

E-Waste Regulations Advisory Committee
Conference Call Minutes

Date: January 2, 2008

Topic: Other requirements that should be included in the regulations to assist in the implementation of the law

Participants:

Name	Affiliation
Tom Metzner	CTDEP
Kevin Sullivan	CTDEP
Gabrielle Frigon	CTDEP
Carmen Holzman	CTDEP
Mark Latham	CTDEP
Valerie Bodner	CTDEP
Clifford Bast	Sustain Group
Laura Bishop	Best Buy
Heather Bowman	Hewlett Packard
Mike Bzdyra	CT Resources Recovery Authority
Gina Chiarella	We Recycle
Chris Cleet	Information Technology Industry Council
Mike Conklin	Town of Wilton
Jean Cronin	Hughes & Cronin
Ric Erdheim	Philips
Eric Gilbert	Gateway
Kenneth Glick	General Electric
Ray Graczyk	Northeast Lamp Recycling
Peg Hall	Connecticut Recyclers Coalition
Mike Hiltner	Best Buy
James Hogan	We Recycle
Peter Kopczyk	CRT Recycling
Jeff Kuypers	Hewlett Packard
Jason Lynnell	National Center for Electronics Recycling
Joe Nardone	Eco International
Kim O'Rourke	Connecticut Recyclers Coalition
Marc Pearl	Consumer Electronics Retailers Coalition
Tim Phelan	Connecticut Merchants Association
Kristyn Rankin	ERM
Cheryl Reedy	Housatonic Resources Recovery Authority
Valerie Rickman	Information Technology Industry Council
Irene Rodrigues	Robinson and Cole
Jerry Tyminski	Southeastern CT Resources Recovery Facility
Jonathan Bilmus	Tunxis Recycling
Lori Vitagliano	South Central CT Regional Water Authority
Joseph Walkovich	Walkovich Associates
Kachina Walsh-Weaver	Connecticut Conference of Municipalities
Karen Weeks	The Kowalski Group LLC
Doreen Zaback	Town of Wallingford

DEP opened the meeting with information concerning the face-to-face meeting on January 14th (i.e. draft regulations and an agenda would be sent to workgroup

participants prior to the meeting). Participants in this meeting were introduced and the topic of the meeting was identified: Are there any other requirements that should be included in the regulations to assist in the implementation of the law?

DEP: The purpose of this meeting is to discuss ideas concerning any additional requirements that should be added to the e-waste regulations. A list of possibilities was sent out to everyone. First, is there anything not included in this list that someone would like to discuss? If not we will move on to those items on the list.

Comment: None.

DEP: This is not the last opportunity for comment. If someone comes up with an idea please e-mail it to us. Are there any comments on the items on the list?

Comment: Regarding item #4, there are towns that do not collect e-waste now and have space and traffic issues at their transfer stations. However, they do have access to retailers in their town or in adjacent towns. Can a town comply with the law using retailers to collect CEDs?

Comment: With regards to items #4 and #2, and what is convenient and accessible, our understanding is that the law did not intend for municipalities to do anything beyond what they are already doing.

Comment: The use of appropriate private entities should be allowed in the regulations.

Comment: The regulations should be general—more inclusive than exclusive. Want to allow entities such as churches, scouts, goodwill etc. to be involved.

DEP: Retailers can be a component of a town's plan.

Comment: Regarding item #2, what is "convenient and accessible"? Is it based on how many days a week a collection site is available or mileage from the center of the community? A 15-mile radius should be included at a minimum.

Comment: Would prefer to see nothing specific in the regulations. Allow towns to determine what is "convenient and accessible" based on their unique circumstances. A 15-mile radius may not be convenient in a city but may be in a rural setting. The less said about specific requirements in the regulations the better.

DEP: There are three approaches that can be taken. The first is to remain silent on what is convenient and accessible. The second is to address the issue in the regulations, either in general terms or prescriptively. The third is to have towns submit a plan using a checklist to inform the department of how it intends to provide collection opportunities to its residents. The least desirable option is remaining silent on the issue.

