

THE CITY OF NEW YORK
DEPARTMENT OF SANITATION
NOTICE OF ADOPTION OF FINAL RULES
GOVERNING ELECTRONIC EQUIPMENT COLLECTION, RECYCLING AND REUSE

NOTICE IS HEREBY GIVEN that, in accordance with the requirements of section 1043 of the New York City Charter and pursuant to the authority vested in the Commissioner of the Department of Sanitation by section 753(a) and (b) of the New York City Charter and Administrative Code § 16-432, the Department adopts the following rules governing electronic equipment, collection, recycling and reuse. This rule adds Chapter 17 to Title 16 of the Rules of the City of New York. The Department published a Notice of Opportunity to Comment on the proposed rules in the *City Record* on September 16, 2008. On October 21, 2008 the Department held a public hearing on the proposed rules. The comment period for the receipt of written comments was held open until October 31, 2008.

Existing provisions to be deleted are shown below in brackets and new provisions are underlined.

Dated: April 15, 2009. John J. Doherty, Commissioner.

Section 1. Title 16 of the Rules of the City of New York is amended by adding a new Chapter 17 to read as follows:

Chapter 17

ELECTRONIC EQUIPMENT COLLECTION, RECYCLING AND REUSE

§17-01 Definitions. When used in this subchapter:

Brand name. "Brand name" shall mean a manufacturer's name, brand designation, make or model name or number, or other nomenclature by which covered electronic equipment is offered for sale by a manufacturer.

Cathode Ray Tube. "Cathode ray tube" shall mean a vacuum tube or picture tube used to convert an electronic signal into a visual image.

Computer. "Computer" shall mean an electronic, magnetic, optical, electrochemical or other high-speed processing device performing a logical, arithmetic or storage function, and shall include a laptop computer and a desktop computer; but such term shall not include an automated

typewriter or typesetter, portable hand-held calculator, portable digital assistant, or other similar device.

Computer Central Processing Unit. “Computer central processing unit” shall mean a server or the central processing unit component of a desktop computer, and shall include (1) its casing and all interior wires, circuitry, cables and other hardware and (2) all exterior cables and power cords.

Container. “Container” shall mean any box, envelope or similar receptacle sufficient to securely enclose covered electronic equipment for return to a manufacturer.

Covered Electronic Equipment. “Covered electronic equipment” shall mean any of the following categories of equipment: (1) computer central processing unit; (2) computer keyboard; (3) electronic mouse or similar pointing device; (4) television; (5) printer; (6) monitor; (7) computer; and (8) portable digital music player that has memory capability and is battery-powered. “Covered electronic equipment” shall not include any automobile or any part thereof; mobile phone; household appliance such as a clothes washer, clothes dryer, refrigerator, freezer, microwave oven, oven, range or dishwasher; equipment that is functionally or physically part of a larger piece of equipment intended for use in an industrial, research, and development or commercial setting; security, anti-terrorism or medical equipment that utilizes a cathode ray tube, a cathode ray tube device or a flat panel display or similar video display device that is not separate from the larger piece of equipment; any device defined in 21 U.S.C. § 321; video game system; global positioning system (GPS) device; marine equipment; digital video recorder; cash register or similar point of sale device; portable DVD player; digital picture frame; audio equipment other than portable battery-powered digital music player with memory capability; universal serial bus (USB) device.

Department. “Department” shall mean the Department of Sanitation.

Desktop Computer. “Desktop computer” shall mean a personal computer, other than a laptop computer, designed to be used at a single location, and shall include any or all of the following components: computer central processing unit, monitor, computer keyboard, electronic mouse or similar pointing device, and any exterior cables and power cords.

Electronic Recycler. “Electronic recycler” shall mean a person who: (1) refurbishes or otherwise processes covered electronic equipment for reuse or resale; or (2) removes, segregates

or otherwise extracts components or commodities from covered electronic equipment, either by manual or mechanical separation or by changing such equipment's physical or chemical composition, for the purpose of reusing or recycling such components or commodities.

End Market. "End market" shall mean any market for (1) reused covered electronic equipment or (2) covered electronic equipment, or any components thereof, after such equipment has been recycled.

Label. "Label" shall mean information on the surface of covered electronic equipment, which must be permanently attached to, printed or engraved on or incorporated in any other permanent manner on such equipment, and obvious and visible to users of such equipment.

