

Electronic Waste—New Developments

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ISSUE NO. 230
October 2007

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Manufacturers, consumers, and retailers can expect to find a growing patchwork of state laws governing electronic waste in the coming year. Compliance with these myriad laws will be challenging.

At least nine states have now passed comprehensive recycling legislation, with five of these programs being passed just in the past year. Among these states, program requirements vary widely. In addition, at least nine states (including five of the states with comprehensive recycling

legislation and four other states) have banned the landfill disposal of various types of electronic waste. More legislation is expected to pass in the coming year, with proposals in the legislatures in more than half of the states. Although consensus is growing that a uniform, national system is needed, federal legislation dealing with electronic waste is not expected to pass in the near future. For now it appears that members of the regulated community will need to carefully consider the electronic waste laws of all jurisdictions in which they operate in order to determine their compliance responsibilities, and monitor the status of any proposed legislation.

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Dear Subscribers:

A growing number of states are enacting legislation governing the disposal of electronic waste within their borders. Federal legislation on the issue, which could bring consistency to the regulations dealing with this waste, does not appear imminent. Thus, corporate counsel need to be aware of the differing laws in the various jurisdictions in which their clients do business to make sure that their clients are in compliance with all of the relevant laws. In this issue of *The Environmental Counselor*, we provide a concise overview of this issue in an excellent article written by Julie Solmer Stine of Foley & Lardner LLP. We have also included as examples a model electronic recycling law and the Minnesota statute regulating electronic waste.

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The disposal of electronic waste, or “e-waste” in ordinary landfills is a growing problem. E-waste includes end-of-life computers, monitors, televisions, VCRs, DVD players, audio and stereo equipment, cellular phones, digital cameras, and other electronic devices. E-waste is a rapidly-growing waste stream, with over 100 million computers, monitors, and televisions becoming obsolete each year. State and federal regulators have become concerned with the appropriate disposal of this waste stream because it contains valuable resources, including gold, platinum, and silver, but also contains hazardous substances, including lead, mercury, and chromium. When e-waste is disposed of in an ordinary landfill, the resources are lost, and the hazardous substances have the potential to contaminate soil and groundwater. Currently, only a small fraction of e-waste is recycled because disassembling the waste and disposing of hazardous components is expensive, and federal law currently allows most e-waste to be disposed of in landfills either because it does not meet the criteria for “hazardous waste” under federal law, or because it is considered “household waste.”

In the absence of federal legislation, states have begun to address the issue by adopting their own e-waste legislation. Binding state e-waste requirements have taken the form of disposal bans and comprehensive recycling legislation.

Disposal bans have been adopted in at least nine states including Arkansas, California, Connecticut, Maine, Massachusetts, Minnesota, New Hampshire, Oregon, and Rhode Island. The bans in Arkansas, Connecticut, Oregon, and Rhode Island will not go into effect until 2008 and beyond. These laws ban the landfill disposal and/or incineration of various types of e-waste, ranging from

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very specific items, as in “CRTs,” to very broad bans, as in “electronic devices.” Several other states have proposed landfill bans in 2007 including Illinois and Michigan.

At least nine states have adopted comprehensive e-waste recycling legislation, with the goal of establishing financing systems to make e-waste recycling convenient and inexpensive. This legislation is of two main types. In an advanced recovery fee system, the consumer pays a fee at the time of purchase, which is used to fund recycling programs. In an extended producer responsibility system, producers are responsible for the costs of recycling.

California has adopted an advanced recovery fee system. The California law requires consumers purchasing televisions, laptops, and monitors in California to pay a \$6-10 fee at the time of purchase. The state then disburses this fee to registered recyclers to fund recycling, helping to make it free and convenient for the consumer. At the time of disposal, the consumer takes the product to a registered recycler.

At least eight states have adopted extended producer responsibility systems. For example, in Maine, after consumers take e-waste to collection points, the waste is sorted by manufacturer, and manufacturers must either physically take back their products or pay for the recycling costs. In Maryland, producers pay a fee to a state recycling fund, counties set up recycling programs, and these county programs may apply to the state fund for reimbursement. In Washington, producers are required to either create their own takeback program, or participate in a centralized system.

The number of states adopting comprehensive recycling legislation is expected to grow. At least sixteen states and New York City have proposed legislation in 2007 to adopt either an advanced recovery fee system or an extended producer responsibility system. Regional efforts to draft

and adopt model legislation are in place in the Northeast and Midwest. Model legislation has also been put forward by electronics manufacturers. According to one estimate, achieving compliance with these varying state law requirements will cost manufacturers, retailers, and consumers \$25 million more per year than if a national e-waste program were in place. However, since federal e-waste legislation is not expected to pass in the near future, manufacturers, retailers, and consumers will need to continue to ensure compliance with the various e-waste laws of all jurisdictions in which they operate, and continue to monitor the status of proposed state and federal legislation.

In addition to these mandatory state programs, voluntary initiatives to encourage e-waste recycling have been growing. For example, through the Resource Conservation Challenge Program, the U.S. Environmental Protection Agency has been conducting outreach, providing training and technology assistance, and forming partnerships with industry, states, and environmental groups in order to increase the national e-waste recycling rate. In addition, voluntary standards for best practices are emerging from the private and non-profit sectors, including the Electronics Recycler’s Pledge of True Stewardship promulgated by the Silicon Valley Toxics Coalition and the Basel Action Network.

Nationwide, a number of companies provide electronics end-of-life management. These services may provide a practical solution for businesses taking electronics out of service, but close attention should be paid to data management, and the recycling, reuse, and waste management practices of these companies.

