited Certification Programs for Electronics Recyclers (as adopted by the US Environmental Protection Agency) the approved recycling standard for Rhode Island. Again, only companies choosing to serve as a recycling contractor for either the State Program (as administered by RIRRC) or recyclers working directly on behalf of manufacturers running their own collection/recycling programs would need to meet this standard.

The Department feels relying upon a widely accepted and recognized EPA-approved recycling standard such as EPA’s R2 Practices rather than adopting a standard specific only to Rhode Island is the most responsible and reasonable approach. The goal of adopting this standard is to ensure used electronics collected from households and schools are handled, disposed of, and remarketed for reuse in a responsible manner that is protective of the environment, public health and personal data security. RIDEM believes only 1 RI based company is officially R2 certified.

Business Industry (s) Affected by the Regulation:

Businesses primarily impacted by these regulations include electronics manufacturers and electronics recyclers.

Types of Businesses Included in the Industry (s):

Businesses that manufacturer and sell brand name TVs, monitors, computers, tablets and laptops. Includes companies like Panasonic, Dell, Toshiba, Sony, Apple, etc. Many of these are not considered small businesses due to the size of their workforce.

Businesses that collect and recycle discarded electronics products which participate in the state collection program (e.g. on a contractual basis) as administered by the RI Resource Recovery Corporation and those recyclers working directly on behalf of manufacturers running their own recycling programs with the approval of the Department. Most of these types of businesses would likely be considered small businesses.

Total Number of Small Businesses Included in the Regulated Industry (s) *Please see the attached guidance documents for assistance determining the total number of small businesses:*

Using the attached guidance and online research to determine which NAICS codes typically apply to businesses potentially impacted by this regulation, the following was determined:

NAICS Code 334111 (Electronics Manufacturers): 5 companies

NAICS Code 562920 (Materials Recovery Facilities): 0 companies

NAICS Code 423930 (Recyclable Material Merchant Wholesalers): 0 companies

Number of Small Businesses Potentially Subject to the Proposed Regulation:

Each year approximately 50 electronics manufacturers register with RIDEM per requirements found in RIGL 23-24.10. However, since the inception of the program, not a single RI based company has registered with RIDEM as a manufacturer and paid the required registration fee. All registered companies are from outside RI or outside the US.

As for collectors/recyclers of electronic waste, DEM does not know how many of these small businesses are located in RI. However, there has been growth in the number of these types of companies since the passage of RI’s electronic waste law. RIDEM estimates possibly 50 to 100 such companies exist in RI.

What is the cost to your agency of establishing and enforcing this regulation?

Approximately 1/3 of an FTE is dedicated to this program. The proposed regulations closely mirror the statute (with the exception of the adoption of a new environmentally sound recycling standard), so 1/3 of an FTE would still be needed to implement the program even without these regulations.

What would the consequences be if the regulation did not exist?

The most obvious consequence would be the lack of an “environmentally sound recycling” standard for companies participating in the state collection program (e.g. on a contractual basis) as administered by the RI Resource Recovery Corporation and those recyclers working directly on behalf of manufacturers running their own collection/recycling programs with the approval of the Department. They would simply have to adhere to existing regulations which impact the collection and recycling of used electronics.

Effective Date Used In Cost Estimate:

March 2013

For each question below, please answer “yes” or “no” and offer a brief explanation.

Please describe any facts, data, views, arguments, or other input from small businesses, organizations or any other sources that were used to quantify the impacts outlined below.

Yes	No	<i>*Note: For each question, please answer “yes” or “no” and offer a brief explanation. Please describe any facts, data, views, arguments, or other input from small businesses, organizations or any other sources that were used to quantify the impacts outlined below.</i>
Yes	No	Will small businesses have to create, file, or issue additional reports?
X	<input type="checkbox"/>	The vast majority of businesses will <u>not</u> have to do anything new in order to comply with these regulations.

		<p>However, those recyclers that participate in the state collection program (e.g. on a contractual basis) as administered by the RI Resource Recovery Corporation and those collectors/recyclers working directly on behalf of manufacturers running their own recycling program (with the approval of the Department) will need to adhere to the new R2 recycling standards (as endorsed by EPA) referenced in the proposed regulations. RIDEM estimates that less than 10% of the electronics recyclers operating in RI have ties to the State Program or a manufacturer running their own independent program. Additional reporting would only be necessary if a company decided to secure and maintain the R2 Certification (which is similar to an ISO standard/certification).</p>
<p>Yes X</p>	<p>No <input type="checkbox"/></p>	<p>Will small businesses have to implement additional recordkeeping procedures?</p> <p><i>(Same as above)</i> The vast majority of businesses will <u>not</u> have to do anything new in order to comply with these regulations. Additional recordkeeping would only will necessary if a company decided to secure and maintain the R2 Certification (which is similar to an ISO standard/certification). RIDEM believes only 1 RI based company is officially R2 certified.</p>
<p>Yes X</p>	<p>No <input type="checkbox"/></p>	<p>Will small businesses have to provide additional administrative oversight?</p> <p><i>(Same as above)</i> The vast majority of businesses will <u>not</u> have to do anything new in order to comply with these regulations. The additional oversight would only be necessary if a company decided to secure and maintain the R2 Certification (which is similar to an ISO standard/certification).</p>
<p>Yes X</p>	<p>No <input type="checkbox"/></p>	<p>Will small businesses have to hire additional employees in order to comply with the proposed regulation?</p> <p><i>(Same as above)</i> The vast majority of businesses will <u>not</u> have to do anything new in order to comply with these regulations. Hiring additional employees would only be necessary if a company decided to secure and maintain the R2 Certification (which is similar to an ISO standard/certification) and felt they needed additional staff to accomplish such a goal.</p>
<p>Yes X</p>	<p>No <input type="checkbox"/></p>	<p>Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?</p> <p><i>(Same as above)</i> The vast majority of businesses will <u>not</u> have to do anything new in order to comply with these regulations. Hiring outside professional help might only be necessary if a company decided to secure and maintain the R2 Certification (which is similar to an ISO standard/certification) and felt they needed additional professional staff to accomplish such a goal.</p>