Comment: The law does not require a municipality to submit a plan. Should a plan be required to demonstrate that a municipality is providing convenient and accessible collections?

DEP: The department has not reached a consensus on this issue. That is why we are gathering information from the group to see what people think.

Comment: Does the law define “convenient and accessible”?

DEP: No.

Comment: The regulations should include something about not charging residents for their CEDs.

DEP: Such language is not necessary in the regulations. The law is very clear on the issue of not charging residents for CEDs. Towns may charge or continue to charge residents for non-CEDs. Are there any other comments on the role of towns and retailers?

Comment: Remaining silent on what is convenient and accessible is not desirable because of potential enforcement action later. A checklist-type plan or minimal requirements in the regulations are a possibility, however, whatever is done must provide as much flexibility as possible given the diversity among the towns.

Comment: Looking for clarification of term “requirement” in context of items #2 and #4 as it applies to retailers. There are no requirements in the law for retailers who participate in the program. Concerned about the interpretation of the law regarding retailers.

DEP: If a retailer is a collection point for CEDs, there are existing management requirements with which they would have to comply.

Comment: But that is only if a retailer chooses to participate. Participation in the program is voluntary for retailers?

DEP: That is correct.

Comment: The regulations should allow for a sponsoring group such as a church, the boy scouts or a small retailer to work with a CER to provide collection opportunities.

DEP: Do you mean providing a one-day collection?

Comment: Yes. Do not require such sponsoring groups to comply with existing waste management requirements.

DEP: There are existing rules that apply to electronics collection events and anyone involved in such collections would have to comply with all applicable management requirements. Are there any other towns who would like to comment on municipal plans?

Comment: Do not like the silent approach. Want to see at least a checklist the towns can use that provides guidance. It may be difficult to include requirements in the regulations.

Comment: Who would put the checklist together? DEP?

DEP: There are a number of ways it could be done. We have extended invitations to meet with regional agencies to discuss this. We are not looking for anything too complicated or prescriptive. Rather than having towns submit a plan informally, the regulations could require that a town shall submit a plan.

Comment: Would the plan have to be approved by the department?

DEP: Yes, there would be some form of approval. We do not know what that would be at this point.

Comment: There is no point in submitting a plan if no type of approval is given.

DEP: There would be some kind of response from the department.

Comment: The timing may be difficult. An approval process could slow down the process.

Comment: DEP accepting and commenting on a plan is preferable to a formal approval process.

Comment: Could we incorporate this plan into the annual municipal recycling report the towns already have to submit?

DEP: That is a good idea that we will consider. Now we will move on to discussing brand recognition.

Comment: Do recyclers have to record unit count and brands by identifying the correct brand and assigning it to the correct manufacturer?

DEP: Yes.

Comment: While it may seem like a simple thing to do, there are pitfalls. Sometimes units can have multiple markings or stickers. If personnel are not properly trained, markings such as "Intel Inside", "Energy Star" and UL labels can be confused as a brand. Sometimes there are multiple brand labels on a unit and it can be very difficult

to identify the correct manufacturer (e.g., Trinitron name owned by Sony but manufactured by other manufacturers). CPUs have the most issues. They can have multiple markings. A CD ROM or DVD ROM drive brand can be assigned to the entire unit so the wrong manufacturer is identified and billed. Maine has a list of brands that should not be recorded and misidentified brands. A brand may be orphan as a TV but not as a monitor. The key is to bill the appropriate manufacturer.

DEP: We could require training through the regulations for brand identification or address it through education and outreach.

Comment: We spent a lot of time training workers on brand identification. There are a lot of brands out there and it can be difficult to identify them. Not all labels indicate the brand/manufacturer.

DEP: Workers are the ones who look at the brands. Perhaps the regulations should include worker training on brands as a requirement for CERs.