For more information about these or other sustainability initiatives, contact Foley & Lardner’s environmental practice group.

Model Electronic Recycling Legislation

An Act Providing for the Recovery and Recycling of Used Electronic Devices

**(The Council of State Governments/Eastern Regional Conference — The Northeast Recycling Council, Inc.)
(Revised July 2007)**

Purpose: The purpose of the Act is to establish a comprehensive recycling system that ensures the safe and environmentally sound management of electronic devices and components and that encourages the design of electronic devices and components that are less toxic and more recyclable; and promotes the development of a statewide infrastructure for collection and recycling of end-of-life electronics.

Section 1: Definitions

For the purposes of this Act, the following terms have the following meanings:

- (a) “Agency” means the [State Environmental Agency].
- (b) “Cathode ray tube” or “CRT” means a vacuum tube or picture tube used to convert an electronic signal into a visual image.
- (c) “Computer” means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage function, and may include both a computer central processing unit and monitor, but such term does not include an automated typewriter or typesetter, a por-

table handheld calculator, a portable digital assistant, or other similar device.

- (d) “Consumer” means an individual who purchases a covered electronic device in a transaction that is a retail sale.
- (e) “Covered Electronic Device” (CED) for the purposes of this Act means desktop/personal computers, computer monitors, portable computers, CRT-based televisions, and non-CRT-based televisions sold to consumers. “Covered electronic device” does not include any of the following:
 - i. A covered electronic device that is a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.
 - ii. A covered electronic device that is functionally or physically a part of a larger piece of equipment designed and intended for use in an industrial, commercial, or medical setting, including diagnostic, monitoring, or control equipment.
 - iii. A covered electronic device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier.
 - iv. Telephones of any type unless they contain a video display area greater than 4” measured diagonally.
- (f) “Covered electronic recycler” is one that is approved by the Agency for compensation.
- (g) “Manufacturer” means any person who, either as of the effective date of this legislation or thereafter, and irrespective of the selling technique used, including by means of remote sale: 1) manufactures covered electronic devices under its own brand for sale in this State; 2) manufactures covered electronic devices for sale in this State without affixing a brand; 3) resells in this State covered electronic devices produced by other suppliers under its own brand or label; or 4) imports or exports covered electronic devices into the United States for sale in this State. However, if a company from whom an importer purchases the merchandise has a U.S. presence and/or assets, that company shall be deemed to be the manufacturer; or, 5) manufactures covered electronic devices, supplies them to any person or persons within a distribution network that includes wholesalers and retailers in this State, and benefits from the sale in this State of those covered electronic devices through that distribution network.

- (h) “Manufacturer’s brands” means a manufacturer’s name, brand name, or brand label, and all manufacturer’s names, brand names, and brand labels for which the manufacturer has legal responsibility, including those names, brand names, and brand labels of companies that have been acquired by the manufacturer.
- (i) “Monitor” means a separate video display component of a computer, whether sold separately or together with a computer central processing unit/computer box, and includes a cathode ray tube, liquid crystal display, gas plasma, digital light processing, or other image projection technology, greater than four inches when measured diagonally, and its case, interior wires and circuitry, cable to the central processing unit, and power cord.
- (j) “Obligation” means the quantity of covered electronic devices, by weight, identified for an individual manufacturer, as defined by the Agency under Section 8 of this Act.
- (j) “Person” means an individual, trust firm, joint stock company, business concern, and corporation, including, but not limited to, a government agency, partnership, limited liability company, or association.
- (k) “Portable computer” means a computer and video display greater than four inches in size that can be carried as one unit by an individual (e.g., a laptop computer).
- (l) “Purchase” means the taking, by sale, of title in exchange for consideration.
- (m) “Recycling” means any process by which covered electronic devices that would otherwise become solid waste or hazardous waste are collected, separated, and processed to be returned to use in the form of raw materials or products, in accordance with environmental standards established by the Agency.
- (n) “Registrant” means a manufacturer of covered electronic devices that is in full compliance with the requirements of this Act.
- (o) “Retail sales” includes sales of products through sales outlets, via the Internet, mail order, or other means, whether or not the seller has a physical presence in this State.
- (p) “Retailer” means a person who owns or operates a business that sells new covered electronic devices in this State by any means to a consumer.
- (q) “Sell” or “sale” means any transfer for consideration of title, including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other, similar electronic means, excluding leases.

- (r) “State recycling rate” means the ratio of the weight of total overall returns of CEDs in the State to the weight of total overall sales of CEDs in the State during the previous calendar year.
- (s) “Television” means a stand-alone display system containing a CRT or any other type of display primarily intended to receive video programming via broadcast, having a viewable area greater than four inches when measured diagonally, able to adhere to standard consumer video formats such as PAL, SECAM, NTSC, and HDTV and having the capability of selecting different broadcast channels and support sound capability.
- (t) “Video display” means an output surface having a viewable area greater than four inches when measured diagonally that displays moving graphical images or a visual representation of image sequences or pictures, showing a number of quickly changing images on a screen in fast succession to create the illusion of motion, including, if applicable, a device that is an integral part of the display (and cannot be easily removed from the display by the consumer) that produces the moving image on the screen. Displays typically use a cathode ray tube (CRT) liquid crystal display (LCD), gas plasma, digital light processing, or other image projection technology.

Section 2: Scope of Products

The scope of products is the same as “Covered Electronic Devices.” [The scope of products may be modified by _____.]