Yes X	No <input type="checkbox"/>	<p>Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?</p> <p>(Same as above) The vast majority of businesses will <u>not</u> have to purchase new products in order to comply with these regulations. Investing in capital improvements might only be necessary if a company decided to secure and maintain the R2 Certification (which is similar to an ISO standard/certification) and it was determined such an investment was necessary to accomplish such a goal.</p>
Yes X	No <input type="checkbox"/>	<p>Are performance standards more appropriate than design standards?</p> <p>The entirety of the regulation based primarily upon performance standards.</p>
Yes X	No <input type="checkbox"/>	<p>Does the regulation require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities?</p> <p>The vast majority of businesses will <u>not</u> experience audits or inspections in accordance with these regulations. Audits and inspections would only be necessary if a company decided to secure and maintain the R2 Certification (which is similar to an ISO standard/certification). Annual audits and inspections are part of maintaining the R2 Certification. RIDEM is not involved in these audits/inspections.</p>
Yes X	No <input type="checkbox"/>	<p>Will the regulation have the effect of creating additional taxes and/or fees for small businesses?</p> <p>The vast majority of businesses will <u>not</u> experience audits or inspections in accordance with these regulations. Additional fees would only be necessary if a company decided to secure and maintain the R2 Certification (which is similar to an ISO standard/certification).</p> <p>The R2 Practices evaluates 13 areas of a recycler's operational, safety and environmental performance. There are a number of stages involved in the audit process, which will likely take 6 to 12 months to complete. Direct costs for the certification are estimated to be between \$10,000 and \$20,000, and this includes Pre-Assessment, Stage 1 and Stage 2 Audits and consulting fees. Every 3rd year companies have to be recertified, costing about \$3,000 depending if anything has changed with internal processes, staffing and/or the facility. The R2 auditing companies base their fees on the size of business (# of employees) and the complexity of your processes. Larger collectors/recyclers with upwards of 25 or 30 employees will pay more for their certification. These costs do not include any direct internal costs like loss production during an audit, dedicated staff for administrative oversight to maintain proper procedures.</p>

Yes <input type="checkbox"/>	No X	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? No. None that we can determine.
Yes <input type="checkbox"/>	No X	Is the regulation likely to <i>deter</i> the formation of small businesses in Rhode Island? No. Not that we can determine.
Yes <input type="checkbox"/>	No X	Is the regulation likely to <i>encourage</i> the formation of small businesses in Rhode Island? The passage of the Electronic Waste Prevention, Reuse and Recycling Act in 2008 did likely lead to the opening of new, small collection/recycling businesses in RI. However, because these regulations so closely mirror the statute, we don't anticipate the adoption of these regulations will have any impact on the overall number of businesses in RI.
Yes <input type="checkbox"/>	No X	Can the regulation provide for less stringent compliance or reporting requirements for small businesses? No, not without directly contradicting the statute. On the topic of adopting the R2 Certification for collectors/recyclers participating in the state program or servicing a manufacturer's independently approved program, RIDEM believes relying upon a widely accepted and recognized EPA-approved recycling standard such as EPA's R2 standards rather than adopting a standard specific only to Rhode Island is the most responsible and reasonable approach. Approximately 350 collectors/recyclers across the country are already R2 certified.
Yes <input type="checkbox"/>	No X	Can the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? (Same as above). No, not without directly contradicting the statute.
Yes <input type="checkbox"/>	No X	Can the compliance or reporting requirements be consolidated or simplified for small businesses? (Same as above). No, not without directly contradicting the statute.
Yes <input type="checkbox"/>	No X	Can performance standards for small businesses replace design or operational standards? (Same as above). No, not without directly contradicting the statute.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Are there alternative regulatory methods that would minimize the adverse impact on small businesses?</p> <p><i>(Same as above).</i> No, not without directly contradicting the statute.</p>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<p>Were any small businesses or small business organizations contacted during the preparation of this document? If so, please describe.</p> <p>RIDEM asked a couple businesses (none based in RI) what the estimated costs were for becoming R2 certified. The cost estimates provided above were based upon that recent feedback.</p>

State of Rhode Island and Providence Plantations

Department of Environmental Management

Office of Waste Management



Rules and Regulations Governing the Administration and Enforcement of the Electronic Waste Prevention, Reuse and Recycling Act

June 2013

Draft

Authority: These rules and regulations are promulgated pursuant to the Electronic Waste Prevention, Reuse and Recycling Act R.I. General Laws Chapter 23-24.10, the Refuse Disposal Act R.I. General Laws Chapter 23-18.9, the Hazardous Waste Management Act R.I. General Laws Chapter 23-19.1, the Department of Environmental Management R.I. General Laws Chapter 42-17.1 and in accordance with R.I. General Laws Chapter 42-35 Administrative Procedures of R. I. General Laws of 1956, as amended.

**State of Rhode Island and Providence Plantations
RI Department of Environmental Management**

**Rules and Regulations Governing the Administration and Enforcement of the
Electronic Waste Prevention, Reuse and Recycling Act**

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1. Purpose

In accordance with the Electronic Waste Prevention, Reuse and Recycling Act , R.I. General Laws Chapter 23-24.10 (adopted in 2008 and amended in 2010), the purpose of these regulations is to establish a manufacturer financed system for the collection, recycling, and reuse of covered electronic products in Rhode Island; develop a comprehensive strategy for prevention and reduction of electronic waste; promote the development of state infrastructure for the reuse and recycling of used electronics; promote the handling, recycling and disposal of covered electronic products in a sound and responsible manner; and encourage the design of covered electronic products that are less toxic, more durable and more recyclable.

2. Authority

These rules and regulations are promulgated pursuant to the Electronic Waste Prevention, Reuse and Recycling Act R.I. General Laws Chapter 23-24.10, the Refuse Disposal Act R.I. General Laws Chapter 23-18.9, the Hazardous Waste Management Act R.I. General Laws Chapter 23-19.1, the Department of Environmental Management R.I. General Laws Chapter 42-17.1 and in accordance with R.I. General Laws Chapter 42-35 Administrative Procedures of the R. I. General Laws of 1956, as amended.

3. Application

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

4. Definitions

For the purposes of these regulations, the following terms shall have the following meanings:

- 4.1 **Basic Service** means collection services provided for free by the State Program or a [manufacturer](#) within the scope of its approved independent or group collection plan that includes: 1) permanent drop off locations easily accessible by the public; 2) mail-back opportunities; 3) in-store retail collection opportunities; or 4) scheduled collection events.
- 4.2 **Cathode Ray Tube or “CRT”** means an electron tube or evacuated glass container, having a cathode or negative electrode at one end, and a device typically called an electron gun that projects a beam of electrons against a luminescent screen at the opposite end of the tube. Cathode ray tubes, or CRTs, are used as picture tubes in television receivers, visual display screens in radar receiving equipment, computer installations, and oscilloscopes.