Comment: If our workers have not seen a brand before, they stop and ask.

DEP: Do you have a list of known orphan devices?

Comment: Yes.

DEP: What percentage of the devices are misidentified?

Comment: Don't know but we can send a list of brands that would have been misidentified if not researched.

DEP: Is this a matter of wrong assignment to a manufacturer?

Comment: Yes. We are also seeing a problem with multiple markings and the need for more information to assign the devices to the correct manufacturer based on product category or the way a logo appears. Maine has what it calls a "quirk" list. For example: if a Mitsubishi has a logo with 3 dots it is assigned one place, if it doesn't have dots it is assigned to another.

Comment: Maine has been very helpful on this issue.

DEP: We would expect recyclers to contact DEP with questions concerning brands and manufacturers.

Comment: Would DEP decide what the orphan brands are?

DEP: DEP would determine if a device is an orphan. If a brand was received that was not found on a list, we would research it.

Comment: What about small business or individuals which assemble computers? Are they subject to the law?

DEP: Yes. They would have to label their units and register with the department.

Comment: How would they know about the requirements?

DEP: Don't know. If we identified such a manufacturer we would send them a letter.

Comment: Know of several people who could assemble computers.

DEP: They would have to comply with the law.

Comment: Maine has a list of small manufacturers, however, they are not a priority unless their devices show up at a consolidation facility.

Comment: Approximately .15% of the total weight of devices are misrepresented, white box unlabeled units and 5% are orphan devices, excluding desktops.

DEP: Education will be needed and we can borrow from other states' "quirk" lists.

Comment: Is there a loophole for small assemblers who don't label?

DEP: No. All manufacturers have to label their devices.

Comment: For clarification, the regulations should include a definition for "brand".

DEP: The law includes a definition for "manufacturer's brands".

DEP: With regards to the tier system for administrative fees, Washington had detailed information on their tiers. How general or specific should our regulations be?

Comment: Washington's tier system was unfair because of the large differences between the fees as you move from one step to the next. For example, someone with a 5.0% market share pays a lot more than someone with 4.9% of the market share.

DEP: Our regulations could require a minimum number of tiers to avoid that problem. But because there are so many more smaller manufacturers than there are larger ones, it is difficult to level the steps. Should we put these details in the regulations or leave them out and adjust the tiers every year as needed? The law says there can be opportunity for a public hearing when setting fees and that would be the point where comments and objections could be made. The regulations would just include the basics about the tier system.

Comment: That still leaves the issue of how to set the tiers.

DEP: Every year we would adjust them as needed to maintain fairness and allow public comment.

DEP: What about using a sliding scale based on percentage of the market share?

Comment: Do not have a problem with tiers as long as there are no huge steps in the fees. Not arguing against the system.

DEP: Best way is to reset tier levels every year with a public comment period.

DEP: Instead of tiers just use a formula where the percentage of the manufacturer's market share is a multiplier.

Comment: Maybe use a combination of both approaches since there is such a large number of manufacturers in the bottom tiers.

DEP: Are there any other comments on tiers and the administrative fee?

Comment: None.

DEP: With regards to limiting the number of approved recyclers, internally we have been discussing if we can do it legally and if we can, should we. Maine limited the number to 10, but they received less than 10 applications. Are there any comments or concerns about this issue?

Comment: Why would you want to limit the number?

Comment: California didn't and their program works as well as Maine's program.

Comment: California has a very different system than Maine's. In California only one entity does the paying out so the burden on the manufactures is not as great administratively. It is important to follow Maine and limit the number.

Comment: The more recyclers there are, the better it is for the towns.

DEP: Connecticut is a small state geographically. How many recyclers can it support? It seems we would have fewer apply than in Maine. It becomes very competitive if more than 10 come in.

Comment: How would a recycler be approved at a later date or how would you replace one that leaves the program?