Section 3: Sales Prohibition

- (1) A manufacturer not in compliance with all financial and other requirements of this Act is prohibited from offering a covered electronic device for sale in this State.
- (2) It shall be unlawful for any entity to offer for sale in this state a new covered electronic device from a manufacturer that is not in full compliance with the requirements of this Act. The Agency shall maintain a list of all manufactures in compliance with the requirements of this Act and post the list on an Internet website. Sellers of products in or into the State shall consult the list prior to selling covered electronic devices in this State. A seller shall be considered to have complied with this responsibility if, on the date that the product was ordered from the manufacturer or its agent, the manufacturer was listed as being in compliance on the aforementioned website.

Section 4: Labeling Requirement

On and after the effective date of this Act, 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.

Section 5: Reporting and Registration

- (1) Manufacturers of covered electronic devices shall report to the Agency by January 30 of each year the total weight of CEDs sold in the State the previous year. In lieu of providing the total weight of CEDs sold in the State the previous calendar year, a manufacturer may request that the Agency calculate the total weight of CEDs sold in the State by using prorated national sales data based on State population.
- (2) Each manufacturer of covered electronic devices shall register with the Agency by January 30 of each year and pay a registration fee of \$5,000.

Section 6: Manufacturer Responsibility

- (1) Manufacturers of CEDs sold in the State must submit an additional fee based on sales in the State to the Agency. The fee shall be calculated using the following formula: the State recycling rate multiplied by the weight of sales of the manufacturer’s covered electronic devices sold in the State during the previous calendar year, multiplied by no more than \$0.50 per pound.
- (2) In lieu of payment of the fee set forth in paragraph 1 above, a manufacturer or a group of manufacturers may submit a plan to collect, transport, and recycle CEDs.
- (3) An individual manufacturer submitting a plan in lieu of payment of the fee set forth in paragraph 1 above must collect, transport, and recycle a quantity of CEDs equal to the weight of sales of the manufacturer’s covered electronic devices in the State during the previous calendar year multiplied by the State recycling rate.
- (4) A group of manufacturers jointly submitting a plan in lieu of payment of the fee set forth in paragraph 1 above must collect, transport, and recycle the sum of the obligations of each participating manufacturer.
- (5) The plan shall be filed with a manufacturer’s annual registration, and shall include at a minimum:
 - i. Methods that will be used to collect the CEDs including the name and locations of all collection and consolidation points.
 - ii. An estimate of the amount of CEDs that will be collected annually.
 - iii. The processes and methods that will be used to recycle recovered CEDs including a description of the disassembly, physical recovery operation (e.g., crushing, shredding, grinding, glass-to-glass recycling) and/or other operations that

will be used. Include the name and location of all facilities to be utilized.

- iv. Documentation of audits of each processor used in the plan and compliance with processing standards established under Section 11 of this Act.
 - v. A description of the accounting and reporting systems that will be employed to track toward fulfilling the plan's obligations.
 - vi. Means that will be utilized to publicize the collection opportunities.
 - vii. The intention of the registrant to fulfill its obligations through operation of its own program, either individually or in partnership with other manufacturers.
 - viii. The total weight of the CEDs collected, transported and recycled the previous year.
- (6) Before the fee set forth in paragraph 1 above may be waived, the plan must be reviewed and approved by the Agency. Upon approval of the plan by the Agency, the manufacturer payment of the annual fees based upon sales will be waived. The Agency may reject the plan in part or in whole and may impose additional requirements as a condition of approval.
- (7) If a manufacturer fails to comply with all the conditions and terms of an approved plan, it will be required to submit the following:
- i. A payment to the Agency to cover the cost of collecting, transporting, and recycling the unmet portion of its obligation. The payment shall be equal to the following formula: the quantity of the outstanding portion, in pounds, multiplied by no more than \$0.50, and
 - ii. A penalty in the form of a payment equal to the cost of collecting, transporting and recycling 10% of the manufacturer's total obligation.
- (8) Manufacturers that collect, transport, and recycle CEDs in excess of their obligation may sell "credits" to another registrant or apply that excess to the following year's recycling obligation.

Section 7: Retailer Responsibility

- (1) A retailer must clearly post and provide information provided by the Agency that describes where and how to recycle the covered electronic device and opportunities and locations for the collection or return of the device, through the use of a toll-free telephone number and website, information included in the packaging, or information provided accompanying the sale of the covered electronic device. This information shall be provided in clear written form in English and any

other languages deemed to be primary languages by the State Department of education.

- (2) A retailer shall only sell products from registrants. Retailers shall consult the list described in Section 3 prior to selling covered electronic devices in this State. A retailer shall be considered to have complied with this responsibility if on the date that the product was ordered from the manufacturer or its agent, the manufacturer was listed as being in compliance on the aforementioned website.

Section 8; Agency Responsibility [States may wish to designate a third-party organization to assume some or all of the responsibilities contained in this section.]

- (1) By February 15 of each year, the Agency shall establish the State recycling rate, by calculating the ratio of the weight of total overall returns of CEDs in the State to the weight of total overall sales of CEDs in the State during the previous calendar year.
- (2) By March 1 of each year, the Agency shall provide each registrant with its responsibility for fees from sales or for collection, recycling, and transportation in pounds for that year.
- (3) The Agency shall receive fees as described in Section 6 from manufacturers for the sale of covered electronic devices.
- (4) The Agency must organize, administer, and ensure that at least one electronics collection opportunity is available at least five (5) days a week in each county throughout the State and in such a manner as to be convenient, to the maximum extent feasible, to all consumers in the County.
- (5) The Agency shall ensure that collection sites do not place limits on the number of covered electronic devices permitted for drop-off by consumers.
- (6) The Agency shall encourage the use of existing collection and consolidation infrastructures for handling CEDs to the extent that this infrastructure is accessible on a regular and ongoing basis to at least 85% of the population of the State, is cost effective, and meets the environmentally sound management requirements of Section 11.
- (7) The Agency shall maintain a list of all registrants and post the list on an Internet website that is updated at least once a month.
- (8) The Agency shall organize and coordinate public education and outreach.
- (9) The Agency shall use the revenues received from registrants for the sole purpose of fulfilling its responsibilities under this Act. In the event that expenses from administration, education, collection, transportation, and recycling activities exceed receipts, the Agency

may borrow up to ten percent of the projected annual State revenues from the fees submitted under this Act from outside sources. Borrowed funds must be repaid within two years.