- 4.3 **Collector** means a public or private entity that receives covered electronic products or electronic devices banned from disposal and arranges for the delivery of the products or devices to a recycler.
- 4.4 **Computer**, often referred to as a personal computer or PC, means a desktop or notebook computer as further defined below, but does not mean an automated typewriter, electronic printer, mobile telephone, portable hand-held calculator, portable digital assistant (PDA), MP3 player, or other similar device. Computer does not include computer peripherals, commonly known as cables, mouse, or keyboard; computer servers marketed to professional users; or retail store terminals or cash registers, used at customer checkout in the retail industry. For purposes of participation in an independent or group-run [manufacturer](#) collection program, computer is further defined to include desktop computers, notebook computers (which includes tablets), monitors (as is used with a computer) and any other covered electronic product with the exception of televisions.
- 4.5 **Corporation** means the Rhode Island Resource Recovery Corporation created and established pursuant to Chapter 23-19 of the Rhode Island General Laws.
- 4.6 **Covered Electronic Products** means:
- Computers (including central processing unit or CPU) as defined herein;
- Computer monitors, including CRT monitors and flat panel monitors;
- Combination units (CPUs with monitors);
- Televisions including CRT-based and non-CRT-based televisions, plasma, LED and LCD, or any similar video display device with a screen greater than nine (9) inches diagonally and that contains a circuit board; and
- Covered electronic products does not mean a computer, television or video display 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 franchised dealer, including replacement parts for use in a motor vehicle; or (b) functionally or physically a part of, connected to or integrated within a larger piece of equipment such that the display device cannot be readily removed by a lay person without specialized training; or (c) contained within a home appliance, clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or (d) a handheld device used to access commercial mobile radio service, as such service is defined in 47 CFR 20.3, or (e) a printer.
- 4.7 **Department** means the RI Department of Environmental Management.
- 4.8 **Desktop Computer** means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions for general purpose needs which are met through interaction with a number of software programs contained therein, and which is not designed to exclusively perform a specific type of logical, arithmetic or storage function or other limited or specialized application.

Human interface with a desktop computer is achieved through a standalone keyboard, standalone monitor or other display unit, and a standalone mouse or other pointing device, and is designed for a single user. A desktop computer has a main unit that is intended to be persistently located in a single location, often on a desk or on the floor. A desktop computer is not designed for portability and generally utilizes an external monitor, keyboard, and mouse with an external or internal power supply for a power source. Desktop computer does not include an automated typewriter or typesetter.

- 4.9 **Director** means the director of the RI Department of Environmental Management, or his or her designee
- 4.10 **Environmentally Sound Management** means practices for the collection, storage, transportation, reuse, recycling and disposal of discarded covered electronic products or electronic devices banned from disposal to be implemented by the State Program or an approved [manufacturers](#)' collection program, or such organization's contracted partners, to ensure compliance with all applicable federal, state and local laws, regulations and ordinances and the protection of human health and the environment. Environmentally sound management practices shall include, but are not limited to, record keeping, on-site environmental/health and safety practices, tracking throughout, data destruction, storage, transportation and financial responsibility.
- 4.11 **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.
- 4.12 **Manufacturer Program** means a statewide program for collecting, transporting, and recycling [covered electronic products](#) that is provided by the [manufacturer](#) pursuant to an approved collection plan.
- 4.13 **Manufacturer** means a [person](#) or entity who:
- Manufactures or manufactured a covered electronic product under a brand it owns; or is or was licensed to use;
 - Sells or sold under a brand or label it owns or is or was licensed to use a covered electronic product produced by other suppliers; or
 - Assumes the financial responsibility of manufacturer collection, transportation or recycling as further defined herein; or
 - Imports or imported a covered electronic product into the United States that is manufactured by a [person](#) without a presence in the United States; or
 - Sells at retail a covered electronic product acquired from an importer that is the manufacturer and elects to register in lieu of the importer.
- 4.14 **Market Share** means a television [manufacturers](#)' national sales of televisions expressed as a percentage of the total of all television [manufacturers](#)' national sales based on the best available public data.

- 4.15 **Monitor** means a video display device without a tuner that can display pictures and sound and is used with a [computer](#).
- 4.16 **Notebook Computer** means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions for general purpose needs which are met through interaction with a number of software programs contained therein, and which is not designed to exclusively perform a specific type of logical, arithmetic or storage function or other limited or specialized application. Human interface with a notebook computer is achieved through a keyboard, video display greater than nine inches (9) in size, and mouse or other pointing device, all of which are contained within the construction of the unit which comprises the notebook computer; supplemental standalone interface devices typically can also be attached to the notebook computer. Notebook computers can use external, internal, or batteries for a power source. Notebook computer does not include a portable handheld calculator, or smart phone or similar specialized device. A notebook computer has an incorporated video display greater than nine inches (9) in size and can be carried as one unit by an individual. A notebook computer is sometimes referred to as a laptop computer. It shall also include tablets and similar computers with touch user screen interfaces greater than nine inches (9) in size.
- 4.17 **Orphan Waste** means a covered electronic product, except a television, for which no [manufacturer](#) can be identified or the [manufacturer](#) is no longer a business and no successor business can be identified.
- 4.18 **Person** means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, the federal government or any agency or subdivision thereof, a state, municipality, commission, political subdivision of a state, or any interstate body.
- 4.19 **Premium Service** means services including, but not limited to, scheduled at-home pickup services or curbside pickup services provided by a [manufacturer](#) outside the scope of its approved independent or group collection plan. It shall also include advanced data destruction services provided at the request of the household or school. Premium services are provided on a fee-for-service basis and provide more convenient collection opportunities or data security services beyond what it required by the State Program or an approved [manufacturer](#) independent or group collection plan.
- 4.20 **Printer** means desktop printers, multifunction printer copiers, and printer/fax combinations taken out of service that are designed to reside on a work surface, and include various print technologies, including without limitation laser and LED (electrographic), ink jet, dot matrix, thermal, and digital sublimation, and multi-function or all-in-one devices that perform different tasks, including without limitation copying, scanning, faxing, and printing. Printers do not include floor-standing printers, printers with optional floor stand, point of sale (POS) receipt printers, household printers such as a calculator with printing capabilities or label makers, or non-standalone printers that are embedded into products that are not covered electronic products.