Laptop Computer. "Laptop computer" shall mean any personal computer that is portable and includes a visual display, monitor and a computer keyboard, and shall include any exterior cables and power cords.

Manufacturer. "Manufacturer" shall mean a person who (1) assembles or substantially assembles, or has assembled or substantially assembled, covered electronic equipment for sale in the City; (2) manufactures or has manufactured covered electronic equipment under its own brand name or under any other brand name for sale in the City; (3) sells or has sold, under its own brand name, covered electronic equipment produced by another person for sale in the City; (4) owns a brand name that it licenses or has licensed to another person for use on covered electronic equipment for sale in the City; (5) imports or imported covered electronic equipment for sale in the City; or (6) manufactures or has manufactured covered electronic equipment for sale in the City without affixing a brand name.

Monitor. "Monitor" shall mean a separate visual display component of a computer, including a liquid crystal display, plasma screen, cathode ray tube or other image projection technology, that includes a screen that is greater than four inches, when measured diagonally, and one or more circuit boards, whether sold separately or with a computer central processing unit. A "monitor" includes the screen (including its image projection technology), casing, interior wires and circuitry, all exterior and interior cables, and power cords.

Not-for-profit corporation. "Not-for-profit corporation" shall mean a not-for-profit corporation as defined in subparagraph five or seven of Not-for-Profit Corporation Law § 102(a)

Orphan waste. “Orphan waste” shall mean covered electronic equipment, the manufacturer of which cannot be identified or is no longer in business and for which no successor-in-interest has been identified.

Person. “Person” shall mean any individual, business entity, partnership, company, corporation, not-for-profit corporation, association, governmental entity, public benefit corporation, public authority or firm.

Printer. “Printer” shall mean any desktop or standalone device sold exclusively for external use with a computer that provides for input to or output from a computer and is used to print words, characters or images in any form, including devices that include additional functions such as fax, scan or copy. A printer shall not include products for which printing is not the primary function, or specialized printing devices, such as a label maker or Braille embosser.

Portable. “Portable” shall mean designed to be (1) used while being held or carried or (2) carried for use in an alternate location.

Recycle. “Recycle” shall mean to use the materials contained in covered electronic equipment or components thereof as raw materials for new products or components, but not for energy recovery or generation by means of combustion, gasification, pyrolysis or other means.

Resident. “Resident” shall mean any individual who resides within the City of New York.

Reuse. “Reuse” shall mean any reuse of covered electronic equipment or any components thereof for the same purpose for which they were originally conceived.

Sell or Sale. “Sell” or “sale” shall mean any transfer for consideration, by lease or sales contract of title to or the right to use covered electronic equipment from a manufacturer or retailer to any person, including but not limited to transactions conducted through retail sales outlets, catalogs, or the internet. “Sell” or “sale” includes the transfer of new, used or refurbished covered electronic equipment, but does not include transfers between end users of such equipment.

Television. “Television” shall mean a display system containing a cathode ray tube or any other type of display primarily intended to receive broadcast video programming, having a viewable area greater than four inches when measured diagonally.

§17-02 Responsibility of Manufacturer Collection.

(a) Beginning July first, two thousand-nine or one hundred eighty days after an electronic waste management plan is approved by the department, whichever date is later, a manufacturer must accept for collection, handling and recycling or reuse covered electronic equipment in accordance with Chapter 4-A of Title 16 of the Administrative Code.

(b) No manufacturer shall be required to accept covered electronic equipment that is of a different type than that which is currently or previously assembled, manufactured or imported by such manufacturer, or currently or previously sold under the brand name owned or licensed by such manufacturer. Covered electronic equipment shall be considered to be of the same type if it is included within the same category of covered electronic equipment set forth under the definition of covered electronic equipment in §17-01 of this chapter; provided, however, that (1) a laptop computer shall be considered the same type of covered electronic equipment as a desktop computer or any component thereof and (2) a server shall not be considered to be the same type of covered electronic equipment as the central processing unit component of a desktop computer.

(c) A manufacturer shall not impose a fee or other charge on any person for the collection, handling, and recycling or reuse of covered electronic equipment, except that a fee or other charge may be imposed by contract between a manufacturer and a business entity, partnership, company, corporation or firm having more than fifty full time employees, other than a not-for-profit corporation, association, governmental entity, public benefit corporation or public authority.