- (10) The Agency shall prepare a plan every three years that:
 - i. establishes per-capita collection and recycling goals, and
 - ii. identifies any necessary State actions to expand collection opportunities to achieve the per-capita collection and recycling goals.

That plan shall be posted on the Agency website and sent to the Legislature.

- (11) The Agency shall annually report:
 - i. A list of all parties that the Agency has designated as approved to receive payments for collection, transportation, or recycling, the amount of payments it has made to those parties, and the purpose of those payments.
 - ii. The total weight of CEDs collected in the State the previous calendar year.
 - iii. The total weight of CEDs sold in the State the previous calendar year.
 - iv. Progress toward achieving the overall total recovery and recycling goals described in the plan described in Section 8 above.
 - v. A complete listing of all collection sites operating in the State in the prior calendar year, the parties that operated them, and the amount of material by weight collected at each site.
 - vi. An evaluation of the effectiveness of the education and outreach program.
 - vii. An evaluation of the existing collection and processing infrastructure.
- (12) The Agency shall annually post the report on its website.
- (13) The program implemented to effect the provisions of this Act and its associated regulations shall be fully audited by an independent, certified public accountant at the end of each calendar year and said audit report submitted to the Legislature.
- (14) The Agency shall maintain a website and a toll-free number complete with up-to-date listings of where consumers can bring covered electronics products for recycling under this Act.
- (15) The Agency shall not be held financially liable or responsible for any violation of federal, state, or local law by any entity to whom the Agency makes payment pursuant to Section 10.

- (16) No more frequently than annually and no less frequently than biennially, the Agency shall review, at a public hearing, the CED recycling and registration fee(s). Recommended changes to the covered electronic device recycling rate and registration fee(s) shall be included in the annual report.

Section 9: Fees for the Collection or Recycling of Covered Electronic Products

No fees or costs may be charged to consumers for the collection, transportation, or recycling of covered electronic products.

Section 10: Reimbursement for Collection, Transportation, and Recycling

- (1) The Agency shall engage in competitive bidding for the collection, transportation, and recycling of covered electronic devices.
- (2) The Agency shall make covered electronic device payments for the collection, transportation, and recycling of covered electronic devices to an authorized or approved entity upon receipt of a completed and verified invoice submitted to the Agency in the form and manner determined by the Agency.
 - a. In order to receive payment, proof will be required:
 - i. That the covered electronic device was collected from a consumer who is a resident of the State or is otherwise located in the State, or who provides evidence that the device was purchased in the State after the effective date of this Act.
 - ii. That the collection, transportation, and recycling of the CED was conducted in accordance with all local, state, and federal laws, including requirements created by this Act, and its associated regulations.
 - b. No fees or costs were charged to the consumer.

Section 11: Environmentally Sound Management Requirements

- (1) Covered electronic devices collected through any program in [State], whether by manufacturers, retailers, for-profit or not-for-profit corporations, units of government, or organized by the Agency, must be recycled in a manner that is in compliance with all applicable federal, state, and local laws, regulations, and ordinances, and must not be exported for disposal in a manner that poses a significant risk to the public health or the environment.
- (2) The Agency shall establish performance requirements in order for collectors, transporters, and recyclers to be eligible to receive funds from the Agency. All en-

tities shall, at a minimum, demonstrate compliance with the United States Environmental Protection Agency's (EPA) Plug-In to eCycling Guidelines for Materials Management as issued and available on the EPA's website in addition to any other requirements mandated by state or federal law.

- (3) The Agency shall maintain a website that shall include a list of all entities and organizations that it has determined have met these performance standards.

Section 12: Disposal Ban

Two years after enactment of this law, it shall be illegal for any person to place in municipal solid waste a covered electronic device or any of the components or subassemblies thereof in any solid waste disposal facility.

Section 13: Enforcement

- (1) The State including its Attorney General and the Agency shall be authorized to initiate independent action to enforce any provision of this law, including failure by the manufacturer to remit the fee to the Agency. Any funds awarded by the court shall be used first to offset enforcement expenses. Money in excess of the enforcement expenses shall be deposited with the Agency.
- (2) An offense shall be considered:
 - (i) the sale of a new CED by any person that is not in full compliance with the provisions of this Act.
 - (ii) application for compensation for the collection, transportation and recycling of covered electronic products not collected within the state, or region as provided in Section 16.

- (iii) use of a qualified collection program to recycle covered electronic products not discarded within the state, or region as provided in Section 15.
- (iv) the knowing failure to report or accurately report any data required to be reported to the Agency by this Act.
- (v) non-payment of fees.

Section 14: Regulatory Authority

The Agency may adopt rules and regulations as shall be necessary for the purpose of administering this Act.

Section 15: Multi-State Implementation

The Agency is authorized to participate in the establishment and implementation of a regional, multi-state organization or compact to assist in carrying out the requirements of this Act.