- 4.21 **Program Year** means January 1 through December 31, also referred to as calendar year.
- 4.22 **R2 Practices** mean the environmentally sound management practices as set forth in the *Responsible Recycling (“R2”) Practices for Use in Accredited Certification Programs for Electronics Recyclers* as approved by the US Environmental Protection Agency.
- 4.23 **Recycler** means a public or private individual or entity who accepts covered electronic products directly from the public or from collectors for the purpose of recycling. A [manufacturer](#) who takes products solely for refurbishment or repair is not a recycler. A recycler may also be a collector if it meets the definition of a collector.
- 4.24 **Retailer** means a [person](#) or entity who sells a covered electronic product in the state to a consumer. Retailer includes, but is not limited to, a [manufacturer](#) of a covered electronic product who sells directly to a consumer through any means, including, but not limited to, transactions conducted through sales outlets, catalogs or the Internet, or any similar electronic means, but not including leasing, commercial financing or wholesale transactions with a distributor or other retailer.
- 4.25 **Return Share** means the minimum percentage of [covered electronic products](#), except televisions, that an individual [manufacturer](#) is responsible for collecting, transporting and recycling.
- 4.26 **Return Share by Weight** means the minimum total weight of covered electronic products, except televisions, that an individual [manufacturer](#) is responsible for collecting, transporting and recycling.
- 4.27 **School** means any residential or non-residential school, public, private or charter, of any city or town or community educational system regulated, directly or secondarily, by the Board of Regents for Elementary and Secondary Education or the Department of Elementary and Secondary Education or any other state education board or local city or town school board or school committee or other legal educational subdivision acting under it. It does not include institutions of higher education or child-care facilities as regulated by the Department of Children, Youth and Families.
- 4.28 **State Program** means a statewide program for collecting, transporting and recycling [covered electronic products](#) that is provided by the RI Resource Recovery Corporation on behalf of [manufacturers](#) who pay a recycling fee.
- 4.29 **Television** means any telecommunication system device that can broadcast or receive moving pictures and sound over a distance and includes a television tuner or a display device peripheral to a [computer](#) that contains a television tuner.
- 4.30 **Universal Waste** means any of the hazardous wastes that are subject to the universal waste requirements of 40 CFR part 273 and that are subject to Rule 13 of the Department’s Hazardous Waste Regulations adopted pursuant to R.I. General Laws Chapter 23-19.1.

4.31 **Video Display Device** means and includes units capable of presenting images electronically on a screen, with a viewable area greater than nine inches (9) when measured diagonally, viewed by the user and may include cathode ray tubes, flat panel computer monitors, plasma displays, liquid crystal displays, rear and front enclosed projection devices, and other similar displays that exist or may be developed.

5. Disposal Ban

- 5.1 No person shall dispose of any of the covered electronic products in a manner other than by recycling or disposal as hazardous waste or universal waste.
- 5.2 This ban on disposal shall apply to whole units of [covered electronic products](#), as well as to the constituent subunits and materials from which the units are made.
- 5.3 No sanitary landfill or transfer station regulated pursuant to RI General Laws 23-18.9 shall accept any [covered electronic products](#) for the purposes of disposal. All sanitary landfills and transfer stations regulated pursuant to RI General Laws 23-18.9 shall establish procedures to promote segregation of [covered electronic products](#) from the waste stream, shall document those procedures in the facility operating plan, and shall implement those procedures as part of the operation of the facility.

6. Sales & Labor Prohibitions

- 6.1 A [manufacturer](#) not in compliance with all financial and other requirements of RI General Laws Chapter 23-24.10 is prohibited from offering a covered electronic product for sale in this state.
- 6.2 No retailer and/or [manufacturer](#) shall offer for sale in this state a new covered electronic product from a [manufacturer](#) that is not in full compliance with the requirements of RI General Laws Chapter 23-24.10.
- 6.3 Facilities that recycle covered electronic products, including all downstream recycling operations, shall not use prison labor to recycle covered electronic products.

7. Labeling & Registration Requirements

- 7.1 **Labeling.** A [manufacturer](#) or retailer may not sell or offer for sale a covered electronic product in the state unless it is labeled with the [manufacturer's](#) brand, and the label is permanently affixed and readily visible.
- 7.2 **Registration.** In accordance with R.I. General Laws 23-24.10-8, a [manufacturer](#) of covered electronic products sold or offered for sale in this state shall register

with the Department by December 15th of each year for a period to cover the upcoming calendar year, on a form provided by the Department. The registration shall include:

- 7.2.1 A list of all brands, by type of covered electronic product, manufactured, sold or imported by the [manufacturer](#), being offered for sale in this state;
 - 7.2.2 A statement of whether the [manufacturer](#) will be implementing a [manufacturer](#) program or utilizing the State Program for recycling covered electronic products;
 - 7.2.3 A copy of the [manufacturer](#)'s proposed collection and recycling plan if said [manufacturer](#) is choosing to implement its own collection program, either individually or in conjunction with other [manufacturers](#) as permitted in accordance with R.I General Laws 23-24.10-9.
 - 7.2.4 All appropriate contact information for the [manufacturer](#), including an administrative contact and a billing contact.
 - 7.2.5 An annual registration fee of five thousand dollars (\$5,000) payable to the Department. All registration fees shall be deposited into the Department's Environmental Response Fund.
- 7.3 **Registration at Time of First Sale of Brand in the State.** If a [manufacturer](#) has not previously filed a registration, the [manufacturer](#) shall file a registration in accordance with Section 7.2 with the Department prior to any offer for sale for delivery in this state of the [manufacturer](#)'s new covered electronic products and shall pay to the Department a registration fee of five thousand dollars (\$5,000).
- 7.4 **Registration at Time of Notification by Department or Corporation of Assessed Return Share or Market Share.** Any [manufacturer](#) to whom the Department or Corporation provides notification of a return share, return share in weight or market share pursuant to Section 8.4 or Section 9.4 and who has not previously filed a registration shall, within thirty (30) days of receiving such notification, file a registration with the Department and shall pay to the Department a registration fee of five thousand dollars (\$5,000).
- 7.5 All annual registration fees of five thousand dollars (\$5,000) are due to the Department by December 15th prior to the start of each program year.
- 7.6 The registration and each annual renewal shall be effective upon receipt by the Department.
- 7.7 All registration fees collected by the Department shall be deposited in the Environmental Response Fund established pursuant to Rhode Island General Laws 23-19.1-23.