§17-03 Manufacturer Electronic Waste Management Plan Requirements.

(a) No later than sixty days after these rules governing electronic equipment collection recycling and reuse are published as final in the *City Record*, a manufacturer shall submit to the department an electronic waste management plan pursuant to §16-423 of the Administrative Code. Any person who becomes a manufacturer on or after such date shall submit to the department an electronic waste management plan for the collection, handling, and recycling or reuse of covered electronic equipment prior to selling any covered electronic equipment in the City. All plans shall be submitted to the Director of the Bureau of Waste Prevention, Reuse and,

Recycling, New York City Department of Sanitation, 44 Beaver Street, 6th Floor, New York, NY 10004. Such submission must be clearly marked with the words “Local Law 13 of 2008 submission”.

(b) Each manufacturer must submit a bank or certified check, payable to the “New York City Department of Sanitation”, in the amount of one thousand five hundred dollars (\$1500) with its proposed plan as required by §16-423(b) of the Administrative Code.

(c) A manufacturer’s electronic waste management plan shall be signed by an officer, director or other person having knowledge of the manufacturer’s electronic waste management plan.

(d) A manufacturer may elect to submit an individual or a group plan, whereby one or more manufacturers participate in a collective plan for the collection, handling, recycling and reuse of covered electronic equipment. Any manufacturer participating in a group plan may separately submit any information not pertaining to such collective plan for the collection, handling recycling and reuse of covered electronic equipment provided the group plan indicates such separate submission. For each manufacturer participating in a group electronic waste management plan, an officer, director or other person having knowledge of the manufacturer’s electronic waste management plan shall sign such plan with respect to those portions of the plan that relate to such manufacturer. Each manufacturer participating in a group plan must submit a check in the amount of one thousand five hundred dollars (\$1500) in accordance with subdivision (b) of this section.

(e) If two or more manufacturers share responsibility for the same brand of covered electronic equipment, any plan submitted by such manufacturers shall indicate such joint responsibility.

(f) The Department may, upon a showing of good cause by the manufacturer, designate information relating to covered electronic equipment submitted to the Department by such manufacturer as confidential.

(g) The electronic waste management plan shall be submitted on an electronic waste management plan submission form provided by the department. Such form may be obtained from the department’s website or by written request to the Director of Bureau of Waste Prevention, Reuse and, Recycling, New York City Department of Sanitation, 44 Beaver Street,

6th Floor, New York, NY 10004 . Unless otherwise indicated on the form, all information on such form must be completed in order to comply with this section. Any manufacturer that fails to complete any information as requested on such form shall be deemed not to have submitted a plan and shall be subject to the penalties set forth in §16-427 (d) (1) of the Administrative Code for failure to submit an electronic waste management plan.

(h) A manufacturer's electronic waste management plan shall include:

(1) information about the manufacturer, including company name, tax identification number, postal address, telephone number, company website, website of such manufacturer's electronic waste management plan, and information on whether the manufacturer is participating in a group plan. Such information shall also include contact information for a person from each manufacturer participating in such group plan. Such contact information shall include the person's name, title, electronic mail address, postal address and telephone number.

(2) a description of the manufacturer's plan for the collection, handling, and recycling or reuse of covered electronic equipment in the City, including the methods by which a person can return to the manufacturer such covered electronic equipment.

(i) Pursuant to §16-423 (d) (1) of the Administrative Code, a manufacturer must provide convenient collection methods for covered electronic equipment to residents of the City. Such convenient collection methods shall be set forth in the manufacturer's electronic waste management plan. Convenient collection methods shall mean:

(A) for any item that is portable and/or fifteen pounds or less in weight, convenient collection from a resident shall mean a program whereby such resident can return covered electronic equipment to the manufacturer by mail or similarly convenient delivery service ("mail-back program") and/or a program whereby any resident may return covered electronic equipment to the manufacturer at multiple locations in the City that are open to the public during business hours, weekday evening hours and at least one weekend day, and accessible to the public, including those residents without vehicles ("drop-off program"). Examples of portable items are: a laptop computer and a portable digital music player that has memory capability and is battery-powered. Examples of items less than fifteen pounds are an electronic mouse, a computer keyboard, and a laptop computer. Should a manufacturer utilize solely a drop-off program for any item that is portable and/or fifteen pounds or less in weight, such drop-off

locations must be located in every borough in a number equal to or greater than the number of community boards located in the borough. Convenient collection of portable items and/or items less than fifteen pounds also may include a direct collection program as defined in §17-03(h)(2)(i)(B).