Section 16: Relation to Federal Law

This Act is intended to govern all aspects of the collection and recycling of covered electronic devices as those terms are defined herein. Upon the implementation of an acceptable national program to collect and/or recycle covered electronic devices, the provisions of this Act shall sunset within the timeframe determined by federal law.

Section 17: Effective Date

Unless otherwise specified, this Act shall take effect on January 1, 2007.

Section 18: Severability Clause

The provisions of this Act shall be severable, and if any part of this Act is declared to be invalid or void by a court of competent jurisdiction, the remaining portion shall not be affected, but shall remain in full force and effect and shall be construed to be the entire Act.

Minnesota Electronic Waste Statute

CHAPTER 48—H.F.No. 854

An act relating to environment; providing for collection, transportation, and recycling of video display devices; providing civil penalties; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 115A.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [115A.1310] DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 115A.1310 to 115A.1330, the following terms have the meanings given.

Subd. 2. **Cathode-ray tube or CRT.** "Cathode-ray tube" or "CRT" means a vacuum tube or picture tube used to convert an electronic signal into a visual image.

Subd. 3. **Collection.** "Collection" means the aggregation of covered electronic devices from households and includes all the activities up to the time the covered electronic devices are delivered to a recycler.

Subd. 4. **Collector.** "Collector" means a public or private entity that receives covered electronic devices from households and arranges for the delivery of the devices to a recycler.

Subd. 5. **Computer.** “Computer” means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions, but does not include an automated typewriter or typesetter, a portable hand-held calculator or device, or other similar device.

Subd. 6. **Computer monitor.** “Computer monitor” means an electronic device that is a cathode-ray tube or flat panel display primarily intended to display information from a central processing unit or the Internet. Computer monitor includes a laptop computer.

Subd. 7. **Covered electronic device.** “Covered electronic device” means computers, peripherals, facsimile machines, DVD players, video cassette recorders, and video display devices that are sold to a household by means of retail, wholesale, or electronic commerce.

Subd. 8. **Department.** “Department” means the Department of Revenue.

Subd. 9. **Dwelling unit.** “Dwelling unit” has the meaning given in section 238.02, subdivision 21a.

Subd. 10. **Household.** “Household” means an occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit located in this state who has used a video display device at a dwelling unit primarily for personal use.

Subd. 11. **Manufacturer.** “Manufacturer” means a person who:

- (1) manufactures video display devices to be sold under its own brand as identified by its own brand label; or
- (2) sells video display devices manufactured by others under its own brand as identified by its own brand label.

Subd. 12. **Peripheral.** “Peripheral” means a keyboard, printer, or any other device sold exclusively for external use with a computer that provides input or output into or from a computer.

Subd. 13. **Program year.** “Program year” means the period from July 1 through June 30.

Subd. 14. **Recycler.** “Recycler” means a public or private individual or entity who accepts covered electronic devices from households and collectors for the purpose of recycling. A manufacturer who takes products for refurbishment or repair is not a recycler.

Subd. 15. **Recycling.** “Recycling” means the process of collecting and preparing video display devices or covered electronic devices for use in manufacturing processes or for recovery of useable materials followed by delivery of such materials for use. Recycling does not include the destruction by incineration or other process or land disposal of

recyclable materials nor reuse, repair, or any other process through which video display devices or covered electronic devices are returned to use for households in their original form.

Subd. 16. **Recycling credits.** “Recycling credits” means the number of pounds of covered electronic devices recycled by a manufacturer from households during a program year, less the product of the number of pounds of video display devices sold to households during the same program year, multiplied by the proportion of sales a manufacturer is required to recycle. The calculation and uses of recycling credits are as specified in section 115A.1314, subdivision 1.

Subd. 17. **Retailer.** “Retailer” means a person who sells, rents, or leases, through sales outlets, catalogs, or the Internet, a video display device to a household and not for resale in any form.

Subd. 18. **Sell or sale.** “Sell” or “sale” means any transfer for consideration of title or of the right to use, by lease or sales contract, including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means either inside or outside of the state, by a person who conducts the transaction and controls the delivery of a video display device to a consumer in the state, but does not include a manufacturer’s or distributor’s wholesale transaction with a distributor or a retailer.

Subd. 19. **Television.** “Television” means an electronic device that is a cathode-ray tube or flat panel display primarily intended to receive video programming via broadcast, cable, or satellite transmission or video from surveillance or other similar cameras.

Subd. 20. **Video display device.** “Video display device” means a television or computer monitor, including a laptop computer, that contains a cathode-ray tube or a flat panel screen with a screen size that is greater than nine inches measured diagonally and that is marketed by manufacturers for use by households. Video display device does not include any of the following:

- (1) a video display device that is 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;
- (2) a video display device, including a touch-screen display, that is functionally or physically part of a larger piece of equipment or is designed and intended for use in an industrial; commercial, including retail; library checkout; traffic control; kiosk; security, other than household security; border control; or medical setting, including diagnostic, monitoring, or control equipment;

- (3) a video display device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or
- (4) a telephone of any type unless it contains a video display area greater than nine inches measured diagonally.

Sec. 2. [115A.1312] REGISTRATION PROGRAM.

Subdivision 1. Requirements for sale.

- (a) On or after September 1, 2007, a manufacturer must not sell or offer for sale or deliver to retailers for subsequent sale a new video display device unless:
 - (1) the video display device is labeled with the manufacturer's brand, which label is permanently affixed and readily visible; and
 - (2) the manufacturer has filed a registration with the agency, as specified in subdivision 2.
- (b) On or after February 1, 2008, a retailer who sells or offers for sale a new video display device to a household must, before the initial offer for sale, review the agency Web site specified in subdivision 2, paragraph (g), to determine that all new video display devices that the retailer is offering for sale are labeled with the manufacturer's brands that are registered with the agency.
- (c) 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 video display device prior to the expiration or revocation of the manufacturer's registration and the unlawful sale occurred within six months after the expiration or revocation.