8. Manufacturer Collection Programs for Televisions

- 8.1 **Designation of Participation:** At the time of registration, the [manufacturer](#) of televisions must designate whether it will participate in the State Program or implement a [manufacturer](#) program, either individually or in partnership with other [manufacturers](#). [Manufacturers](#) who do not indicate a choice between the State Program or a [manufacturer](#) program must participate in the State Program for the following year.
- 8.2 **Manufacturer Program Plan:** Each year, a television [manufacturer](#) choosing to implement a [manufacturer](#) program shall submit an implementation plan in writing to the Department no later than December 15th of the year preceding the calendar year covered under the proposed plan. A group of television [manufacturers](#) may choose to implement a [manufacturer](#) program as one entity, if in doing so the [manufacturers](#) meet the sum of their individual market shares. The [manufacturer](#)'s plan must include:
- 8.2.1 The names of the participating television [manufacturers](#) and the appropriate contact information for all individuals designated with responsibility for developing the plan and implementing the program.
- 8.2.2 An explanation of how the television [manufacturer](#)(s) will provide convenient collection service statewide for all brands of covered electronic products from households and public and private elementary and secondary schools in this state, including:
- 8.2.2.1 The staffing and operating hours the collection sites will be open to the public and an explanation on how that provides a frequency adequate to meet the needs of the area being served.
- 8.2.2.2 Any collection service(s) operated jointly with another program(s), potentially including, but not be limited to, mail back programs and collection events.
- 8.2.2.3 All collectors and recyclers to be utilized in the course of the implementation of the plan, and procedures to ensure that all collectors and recyclers are properly registered with the Department in accordance with Section 10 of these regulations.
- 8.2.3 An explanation of how the television [manufacturer](#)(s) will finance a statewide program to collect covered electronic products from households and public and private elementary and secondary schools in this state;

- 8.2.3.1 The television [manufacturer](#) (s) must provide for basic service collection, transportation and recycling of covered electronic products from households and public and private elementary and secondary schools free-of-charge; and
- 8.2.3.2 The television [manufacturer](#)(s) may provide additional premium service and may charge for the additional cost of that premium service.
- 8.2.4 An explanation of how the television [manufacturer](#)(s) will provide for advertising and promotion of collection opportunities statewide and on a regular basis from households and public and private elementary and secondary schools in this state;
- 8.2.5 An explanation of how the television [manufacturer](#)(s) will provide for environmentally sound management practices of covered electronic products collected, transported and recycled from households and public and private elementary and secondary schools in this state in accordance with Section 13.
- 8.2.6 Proposed methodology and procedures to conduct statistically significant sampling or an actual count of the covered electronic products collected and recycled by the television [manufacturer](#) each calendar year;
- 8.2.7 Each television [manufacturer](#) included in the plan must include a statement disclosing whether:
 - 8.2.7.1 Any video display devices sold in Rhode Island exceed the maximum concentration values established for lead, mercury, cadmium, hexavalent chromium, polybrominated diphenyls (PBBs), and polybrominated diphenyl ethers (PBDEs) under the RoHS (restricting the use of certain hazardous substances in electrical and electronic equipment) directive 2002/95/EC of the European parliament and council and any amendments there to enacted as of the date; or
 - 8.2.7.2 The [manufacturer](#) has received an exemption from one or more of those maximum concentration values under the RoHS directive that has been approved and published by the European commission.
- 8.2.8 Television [manufacturer](#)s who indicate their intent to participate in a [manufacturer](#)s program but do not submit a plan by December 15th must participate in the State Program for the following year.
- 8.3 **Review, Decisions and Implementation of the Plan:** The Department may approve the plan, approve the plan with conditions and/or amendments, identify

deficiencies and provide the [manufacturer](#)(s) with a specific time period to correct such issues, or deny the plan.

Any television [manufacturer](#) proposing a [manufacturer](#) program shall implement the plan submitted pursuant to Section 8.2 beginning January 1st unless the television [manufacturer](#) has received, in writing, a determination from the Department that the plan is not acceptable.

If the Department approves the plan with conditions and/or amendments, the television [manufacturer](#)(s) shall implement the plan as directed or appeal the conditions and/or amendments.

If the Department identifies deficiencies and provides the [manufacturer](#)(s) with a specific time period to correct such issues, the television [manufacturer](#)(s) shall address those deficiencies and submit an amended plan in accordance with the specific schedule.

If the Department determines that the plan is unacceptable and denies the plan in writing, the television [manufacturer](#)(s) covered under that plan shall participate in the State Program under RI General Laws 23-24.10-11.

- 8.4 **Market Shares:** The Corporation shall propose a market share for each television [manufacturer](#) in accordance with RI General Laws 23-24.10-3(7). The Corporation shall submit the proposed market shares for each television [manufacturer](#) to the Department, along with the basis for such determination, in writing for review and approval on an annual basis no later than October 15 of each year.

After review and approval of the proposal submitted by the Corporation, the Department shall designate the market share for each television [manufacturer](#) for the following year pursuant to RI General Laws 23-24.10-11. By January 1 of each year, the Department shall notify each television [manufacturer](#) that had a market share greater than zero of that market share for the following year.

A television manufacturer shall remain responsible for brands annually registered pursuant to Section 7 and corresponding market shares assigned pursuant to this section for the full calendar year.

- 8.5 **System Performance:** Television [manufacturer](#)(s) shall design and implement the collection program with the goal of collecting its assigned market share by weight for the calendar year.

If a group of television [manufacturers](#) choose to implement a [manufacturer](#) group program as one entity, the [manufacturers](#) must design that group program to meet the sum of their individual market shares.

Any television [manufacturer](#) that does not meet its assigned market share by weight for the previous calendar year, either through an individual or group collection program, may purchase credit for excess material collected either in other

television manufacturer programs or the State Program. Any rate or price for such transaction shall be negotiated between the parties. All purchases and transactions for credit shall be properly reported in the annual reports due to the Department.

Any television [manufacturer](#) that does not meet its assigned market share by weight for the previous calendar year, either through an individual or group collection program, shall pay the RI Resource Recovery Corporation an amount equivalent to the amount the television [manufacturer](#) would have paid if a participant in the State Program plus ten percent (10%). This amount shall be the per pound fee for the prior year, as approved by the Department, multiplied by the television [manufacturer](#)'s market share as established for the prior program year. Payment must be submitted to the RI Resource Recovery Corporation by February 1st.

- 8.6 **Reporting:** Each television manufacturer must provide a report to the Department no later than February 1 of each year that details how the plan required under this section was implemented during the previous calendar year.

The annual report must include:

- 8.6.1 A description of the statewide collection service statewide for households and public and private elementary and secondary schools.
- 8.6.2 The number of days and operating hours that the collection sites were open to the public.
- 8.6.3 A listing of all collectors and recyclers utilized in the course of the implementation of the plan.
- 8.6.4 The degree to which the public utilized any premium services.
- 8.6.5 A listing of the advertising and promotion activities conducted over the calendar year.
- 8.6.6 A report on compliance with environmentally sound management practices as required by Section 13;
- 8.6.7 The methodology, procedures, and results of the statistically significant sampling or actual count of the covered electronic products collected and recycled by the [manufacturer](#) during the calendar year. The actual amount of material collected must be clearly presented in the report.
- 8.6.8 The portion of the amount of total material collected that was collected from public and private elementary and secondary schools/
- 8.6.9 A comparison of the amount of material collected with the market share assigned to the manufacturer(s) covered by the plan.