(B) for all other items, convenient collection from a resident shall mean direct collection from a resident's home in the City, which may include a postal or parcel service but need not include collection from inside such home ("direct collection program"). A direct collection program may not include collection of electronic equipment left for collection at the curbside.

(ii) For persons, other than residents, entitled to free collection under §16-423(c) of the Administrative Code, the method of collection must be at least reasonably accessible to such persons; provided, however, that the method of collection may be as provided by contract if the method of collection arranged for by such contract is more convenient than reasonably accessible. Such reasonably accessible collection method shall be set forth in the manufacturer's electronic waste management plan.

(iii) For a business entity, partnership, company, corporation (other than those corporations covered by §17-03(h)(2)(ii)) or firm having more than fifty full time employees, the method of collection shall be as provided by contract or as otherwise provided in the manufacturer's electronic waste management plan.

(iv) Any container necessary to effectuate a mail-back, drop-off or direct collection program must be offered free of charge by the manufacturer to a resident returning covered electronic equipment to such manufacturer, except as provided by contractual agreement between a manufacturer and a business entity, partnership, company, corporation (other than a not-for-profit corporation) or firm having more than fifty full time employees.

(3) information regarding any person who will collect, recycle or process for reuse covered electronic equipment pursuant to the manufacturer's electronic waste management plan, including such person's company name, tax identification number, address, telephone number and company website.

(4) the start and end dates of the contract between the manufacturer and the person referred to in paragraph three of this subdivision.

(5) a description of how the manufacturer will inform residents and businesses of the City about such manufacturer's plan for the collection, handling, recycling or reuse of covered electronic equipment, including a toll-free telephone number and/or an internet website address.

(6) a description of the manufacturer's plan for the disposition of covered electronic equipment, including any plan for the recycling or reuse of such covered electronic equipment. Such description shall include:

(i) a description of the processes and methods to be used for the collection, handling, recycling and recovery of covered electronic equipment by each electronic recycler utilized by the manufacturer, the type of covered electronic equipment accepted from the manufacturer by each such electronic recycler, the percentage of covered electronic equipment exported for recycling or reuse by each such electronic recycler and the countries to which such covered electronic equipment is exported, details on any disassembly or physical recovery operations to be used by each such electronic recycler, the locations of all operations of each such electronic recycler with respect to covered electronic equipment collected from the manufacturer and a description of the operations at each such location .

(ii) a description of anticipated end markets to be utilized for recycled and/or reused covered electronic equipment, including the locations of such end markets and the types of recycled materials and/or reused covered electronic equipment or components thereof accepted by such end markets.

(iii) a description of the method to be used to destroy all data in any covered electronic equipment collected, either through physical destruction of the data storage components or through data wiping, meeting or exceeding United States Department of Defense standard 5220.22M.

(iv) a description of any plan to re-sell or donate covered electronic equipment, including whether such donated or re-sold covered electronic equipment will be in full working condition.

(v) a description of any tracking system used by the manufacturer to track returned covered electronic equipment that is recycled or reused pursuant to the manufacturer's electronic waste management plan.

(vi) a description of any environmental, health or safety audits that any recycling facility or electronic recycler utilized by the manufacturer or such electronic recycler has undergone.

including a description of the audit process used, the results of such audit and any certifications provided to the facility or electronic recycler as a result of such audit.

(vii) a certification stating that the collection, handling and recycling or reuse of covered electronic equipment will comply with all applicable local, state, federal and international laws and regulations. For any electronic recycler utilized by the manufacturer, the certification must include copies of all federal and state transportation, operation and disposal permits. Such certification shall be issued by an officer or director or any other person having knowledge of the manufacturer's or electronic recycler's compliance with such laws and regulations.

(7) annual City sales data of the manufacturer's covered electronic equipment for the previous three calendar years, including a description of the method or methods of sale currently used in the City. Such sales data shall be expressed in terms of both the total weight sold and the number of units of a type of covered electronic equipment sold.