Subd. 2. Manufacturer's registration.

- (a) A manufacturer of video display devices sold or offered for sale to households after September 1, 2007, must submit a registration to the agency that includes:
 - (1) a list of the manufacturer's brands of video display devices offered for sale in this state;
 - (2) the name, address, and contact information of a person responsible for ensuring compliance with this chapter; and
 - (3) a certification that the manufacturer has complied and will continue to comply with the requirements of sections 115A.1312 to 115A.1318.
- (b) By September 1, 2008, and each year thereafter, a manufacturer of video display devices sold or offered for sale to a household must include in the registration

submitted under paragraph (a), a statement disclosing whether:

- (1) any video display devices sold to households exceed the maximum concentration values established for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (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 thereto; or
 - (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.
- (c) A manufacturer who begins to sell or offer for sale video display devices to households after September 1, 2007, and has not filed a registration under this subdivision must submit a registration to the agency within ten days of beginning to sell or offer for sale video display devices to households.
 - (d) A registration must be updated within ten days after a change in the manufacturer's brands of video display devices sold or offered for sale to households.
 - (e) A registration is effective upon receipt by the agency and is valid until September 1 of each year.
 - (f) The agency must review each registration and notify the manufacturer of any information required by this section that is omitted from the registration. Within 30 days of receipt of a notification from the agency, the manufacturer must submit a revised registration providing the information noted by the agency.
 - (g) The agency must maintain on its Web site the names of manufacturers and the manufacturers' brands listed in registrations filed with the agency. The agency must update the Web site information promptly upon receipt of a new or updated registration. The Web site must contain prominent language stating, in effect, that sections 115A.1310 to 115A.1330 are directed at household equipment and the manufacturers' brands list is, therefore, not a list of manufacturers qualified to sell to industrial, commercial, or other markets identified as exempt from the requirements of sections 115A.1310 to 115A.1330.

Subd. 3. **Collector's registration.** After August 1, 2007, no person may operate as a collector of covered electronic devices from households unless that person has submitted a registration with the agency on a form prescribed by the commissioner. Registration information must include the name, address, telephone number, and location of the

business and a certification that the collector has complied and will continue to comply with the requirements of sections 115A.1312 to 115A.1318. A registration is effective upon receipt by the agency and is valid until July 1 of each year.

Subd. 4. **Recycler's registration.** After August 1, 2007, no person may recycle video display devices generated by households unless that person has submitted a registration with the agency on a form prescribed by the commissioner. 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 video display devices from households and a certification that the recycler has complied and will continue to comply with the requirements of sections 115A.1312 to 115A.1318. A registered recycler may conduct recycling activities that are consistent with this chapter. A registration is effective upon receipt by the agency and is valid until July 1 of each year.

Sec. 3. [115A.1314] MANUFACTURER'S REGISTRATION FEE; CREATION OF ACCOUNT.

Subdivision 1. Registration fee.

- (a) Each manufacturer who registers under section 115A.1312 must, by September 1, 2007, and each year thereafter, pay to the commissioner of revenue an annual registration fee. The commissioner of revenue must deposit the fee in the account established in subdivision 2.
- (b) The registration fee for the initial program year during which a manufacturer's video display devices are sold to households is \$5,000. Each year thereafter, the registration fee is equal to a base fee of \$2,500, plus a variable recycling fee calculated according to the formula:

$((A \times B) - (C + D)) \times E$, where:

- (1) A = the number of pounds of a manufacturer's video display devices sold to households during the previous program year, as reported to the department under section 115A.1316, subdivision 1;
- (2) B = the proportion of sales of video display devices required to be recycled, set at 0.6 for the first program year and 0.8 for the second program year and every year thereafter;
- (3) C = the number of pounds of covered electronic devices recycled by a manufacturer from households during the previous program year, as reported to the department under section 115A.1316, subdivision 1;

- (4) D = the number of recycling credits a manufacturer elects to use to calculate the variable recycling fee, as reported to the department under section 115A.1316, subdivision 1; and
 - (5) E = the estimated per-pound cost of recycling, initially set at \$0.50 per pound for manufacturers who recycle less than 50 percent of the product ($A \times B$); \$0.40 per pound for manufacturers who recycle at least 50 percent but less than 90 percent of the product ($A \times B$); and \$0.30 per pound for manufacturers who recycle at least 90 percent but less than 100 percent of the product ($A \times B$).
- (c) If, as specified in paragraph (b), the term $C - (A \times B)$ equals a positive number of pounds, that amount is defined as the manufacturer's recycling credits. A manufacturer may retain recycling credits to be added, in whole or in part, to the actual value of C, as reported under section 115A.1316, subdivision 2, during any of the three succeeding program years. A manufacturer may sell any portion or all of its recycling credits to another manufacturer, at a price negotiated by the parties, who may use the credits in the same manner.

- (d) For the purpose of calculating a manufacturer's variable recycling fee under paragraph (b), the weight of covered electronic devices collected from households located outside the 11-county metropolitan area, as defined in subdivision 2, paragraph (c), is calculated at 1.5 times their actual weight.
- (e) The registration fee for the initial program year and the base registration fee thereafter for a manufacturer who produces fewer than 100 video display devices for sale annually to households is \$1,250.

Subd. 2. Creation of account; appropriations.