- 8.6.10 The amount, if any, of purchased credit for excess material collected either in other television manufacturer programs or the State Program.
- 8.6.11 The amount, if any, of the payment submitted to the RI Resource Recovery Corporation as a result of the television [manufacturer](#)(s) not meeting the assigned market share(s) by weight for the previous calendar year.
- 8.7 In the event a manufacturer can be classified as both a television manufacturer and a computer manufacturer, said manufacturer shall be allowed to provide a single collection program for both types of covered products with approval of the Department.

9. Manufacturer Collection Programs for Computer Manufacturers

- 9.1 **Designation of Participation**: At the time of registration, the manufacturer of computers must designate whether it will participate in the State Program or implement a manufacturer program, either individually or in partnership with other manufacturers. Manufacturers who do not indicate a choice between the State Program or a manufacturer program must participate in the State Program for the following year.
- 9.1.1 A computer manufacturer with less than a five-percent (5%) return share is not allowed to implement a manufacturer program and is required to participate in the State Program.
- 9.1.2 A group of computer manufacturers may choose to implement a manufacturer program as one entity, if in doing so the manufacturers meet the sum of their individual return shares by weight and that sum is at least five percent (5%).
- 9.2 **Manufacturer Program Plan**: Each year, a computer [manufacturer](#) choosing to implement a [manufacturer](#) program shall submit an implementation plan in writing to the Department no later than December 15th of the year preceding the calendar year covered under the proposed plan. A group of computer [manufacturers](#) may choose to implement a [manufacturer](#) program as one entity. The manufacturer's plan must include:
- 9.2.1 The names of the participating computer manufacturers and the appropriate contact information for all individuals designated with responsibility for developing the plan and implementing the program.
- 9.2.2 An explanation of how the computer [manufacturer](#)(s) will provide convenient collection service statewide for all brands of covered electronic products from households and public and private elementary and secondary schools in this state, including:

- 9.2.2.1 The staffing and operating hours the collection sites will be open to the public and an explanation on how that provides a frequency adequate to meet the needs of the area being served.
- 9.2.2.2 Any collection service(s) operated jointly with another program(s), potentially including, but not be limited to, mail back programs and collection events.
- 9.2.2.3 All collectors and recyclers to be utilized in the course of the implementation of the plan, and procedures to ensure that all collectors and recyclers are properly registered with the Department in accordance with Section 12 of these regulations.
- 9.2.3 An explanation of how the computer [manufacturer](#)(s) will finance a statewide program to collect covered electronic products from households and public and private elementary and secondary schools in this state;
 - 9.3.3.1 The computer manufacturer(s) must provide for basic service collection, transportation and recycling of from households and public and private elementary and secondary schools free-of-charge; and
 - 9.3.3.2 The computer [manufacturer](#)(s) may provide additional premium service and may charge for the additional cost of that premium service.
- 9.2.4 An explanation of how the computer [manufacturer](#)(s) will provide for advertising and promotion of collection opportunities statewide and on a regular basis from households and public and private elementary and secondary schools in this state;
- 9.2.5 An explanation of how the computer [manufacturer](#)(s) will provide for environmentally sound management practices of covered electronic products collected, transported and recycled from households and public and private elementary and secondary schools in this state in accordance with Section 13;
- 9.2.6 Proposed methodology and procedures to conduct statistically significant sampling or an actual count of the covered electronic products collected and recycled by the computer [manufacturer](#) each calendar year. For all computer manufacturers, the report must include:
 - 9.3.6.1 A list of all brands identified during the sampling or count by the manufacturer;
 - 9.3.6.2 The weight of covered electronic products identified for each brand during the sampling or count; and
 - 9.3.6.3 The total weight of covered electronic products, including orphan

waste if applicable, collected from households and public and private elementary and secondary schools in the state by the manufacturer during the previous calendar year.

9.2.7 Each computer manufacturer included in the plan must include a statement disclosing whether:

9.3.7.1 Any video display devices sold in Rhode Island exceed the maximum concentration values established for lead, mercury, cadmium, hexavalent chromium, polybrominated diphenyls (PBBs), and polybrominated diphenyl ethers (PBDEs) under the RoHS (restricting the use of certain hazardous substances in electrical and electronic equipment) directive 2002/95/EC of the European parliament and council and any amendments there to enacted as of the date; or

9.3.7.2 The manufacturer has received an exemption from one or more of those maximum concentration values under the RoHS directive that has been approved and published by the European commission.

9.2.8 Computer manufacturers who indicate their intent to participate in a manufacturers program but do not submit a plan by December 15th must participate in the State Program for the following year.

9.3 **Review, Decisions and Implementation of the Plan:** The Department may approve the plan, approve the plan with conditions and/or amendments, identify deficiencies and provide the manufacturer(s) with a specific time period to correct such issues, or deny the plan.

Any computer manufacturer proposing a manufacturer program shall implement the plan submitted pursuant to Section 9.2 beginning January 1st unless the manufacturer has received, in writing, a determination from the Department that the plan is not acceptable.

If the Department approves the plan with conditions and/or amendments, the computer manufacturer(s) shall implement the plan as directed or appeal the conditions and/or amendments.

If the Department identifies deficiencies and provides the manufacturer(s) with a specific time period to correct such issues, the computer manufacturer(s) shall address those deficiencies and submit an amended plan in accordance with the specific schedule.

If the Department determines that the plan is unacceptable and denies the plan in writing, the computer manufacturer(s) covered under that plan shall participate in the State Program under RI General Laws 23-24.10-11.

- 9.4 **Return Shares:** The Corporation shall propose a return share and corresponding return share by weight for each computer [manufacturer](#) in accordance with RI General Laws 23-24.10-3(13) and 23-24.10-3(14). This return share and return share by weight shall include the manufacturer's responsibility for brands of orphan waste as allocated across all computer manufacturers. The Corporation shall submit the proposed return share and return share by weight for each computer [manufacturer](#) to the Department, along with the basis for such determination, in writing for review and approval on an annual basis no later than October 15 of each year.

After review and approval of the proposal submitted by the Corporation, the Department shall designate the return share and returns hare by weight for each computer [manufacturer](#) for the following year pursuant to RI General Laws 23-24.10-11. By January 1 of each year, the Department shall notify each computer [manufacturer](#) that had a market share greater than zero of that market share for the following year.

A computer manufacturer shall remain responsible for brands annually registered pursuant to Section 7 and corresponding return shares assigned pursuant to this section for the full calendar year.

- 9.5 **System Performance:** Computer [manufacturer](#)(s) shall design and implement the collection program with the goal of collecting its assigned return share by weight for the calendar year. Only computer manufacturers that meet the qualifications outlined in Section 9.1 are permitted to implement a group manufacturer program for computers.

If a group of computer [manufacturers](#) chooses to implement a [manufacturer](#) group program as one entity, the [manufacturers](#) must design that group program to meet the sum of their individual return shares.