(8) a list of every brand name of the manufacturer pursuant to §16-423(d)(7) of the Administrative Code. For each brand name, the covered electronic equipment sold under that brand name must be set forth.

(9) a description of how the manufacturer intends to achieve the performance standards set forth in §16-424 of the Administrative Code.

(10) any additional information required by §16-423(d) of the Administrative Code.

(i) Electronic waste management plans will be approved or disapproved by the department in accordance with §16-423(e) of the Administrative Code.

§17-04 Waiver of Provisions of Electronic Waste Management Plan.

(a) A manufacturer must submit an electronic waste management plan that meets all of the requirements of §16-423 of the Administrative Code unless a waiver pursuant to §16-423(e) of the Administrative Code is approved by the department. Such waiver shall only be approved upon a detailed showing of good cause by the manufacturer why it is unable to comply with any such requirement.

(b) A manufacturer's request for a waiver must be submitted prior to or with the submission of the manufacturer's proposed electronic waste management plan, or any proposed plan modification to which such request relates, by letter to the department. Should the

department disapprove a manufacturer's waiver request, such manufacturer will be notified in writing of the reasons for such disapproval. Such manufacturer shall then submit the required information with its electronic waste management plan or proposed modification thereof, if such request for a waiver was submitted prior to the submission of such plan or modification, or 30 days after notification of the Department's disapproval, if such request for a waiver was submitted with such plan or modification.

(c) (1) If a manufacturer is unable to provide New York City sales data pursuant to §17-03(h)(7) of this chapter, it must ask for a waiver of this requirement pursuant to this section and provide New York State sales data prorated according to the relative populations of New York City and New York State.

(2) If a manufacturer is unable to provide either New York City or New York State sales data, it must ask for a waiver of this requirement pursuant to this section and provide regional or national sales data prorated according to the relative populations of New York City and the region to which such sales data relates.

(3) A waiver pursuant to paragraph one or two of this subdivision shall only be approved upon a detailed showing of good cause in accordance with subdivision (a) of this section and the submission of the alternative pro rated sales data as required by such paragraph.

(d) Except as provided in §17-08(h) of this chapter, the approval of any waiver pursuant to this section shall not affect the manufacturer's obligation to comply with any other requirement of Chapter 4-A of Title 16 of the Administrative Code or this chapter, including without limitation any reporting requirement contained in §17-08 of this Chapter and/or §16-428 of the Administrative Code.

§17-05 Department Audits.

(a) The department may audit any information included in a manufacturer's electronic waste management plan or annual report.

(b) The department may request information on covered electronic equipment sold under a manufacturer's brand name, including information on the weight, size, and individual components of such covered electronic equipment.

(c) Each manufacturer's records pertaining to the information required to be included in either its electronic waste management plan or its annual report must be maintained for a period of five years subsequent to the submission of such electronic waste management plan or annual report. Such records shall be provided to the department upon request.

§17-06 Modification of Electronic Waste Management Plans.

(a) A proposed modification to the description of the manufacturer's plan for the collection of covered electronic equipment in the City must be approved by the department before the manufacturer implements the proposed modification. Such proposed modification shall be sent to the Director of Bureau for Waste Prevention, Reuse and Recycling, New York City Department of Sanitation, 44 Beaver Street, 6th Floor, New York, NY 10004. Such submission must be clearly marked with the words "Local Law 13 of 2008 submission".

(b) Any other proposed modification to a manufacturer's electronic waste management plan may be submitted to the department at any time before or after the proposed modification is implemented, but in no event later than the date the manufacturer's next annual report is due, in which case such proposed modification may be included in such manufacturer's annual report; provided, however, that any change to the information required by paragraph one, two or five of §17-03(h) shall be provided to the department immediately. If the department rejects any such proposed modification submitted by the manufacturer after it has been implemented, the manufacturer shall discontinue the plan modification in accordance with the instructions of the department.

(c) Proposed modifications to a manufacturer's electronic waste management plan will be approved or disapproved by the department in accordance with §16-423(h) of the Administrative Code.

§17-07 Labeling.

(a) Pursuant to §16-425 (a) of the Administrative Code, a manufacturer may not sell or otherwise distribute for sale in the City covered electronic equipment unless such equipment has a label that identifies such manufacturer.