Comment: Maine allows new consolidators to apply for approval once a year.

Comment: The process should be competitive through DAS like everything else in the state.

Comment: Could someone clarify why we should set a limit? How does that help?

DEP: That question will be passed to the manufacturers because it is their concern.

Comment: Any business wants to know who they have contracts with. There is no mutual agreement when one company is forced to do business with another.

Comment: The more vendors there are, the more work there is for the manufacturers.

Comment: It is a practical business application. No business can operate under “here is the bill and you must pay it”.

DEP: For manufacturers, what should be the limiting number in Connecticut?

Comment: 10 or less would be the number. Connecticut is a more populated state and 10 recyclers would give towns good service and help to make sure that recycling is done properly.

Comment: Set the limit high with the ability to ratchet it down later. It is unusual to limit qualified bidders up front. That is not how government works.

Comment: Invoices we put together can be for very small amounts and are quite an administrative burden on us, as the recycler, and the manufacturer. Small invoices tend not to get paid in an expeditious manner. Keeping the number limited would allow the manufacturers, recyclers and towns to develop relationships.

Comment: Set the limit at 25. It is a maximum that would never be reached and would allow new recyclers to get into the program.

DEP: Will market forces naturally limit the number of recyclers? How many can the state support financially?

Comment: The number will be market driven. Should focus more on who is qualified and capable to bid. Four or five recyclers can be competitive.

Comment: Quality standards will limit the number of recyclers. A smaller number is preferable. One or two wouldn't necessarily be too small. Towns do not care about the price because there is no cost to the town for this program. However, if the number of recyclers is too high, reduce their numbers using the price they submit.

Comment: Agree. The requirements for recyclers will limit the number, however, 1 or 2 is too low.

DEP: In summary we can: 1) set a maximum number of recyclers to be approved; 2) use the approval process to limit the number; or 3) assume the market will bear a limited number.

Comment: There is a fourth alternative of setting a cap in combination with using the standards for recyclers.

DEP: It would be difficult to squeeze a recycler out if you set the limit at 10 and 11 applications for approval come in.

Comment: Or approval could be through the state's normal bid process.

Comment: How much harder is it for a manufacturer to receive 20 invoices rather than 10?

Comment: We are receiving invoices from companies we don't know. We conduct business internationally, and Connecticut is only one state. It is very difficult and needs to be limited. It could take a recycler a long time to get paid.

Comment: The issue is relevant especially with regards to auditing.

Comment: Setting high standards will limit the number of recyclers who will be qualified to be a certified electronics recycler.

DEP: That is probably the case. However, do we want to set a number in the regulations or take a chance on the standards limiting the number? We want to address this issue in the best way possible and we are sensitive to the manufacturers' concerns. However, if we set a limit, we must be able to justify the number we choose and have the appropriate authority to do so. Are there any other issues to be discussed?

Comment: Does the January 1, 2009 date in the law mean CEDs taken by a recycler after 1/1/09 or collection of CEDs after 1/1/09?

Comment: The law hinges on disposal.

DEP: The disposal ban isn't until later. We will have to verify the meaning of the date. But if there is a pod for CEDs on 1/2/09, the manufacturer would have to pay for it.

Comment: What if a recycler does not need to charge a manufacturer?

DEP: If there is no transportation or recycling costs there is nothing to bill to the manufacturer and that activity is outside this law. However, there are other requirements such as permitting, universal waste rule, etc., with which you must still comply. If there are no more comments now, you can still provide comment at our face-to-face meeting scheduled for January 14th.

Comment: What will be happening over the next 6 months?

DEP: Once drafted, the regulations will go through the department's regulations adoption process. We will get a schedule for the adoption process out to you shortly.

Next Meeting: January 14, 2008
9:00 a.m. to 4:00 p.m.
Face-to-Face Meeting at the Department of Transportation
Berlin Tpke., Newington, CT
Topic: Discussion on the Draft Regulations