Any computer [manufacturer](#) that does not meet its assigned return share and return share be weight for the previous calendar year, either through an individual or group collection program, may purchase credit for excess material collected either in other computer manufacturer programs or the State Program. Any rate or price for such transaction shall be negotiated between the parties. All purchases and transactions for credit shall be properly reported in the annual reports due to the Department and by the Corporation if the purchase included material from the State Program.

Any computer [manufacturer](#) that does not meet its assigned return share by weight for the previous calendar year, either through an individual or group collection program, shall pay the RI Resource Recovery Corporation an amount equivalent to the amount the [manufacturer](#) would have paid if a participant in the State Program plus ten percent (10%). This amount shall be the per pound fee for the prior year, as approved by the Department, multiplied by the [manufacturer's](#) return share as established for the prior program year. Payment must be submitted to the RI Resource Recovery Corporation by February 1st.

- 9.6 **Reporting:** Each computer [manufacturer](#) must provide a report to the Department no later than February 1 of each year that details how the plan required under this section was implemented during the previous calendar year. The annual report must include:
- 9.6.1 A description of the statewide collection service statewide for households and public and private elementary and secondary schools.
 - 9.6.2 The number of days and operating hours that the collection sites were open to the public.
 - 9.6.3 A listing of all collectors and recyclers utilized in the course of the implementation of the plan.
 - 9.6.4 The degree to which the public utilized any premium services.
 - 9.6.5 A listing of the advertising and promotion activities conducted over the calendar year.
 - 9.6.6 A report on compliance with environmentally sound management practices as required by Section 13;
 - 9.6.7 The methodology, procedures, and results of the statistically significant sampling or actual count of the covered electronic products collected and recycled by the [manufacturer](#) during the calendar year. It shall also include:
 - 9.6.7.1 A list of all brands identified during the sampling or count by the manufacturer;
 - 9.6.7.2 The weight of covered electronic products identified for each brand during the sampling or count; and
 - 9.6.7.3 The total weight of covered electronic products, including orphan waste if applicable, collected from households and public and private elementary and secondary schools in the state by the manufacturer during the previous calendar year.
 - 9.6.8 The portion of the amount of total material collected that was collected from public and private elementary and secondary schools.
 - 9.6.9 A comparison of the amount of material collected with the return share assigned to the manufacturer(s) covered by the plan.
 - 9.6.10 The amount, if any, of purchased credit for excess material collected either in other computer manufacturer programs or the State Program.

9.6.11 The amount, if any, of the payment submitted to the RI Resource Recovery Corporation as a result of the [manufacturer](#)(s) not meeting the assigned return share(s) by weight for the previous calendar year.

9.7 In the event a manufacturer can be classified as a manufacturer of both televisions and computer covered electronic products, said manufacturer shall be allowed to provide a single collection program for both types of covered products with the approval of the Department.

10. Administration of the State Program

10.1 The Corporation and Department shall establish and administer a State Program for the collection, transportation and recycling of covered electronic products from households and public and private elementary and secondary schools in this state. Manufacturers opting to participate in the State Program as indicated on their annual registration submitted to the Department in accordance with Section 7.2 shall be considered participants in the State Program.

10.2 By October 15 of each year, the Corporation shall submit a State Program Plan to the Department for review and approval that:

10.2.1 Complies with environmentally sound management practices as defined in Section 13 to collect, transport and recycle covered electronic products;

10.2.2 Provides, either directly or through the use of an approved contractor, convenient basic services and collection sites for all covered electronic products;

10.2.3 Promotes collection opportunities statewide and on a regular basis;

10.2.4 Proposes a return share and return share by weight for each calendar year for each computer [manufacturer](#);

10.2.4.1 The return share proposed to the Department shall be determined by dividing the total weight of covered electronic products of that [manufacturer](#)'s brands by the total weight of covered electronic products for all [manufacturers](#)' brands.

10.2.4.2 The return share by weight proposed to the Department shall be determined by multiplying the return share for each such [manufacturer](#) by the total weight in pounds of covered electronic products, including orphan waste.

10.2.4.3 The return share of covered electronic products for each [manufacturer](#) shall be based on the most recent annual sampling or count of covered electronic products.

- 10.2.5 Proposes a market share for each television [manufacturer](#);
- 10.2.6 Proposes a recycling fee to be paid by each [manufacturer](#) that participates in the State Program. The Corporation shall establish the deadline by which all applicable recycling fees shall be paid to the Corporation. The recycling fee will be determined as follows:
- 10.2.6.1 For each computer [manufacturer](#), the Corporation shall determine the recycling fee based on the [manufacturer's](#) annual return share and return share by weight. The fee shall be calculated on a per pound basis and shall not exceed fifty cents (\$.50) per pound.
- 10.2.6.2 For each television [manufacturer](#), the Corporation shall determine the recycling fee based on a television [manufacturer's](#) market share. The fee shall be calculated on a per pound basis and shall not exceed fifty cents (\$.50) per pound.
- 10.2.7 Proposes a cost per pound for collection, transportation, and recycling of covered electronic products in order to reasonably approximate market costs for these services.
- 10.2.8 Explains how any deficits generated by the State Program shall be applied to the recycling fee calculation for and in the second program year following the audited program year.
- 10.2.9 Proposes a methodology, to be approved by the Department, to estimate the return share by weight for computer related products using either: i) a statistically significant sampling of the covered electronic products collected and recycled by the State Program during each calendar year; or ii) an actual count of the covered electronic products collected and recycled by the State Program during each calendar year.
- 10.2.10 Maintains on its website information on collection opportunities for covered electronic products.
- 10.3 The Corporation shall implement the State Program Plan as approved. The Department shall issue its determination, in writing, whether to approve the State Program Plan as submitted or approve the plan with conditions.
- 10.4 By November 1 of each year, the Department shall provide notification to all registered manufacturers of the revised cost per pound identified in Section 10.2 for the following calendar year.
- 10.5 By November 1 of each year, the Department and/or Corporation shall notify: i) each computer manufacturer that had a return share of its return share and its return share by weight for the following year; and ii) each television manufacturer that had a market share of its market share for the following year. A manufacturer

shall remain responsible for brands annually registered pursuant to Section 7 and corresponding market shares and/or return shares assigned pursuant to this section for the full calendar year.