(b) In accordance with §16-425 (b) of the Administrative Code, a manufacturer must provide information on how a person can return covered electronic equipment pursuant to such manufacturer's electronic waste management plan at the point of sale. Such information must be provided in writing to such person purchasing covered electronic equipment and may be included on the receipt of purchase, on or inside the product box or in any equipment manual accompanying the product, or provided in any other manner at the point of sale that is reasonably accessible to the buyer of such equipment.

§17-08 Reporting.

(a) Beginning no later than July 1, 2009, a manufacturer shall submit to the department annual reports pursuant to §16-428(a) of the Administrative Code. Annual reports shall be submitted to the Director of Bureau of Waste Prevention, Reuse and Recycling, New York City Department of Sanitation, 44 Beaver Street 6th Floor, New York, NY 10004 together with the annual report fee pursuant to subdivision (b) of this section. Such submission must be clearly marked with the words "Local Law 13 of 2008 submission".

(b) Each manufacturer must submit a bank or certified check in the amount of one thousand two hundred fifty dollars (\$1250) payable to the "New York City Department of Sanitation" as required by §16-423 (b) of the Administrative Code with such manufacturer's annual report.

(c) Notwithstanding subdivisions (a) and (b) of this section, a manufacturer that submits an electronic waste management plan to the department on or before July 1, 2009 and pays the fee required by §17-03(b) of this chapter on or before such date shall be deemed to have complied with subdivisions (a) and (b) of this section for the calendar year 2008 reporting period.

(d) An annual report shall be submitted on an annual reporting form that may be obtained from the department's website or by written request to the Director of Bureau of Waste Prevention, Reuse and Recycling, New York City Department of Sanitation, 44 Beaver Street 6th Floor, New York, NY 10004. Unless otherwise indicated on the form, all information on the form must be completed in order to comply with this section. Any manufacturer that fails to complete any information as requested on the form shall be deemed not to have submitted an

annual report and shall be subject to the penalties set forth in §16-427(d)(1) of the Administrative Code for failure to submit an annual report

(e) Manufacturers participating in a group electronic waste management plan may submit a group annual report. Each such manufacturer must provide a check in the amount of one thousand two hundred fifty dollars (\$1250) in accordance with subdivisions (b) and (c) of this section. Such report must contain all of the information required pursuant to subdivision (g) of this section for each individual manufacturer; provided, however, that a manufacturer participating in such report may separately submit any required information not pertaining to the group electronic waste management plan.

(f) A manufacturer's annual report shall be signed by an officer, director or other person having knowledge of the manufacturer's electronic waste management plan. For a group annual report, an officer, director or other person having knowledge of the manufacturer's electronic waste management plan for each manufacturer participating in the submission shall sign such report with respect to those portions of the annual report plan, including the group electronic waste management plan, that relate to such manufacturer.

(g) A manufacturer's annual report shall include:

(1) any approved modification to the manufacturer's electronic waste management plan during the previous calendar year indicating which sections of the plan have been changed.

(2) any proposed modification to the manufacturer's electronic waste management plan pursuant to §17-06(b) of this chapter indicating which sections of the plan would be changed pursuant to such proposed modifications.

(3) New York City sales data for covered electronic equipment sold during the previous calendar year. Such sales data shall be expressed in terms of both the total weight sold and the number of units of a type of covered electronic equipment sold.

(4) a description of the manufacturer's collection and handling system for covered electronic equipment, including information on any collector, transporter or electronic recycler utilized by the manufacturer for collection, handling, recycling or reuse of covered electronic equipment under the manufacturer's electronic waste management plan. Such information shall include the collector, transporter or electronic recycler's company name, tax identification number, address, telephone number, company website, and information on the contract between

the manufacturer and such collector, transporter or electronic recycler, including the start and end dates of such contract.

(5) the quantity of covered electronic equipment collected for recycling or reuse in the City during the previous calendar year pursuant to the manufacturer's electronic waste management plan expressed both in terms of the of the total weight of collected covered electronic equipment and as a percentage of the average annual sales of the manufacturer's covered electronic equipment in the City, reported by weight, during the previous three calendar years. Such collected covered electronic equipment shall be categorized by the type of covered electronic equipment collected, and further categorized, to the extent possible, by the quantity of covered electronic equipment collected from individuals and government entities.