- (a) The electronic waste account is established in the environmental fund. The commissioner of revenue must deposit receipts from the fee established in subdivision 1 in the account. Any interest earned on the account must be credited to the account. Money from other sources may be credited to the account. Beginning in the second program year and continuing each program year thereafter, as of the last day of each program year, the commissioner shall determine the total amount of the variable fees that were collected. To the extent that the total fees collected by the commissioner in connection with this section exceeds the amount the commissioner determines necessary to operate the program for the new program year, the commissioner shall refund on a pro rata basis, to all manufacturers who paid any fees for the previous program year, the amount of fees collected by the commissioner in excess of the amount necessary to operate the program for the new program year. No

individual refund is required of amounts of \$100 or less for a fiscal year. Manufacturers who report collections less than 50 percent of their obligation for the previous program year are not eligible for a refund.

- (b) Until June 30, 2009, money in the account is annually appropriated to the Pollution Control Agency:
 - (1) for the purpose of implementing sections 115A.1312 to 115A.1330, including transfer to the commissioner of revenue to carry out the department's duties under section 115A.1320, subdivision 2, and transfer to the commissioner of administration for responsibilities under section 115A.1324; and
 - (2) to the commissioner of the Pollution Control Agency to be distributed on a competitive basis through contracts with counties outside the 11-county metropolitan area, as defined in paragraph (c), and with private entities that collect for recycling covered electronic devices in counties outside the 11-county metropolitan area, where the collection and recycling is consistent with the respective county's solid waste plan, for the purpose of carrying out the activities under sections 115A.1312 to 115A.1330. In awarding competitive grants under this clause, the commissioner must give preference to counties and private entities that are working cooperatively with manufacturers to help them meet their recycling obligations under section 115A.1318, subdivision 1.
- (c) The 11-county metropolitan area consists of the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright.

Sec. 4. [115A.1316] REPORTING REQUIREMENTS.

Subdivision 1. Manufacturer's reporting requirements.

- (a) By September 1 of each year, beginning in 2008, each manufacturer must report to the department:
 - (1) the total weight of each specific model of its video display devices sold to households during the previous program year;
 - (2) the total weight of its video display devices sold to households during the previous year; or
 - (3) an estimate of the total weight of its video display devices sold to households during the previous program year based on national sales data.

A manufacturer must submit with the report required under this paragraph a description of how the information or estimate was calculated.

- (b) By September 1 of each year, beginning in 2008, each manufacturer must report to the department the total weight of covered electronic devices the manufacturer collected from households and recycled or arranged to have collected and recycled during the preceding program year. If a manufacturer wishes to receive the variable recycling rate of 1.5 for covered electronic devices it recycles, the manufacturer must report separately the total weight of covered electronic devices collected from households located in counties specified in section 115A.1314, subdivision 1, paragraph (d), and those collected from households located outside those counties.
- (c) By September 1 of each year, beginning in 2008, each manufacturer must report to the department:
 - (1) the number of recycling credits the manufacturer has purchased and sold during the preceding program year;
 - (2) the number of recycling credits possessed by the manufacturer that the manufacturer elects to use in the calculation of its variable recycling fee under section 115A.1314, subdivision 1; and
 - (3) the number of recycling credits the manufacturer retains at the beginning of the current program year.

Subd. 2. **Recycler's reporting requirements.** By August 1 of each year, beginning in 2008, a recycler of covered electronic devices must report to the agency and the department the total weight of covered electronic devices recycled during the preceding program year and must certify that the recycler has complied with section 115A.1318, subdivision 2.

Subd. 3. **Collector's reporting requirements.** By August 1 of each year, beginning in 2008, a collector must report separately to the agency the total pounds of covered electronic devices collected in the counties specified in section 115A.1314, subdivision 1, paragraph (d), and all other Minnesota counties, and a list of all recyclers to whom collectors delivered covered electronic devices.

Sec. 5. [115A.1318] RESPONSIBILITIES.

Subdivision 1. Manufacturer's responsibilities.

- (a) In addition to fulfilling the requirements of sections 115A.1310 to 115A.1330, a manufacturer must comply with paragraphs (b) to (e).
- (b) A manufacturer must annually recycle or arrange for the collection and recycling of an amount of covered electronic devices equal to the total weight of its video display devices sold to households during the preceding program year, multiplied by the proportion of sales of video display devices required to be

recycled, as established by the agency under section 115A.1320, subdivision 1, paragraph (c).

- (c) The obligations of a manufacturer apply only to video display devices received from households and do not apply to video display devices received from sources other than households.
- (d) A manufacturer must conduct and document due diligence assessments of collectors and recyclers it contracts with, including an assessment of items specified under subdivision 2. A manufacturer is responsible for maintaining, for a period of three years, documentation that all video display devices recycled, partially recycled, or sent to downstream recycling operations comply with the requirements of subdivision 2.
- (e) A manufacturer must provide the agency with contact information for a person who can be contacted regarding the manufacturer's activities under sections 115A.1310 to 115A.1320.

Subd. 2. Recycler's responsibilities.

- (a) As part of the report submitted under section 115A.1316, subdivision 2, a recycler must certify, except as provided in paragraph (b), that facilities that recycle video display devices, including all downstream recycling operations:
 - (1) comply with all applicable health, environmental, safety, and financial responsibility regulations;
 - (2) are licensed by all applicable governmental authorities;
 - (3) use no prison labor to recycle video display devices; and
 - (4) possess liability insurance of not less than \$1,000,000 for environmental releases, accidents, and other emergencies.
- (b) A nonprofit corporation that contracts with a correctional institution to refurbish and reuse donated computers in schools is exempt from paragraph (a), clauses (3) and (4).
- (c) Except to the extent otherwise required by law, a recycler has no responsibility for any data that may be contained in a covered electronic device if an information storage device is included in the covered electronic device.