- 10.6 The Corporation shall prepare a report to the Department no later than March 1 of the following calendar year that includes a detailed description of how the program was implemented during the previous calendar year, including:
 - 10.6.1 A list of all brands identified during the sampling or count;
 - 10.6.2 The weight of covered electronic products identified for each brand during the sampling or count;
 - 10.6.3 The total weights for both televisions and computer related covered electronic products collected by the State Program during the previous calendar year.
 - 10.6.4 The total amount paid to the Corporation pursuant to Section 8.5 and 9.5 by manufacturers that did not meet their assigned return share by weight or assigned market share.
 - 10.6.5 A list of any manufacturers determined to be out of compliance with requirements of the State Program, including lack of payments of recycling fees to the Corporation for the previous calendar year.
- 10.7 On April 1, July 1 and October 1 of each year, the Corporation shall notify the Department in writing of all manufacturers which have not submitted the required recycling fees and are deemed out of compliance with the State Program.

11. Retailer Responsibility

- 11.1 A retailer may not sell or offer for sale any covered electronic product in or for delivery into this state unless:
 - 11.1.1 The covered electronic product is labeled with a brand and the label is permanently affixed and readily visible;
 - 11.1.2 The brand is included on the list posted by the Department pursuant to Section 6.2; and
 - 11.1.3 The list posted by the Department specifies that the [manufacturer](#) is in compliance with the requirements of R.I. General Law 23-24.10 and these regulations. All [manufacturers](#) will be considered in compliance with the requirements of R.I. General Law 23-24.10 and these regulations for the purposes of this Section until the Department publishes the first listing.

- 11.2 **Information Provided by Retailer at Time of Sale.** A retailer shall provide the consumer at the time of the sale of the covered electronic product information that provides details about where and how a consumer can recycle covered electronic products in Rhode Island. Information shall also be made available in printable form for Internet sales.
- 11.3 A retailer who sells or offers for sale a new covered electronic product must, before the initial offer for sale, review the Department's website to determine that all new covered electronic products that the retailer is offering for sale are labeled with the [manufacturer's](#) brands that are registered with the Department.
- 11.4 A retailer is not responsible for an unlawful sale under this subdivision if the [manufacturer's](#) registration expired or was revoked and the retailer took possession of the covered electronic product prior to the expiration or revocation of the [manufacturer's](#) registration and the unlawful sale occurred within three (3) months after the expiration or revocation.

12. Registration Requirements for Collectors and Recyclers

12.1 Collector's Registration.

In accordance with RI General Laws 23-24.10-10.1, no [person](#) or entity may operate as a collector of any covered electronic products or electronic devices banned from disposal unless that [person](#) or entity has submitted a registration with the Department on a form prescribed by the Director.

Registration information must include the name, address, telephone number, and location(s) of the business, and a certification that the collector has complied and will continue to comply with the requirements of RI General Laws 23-24.10 and all regulations promulgated by the Department and/or the Corporation.

A registration is effective upon receipt by the Department and is valid until December 31 of each year. Collectors must register annually with the Department.

12.2 Recycler's Registration.

No [person](#) or entity may recycle covered electronic products or electronic devices banned from disposal unless that [person](#) or entity has submitted a registration with the Department on a form prescribed by the Director.

Registration information must include the name, address, telephone number, and location of all recycling facilities under the direct control of the recycler that may receive covered electronic products, and a certification that the recycler has complied and will continue to comply with the requirements of RI General Laws 23-24.10 and all regulations promulgated by the Department and/or the Corporation.

A registration is effective upon receipt by the Department and is valid until December 31 of each year. Recyclers must register annually with the Department.

- 12.3 Any person, corporation or entity that acts as a recycler or collector of covered electronic products in Rhode Island, irregardless of whether they act as a contractor for the State Program or an approved manufacturer program, shall comply with the requirement to register with the Department.
- 12.4 Nothing in this section shall be deemed to circumvent the Department's existing authority under RI General Laws Chapter 23-19.1 or regulations promulgated thereto.

13. Environmentally Sound Management of Covered Products

- 13.1 In accordance with R.I. General Laws 23-24.10-12(i), manufacturers' approved collection programs and the State Program as administered by the Corporation shall, at a minimum, meet the environmentally sound management practices as defined in Section 4.10 and as set forth in the *Responsible Recycling ("R2") Practices for Use in Accredited Certification Programs for Electronics Recyclers* as approved by the US Environmental Protection Agency.
- 13.2 It shall be the responsibility of the manufacturers administering approved collection programs and the State Program to ensure that all parties, including contracted partners, participating in the recycling of covered electronic products meet and adhere to said R2 Practices.
- 13.3 Nothing herein shall prohibit any recycler operating as part of either a manufacturers' collection program or the State Program as administered by the Corporation from meeting more stringent standards or practices governing the collection, recycling and disposal of covered electronic products.

14. Enforcement/Penalties

The Director shall assess all penalties for violation of these regulations in accordance with the provisions of R.I. General Laws 23-24.10-16 (The Electronic Waste Prevention, Reuse and Recycling Act), R.I. General Laws Chapter 42-17.1 (The Department of Environmental Management), R.I. General Laws Chapter 42-17.6 (Administrative Penalties for Environmental Violations) and the "Rules and Regulations for Assessment of Administrative Penalties".

A violation of any of the provisions of R.I. General Laws 23-24.10 or any rule or regulation promulgated pursuant thereto, shall be punishable, in the case of a first violation, by a civil penalty not to exceed one thousand dollars (\$1,000). In the case of a second and any further violations, the liability shall be for a civil penalty not to exceed five thousand dollars (\$5,000) for each violation.

15. Appeals

Unless otherwise delineated in separate regulations governing the appeals process adopted by Department after the effective date of these regulations, any person affected by a decision of the Director pursuant to these regulations may, in accordance with Administrative Rules of Practice and Procedure for the Department of Environmental Management, file a claim for an adjudicatory hearing to review the decision. The party contesting a Department decision bears the burden of proof that their application(s) or action(s) comply with all requirements of the rules and regulations herein. All requests for a hearing regarding a decision of the Director must be in writing and filed with the clerk of the Department's Administrative Adjudication Division (AAD) within thirty (30) days of receipt of the Director's decision. All requests for a hearing regarding an enforcement action issued by the Department must be in writing and filed with the clerk of the Department's Administrative Adjudication Division (AAD) within twenty (20) days of receipt of the enforcement action.

16. Severability

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

17. Effective Date

The foregoing Rules and Regulations Governing the Administration and Enforcement of the Electronic Waste Prevention, Reuse and Recycling Act, after due notice, are hereby adopted and filed with the Secretary of State this ____ day of _____, 2013 to become effective twenty (20) days thereafter, in accordance with the provisions of Chapters 23-24.10, 42-35, 42-17.1, 42-17.6 of the General Laws of Rhode Island of 1956, as amended.

_____ Date
Janet Coit
Director, RI Department of Environmental Management

Notice Given on: _____
Public Hearing held: _____
Filing Date: _____
Effective Date: _____