(6) the weight of orphan waste collected during the previous calendar year pursuant to the manufacturer's electronic waste management plan, categorized by the type of covered electronic equipment collected.

(7) a description of the actual disposition of the manufacturer's covered electronic equipment collected pursuant to the manufacturer's electronic waste management plan during the previous calendar year, including information on any electronic recycler, end markets and re-sale or donation opportunities utilized by the manufacturer. Such description shall include:

(i) a description of the processes and methods used by any such electronic recycler to recycle collected covered electronic equipment , including the type of covered electronic equipment accepted, the percentage of covered electronic equipment exported for recycling or reuse, and the countries to which such covered electronic equipment was exported.

(ii) a description of any end markets utilized by such manufacturer or electronic recycler for collected covered electronic equipment, including the location of such end markets and the types of materials accepted by such end markets.

(iii) a description of the method used by the manufacturer and/or any such electronic recycler to destroy all data in collected covered electronic equipment. Such destruction of data must meet or exceed United States Department of Defense Standard 5220.22M.

(iv) a description of any re-sale or donation programs for collected covered electronic equipment, including whether such donated or re-sold covered electronic equipment was in full working condition when re-sold or donated.

(v) a description of any data tracking and accounting system maintained by the manufacturer and/or electronic recycler to track collected covered electronic equipment.

(vi) a description of any environmental, health and safety audits that any recycling facility or electronic recycler utilized by the manufacturer or such electronic recycler has undergone, including a description of the audit process used, the results of such audit and any certifications provided to the facility or electronic recycler as a result of such audit.

(vii) a certification stating that the collection, handling and recycling or reuse of collected covered electronic equipment complies with all local, state, federal and international laws and regulations. For any collector or transporter of covered electronic equipment, electronic recycler, and end market utilized by the manufacturer, the certification must include a copy of all applicable federal and state transportation, operation and disposal permits. Such certification shall be issued by an officer, director or other person having knowledge of the manufacturer's or electronic recycler's compliance with such laws and regulations.

(8) examples of how the manufacturer has informed residents and businesses of the City about such manufacturer's plan for the collection, handling, and recycling or reuse of covered electronic equipment.

(9) the number of visits to the internet website and calls to the toll-free telephone numbers established by the manufacturer's electronic waste management plan.

(10) information on the manufacturer's compliance with the performance standards established in §16-424 of the Administrative Code.

(11) any other information required by §16-428(a) of the Administrative Code.

(h) A manufacturer must submit an annual report that meets all of the requirements of this section. If a manufacturer is unable to meet any requirement of this section and has obtained a waiver relating to such requirement pursuant to §17-04 of this chapter, such manufacturer shall explain in detail why it should be excused from complying with such requirement. The Department will review the manufacturer's explanation and determine whether such requirement must be complied with, in whole or in part, or need not be complied with.

§17-09 Additional Clarification.

(a) A manufacturer seeking clarification whether any of its products are covered electronic equipment may send a letter explaining in detail such product to: Deputy Commissioner for Legal Affairs, New York City Department of Sanitation, 125 Worth Street, Room 710, New York, NY 10013.

(b) Any person who requires clarification whether it is a manufacturer may send a detailed letter explaining its operations in New York City to: Deputy Commissioner for Legal Affairs, New York City Department of Sanitation, 125 Worth Street, Room 710, New York, NY 10013.

§17-10 Applicability. In addition to the rules set forth in this chapter, all manufacturers and other persons subject to Chapter 4-A of title 16 of the Administrative Code also shall comply with, and are subject to, any and all provisions relating to such manufacturers and other persons contained in such Chapter 4-A.

Statement of Basis and Purpose

Pursuant to §753 of the New York City Charter and Local Law No. 13 of 2008 (“Local Law 13”), the Sanitation Commissioner is authorized to adopt rules relating to the collection for recycling or reuse of electronic equipment in the City of New York.

These rules clarify the definition of covered electronic equipment and expressly exclude certain electronic products that do not fall within that definition, such as video game systems, GPS devices, automobile parts or components, marine equipment, digital video recorders, point of sale devices, portable DVD players, digital picture frames, audio equipment other than covered portable battery powered digital music players, and USB devices. In addition, these rules further define other terms set forth in Local Law 13 and define additional terms, including computer central processing unit, desktop computer, laptop computer and printer.

The rules make clear that no manufacturer shall be required to accept covered electronic equipment that is of a different type than that currently or previously assembled, manufactured or imported by such manufacturer, or currently or previously sold under the brand name of such manufacturer. For example, pursuant to the collection requirements set forth in Administrative

Code § 16-422(b)-(d), a cathode ray tube television must be accepted with the purchase of a liquid crystal display or plasma screen television. A printer with multiple functions, such as scan, fax and copy functions, must be accepted with the purchase of a printer with only a printing function. A computer that includes a monitor and central processing unit in one device (including, but not limited to, a laptop computer) shall be considered the same as a desktop computer with separate monitor and central processing unit components. However, a manufacturer of only televisions will not be made to accept a computer monitor or a desktop computer.

These rules set forth procedures for a manufacturer to submit its electronic waste management plans to the Department. Every such plan must be submitted to the Department on an electronic waste management plan submission form provided by the Department. This form will be available on the Department's website and or in hard copy by mail after the rules are published as final.

Additionally, these rules establish specific information for mandatory inclusion in a manufacturer's electronic waste management plan. Every manufacturer must submit a \$1,500.00 fee with its proposed plan as required by Local Law 13.

The Department's rules also define the term "convenient collection". Because of the unique characteristics of New York City, including the low percentage of citizens with access to vehicles, it is critical that convenient collection be defined in a manner that makes disposing of unwanted covered electronic equipment as easy as possible for the citizens of New York City.

The rules set forth a procedure that allows a manufacturer to apply for a waiver of any of the required elements of an electronic waste management plan submitted to the Department. Should a manufacturer be unable to meet any of the enumerated requirements, a waiver must be requested from the Department and any such waiver may only be granted upon a showing of good cause.

The rules also establish labeling requirements for covered electronic equipment. Local Law 13 requires the manufacturer to provide information on how a person can return covered electronic equipment pursuant to such manufacturer's electronic waste management plan at the point of sale. These rules clarify that such information must be provided in writing and may be included on the receipt of purchase, on or inside the product box, in any equipment manual

accompanying the product, or in any other manner at the point of sale that is reasonably accessible to the buyer of such equipment.

Finally, these rules establish the data that every manufacturer must include in its annual report as required by Local Law 13. The submission of such report must be accompanied by a \$1,250.00 fee. These rules clarify that such annual report must include detailed information on the quantity of covered electronic equipment collected under a manufacturer's electronic waste management plan, as well as information on the collectors, transporters and end markets utilized by the manufacturer.

These final rules have been modified to reflect the comments received by the Department during the public comment period. In response to these comments, the Department has changed the standards for convenient collection for City residents (defined as individuals who reside within the City of New York). For any item that is designed to be portable or fifteen pounds or less in weight, convenient collection shall mean a mail-back program, whereby any resident in the City can return covered electronic equipment to the manufacturer by mail (or similarly convenient delivery service), and/or a drop off program, whereby such person may return covered electronic equipment to the manufacturer at drop-off locations throughout the City.

For all other items, convenient collection shall mean an option whereby the covered electronic equipment is collected directly from a resident's home in the City. Such collection may utilize a postal or parcel collection service and not need be made directly from inside a person's home. A direct collection program may not include collection of electronic equipment left for collection at the curbside. Because the Department has modified the convenient collection to a standard that depends on the weight and design of the covered electronic equipment to be collected, the Department has added a provision whereby it may now ask a manufacturer to describe its covered electronic equipment, including the weight, size, and individual components of such covered electronic equipment.

The Department further added the requirement that each manufacturer describe how it intends to meet the performance standard requirements contained in Local Law 21 of 2008 in its electronic waste management plan. The manufacturer must also include information on its compliance with Local Law 21 of 2008 in its annual report. Lastly, the Department has clarified

that either the manufacturer or its electronic recycler may issue the certification that the collection, handling and recycling or reuse of covered electronic equipment will comply and has complied with all applicable local, state, federal and international laws and regulations for purposes of both the manufacturer's electronic waste management plan and its annual report.

Due to the short amount of time between the passage of Local Law 13 and the required submission date for electronic waste management plans, the Department is granting manufacturers a grace period before assessing fines for the late submission of plans. Electronic waste management plans will not be due until June 15 which is 60 days after the final publication date of these rules.