Subd. 3. Retailer's responsibilities.

- (a) By July 1 of each year, beginning in 2008, a retailer must report to a manufacturer the number of video display devices, by video display device model, labeled with the manufacturer's brand sold to households during the previous program year.

- (b) A retailer who sells new video display devices shall provide information to households describing where and how they may recycle video display devices and advising them of opportunities and locations for the convenient collection of video display devices for the purpose of recycling. This requirement may be met by providing to households the agency's toll-free number and Web site address. Retailers selling through catalogs or the Internet may meet this requirement by including the information in a prominent location on the retailer's Web site.

Sec. 6. [115A.1320] AGENCY AND DEPARTMENT DUTIES.

Subdivision 1. Duties of the agency.

- (a) The agency shall administer sections 115A.1310 to 115A.1330.
- (b) The agency shall establish procedures for:
 - (1) receipt and maintenance of the registration statements and certifications filed with the agency under section 115A.1312; and
 - (2) making the statements and certifications easily available to manufacturers, retailers, and members of the public.
- (c) The agency shall annually review the value of the following variables that are part of the formula used to calculate a manufacturer's annual registration fee under section 115A.1314, subdivision 1:
 - (1) the proportion of sales of video display devices sold to households that manufacturers are required to recycle;
 - (2) the estimated per-pound price of recycling covered electronic devices sold to households;
 - (3) the base registration fee; and
 - (4) the multiplier established for the weight of covered electronic devices collected in section 115A.1314, subdivision 1, paragraph (d). If the agency determines that any of these values must be changed in order to improve the efficiency or effectiveness of the activities regulated under sections 115A.1312 to 115A.1330 or if the revenues in the account exceed the amount that the agency determines is necessary, the agency shall submit recommended changes and the reasons for them to the chairs of the senate and house of representatives committees with jurisdiction over solid waste policy.
- (d) By January 15 each year, beginning in 2008, the agency shall calculate estimated sales of video display devices sold to households by each manufacturer during the preceding program year, based on national sales data, and forward the estimates to the department.

- (e) The agency shall manage the account established in section 115A.1314, subdivision 2. If the revenues in the account exceed the amount that the agency determines is necessary for efficient and effective administration of the program, including any amount for contingencies, the agency must recommend to the legislature that the base registration fee, the proportion of sales of video display devices required to be recycled, or the estimated per pound cost of recycling established under section 115A.1314, subdivision 1, paragraph (b), or any combination thereof, be lowered in order to reduce revenues collected in the subsequent program year by the estimated amount of the excess.
- (f) On or before December 1, 2010, and each year thereafter, the agency shall provide a report to the governor and the legislature on the implementation of sections 115A.1310 to 115A.1330. For each program year, the report must discuss the total weight of covered electronic devices recycled and a summary of information in the reports submitted by manufacturers and recyclers under section 115A.1316. The report must also discuss the various collection programs used by manufacturers to collect covered electronic devices; information regarding covered electronic devices that are being collected by persons other than registered manufacturers, collectors, and recyclers; and information about covered electronic devices, if any, being disposed of in landfills in this state. The report must include a description of enforcement actions under sections 115A.1310 to 115A.1330. The agency may include in its report other information received by the agency regarding the implementation of sections 115A.1312 to 115A.1330.
- (g) The agency shall promote public participation in the activities regulated under sections 115A.1312 to 115A.1330 through public education and outreach efforts.
- (h) The agency shall enforce sections 115A.1310 to 115A.1330 in the manner provided by sections 115.071, subdivisions 1, 3, 4, 5, and 6; and 116.072, except for those provisions enforced by the department, as provided in subdivision 2. The agency may revoke a registration of a collector or recycler found to have violated sections 115A.1310 to 115A.1330.
- (i) The agency shall facilitate communication between counties, collection and recycling centers, and manufacturers to ensure that manufacturers are aware of video display devices available for recycling.
- (j) The agency shall develop a form retailers must use to report information to manufacturers under section 115A.1318 and post it on the agency's Web site.
- (k) The agency shall post on its Web site the contact information provided by each manufacturer under section 115A.1318, paragraph (e).

Subd. 2. Duties of the department.

- (a) The department must collect the data submitted to it annually by each manufacturer on the total weight of each specific model of video display device sold to households, if provided; the total weight of video display devices sold to households; the total weight of covered electronic devices collected from households that are recycled; and data on recycling credits, as required under section 115A.1316. The department must use this data to review each manufacturer's annual registration fee submitted to the department to ensure that the fee was calculated accurately according to the formula in section 115A.1314, subdivision 1.
- (b) The department must estimate, for each registered manufacturer, the sales of video display devices to households during the previous program year, based on:
 - (1) data provided by a manufacturer on sales of video display devices to households, including documentation describing how that amount was calculated and certification that the amount is accurate; or
 - (2) if a manufacturer does not provide the data specified in clause (1), national data on sales of video display devices. The department must use the data specified in this subdivision to review each manufacturer's annual registration fee submitted to the department to ensure that the fee was calculated accurately according to the formula in section 115A.1314, subdivision 1.
- (c) The department must enforce section 115A.1314, subdivision 1. The audit, assessment, appeal, collection, enforcement, disclosure, and other administrative provisions of chapters 270B, 270C, and 289A that apply to the taxes imposed under chapter 297A apply to the fee imposed under section 115A.1314, subdivision 1. To enforce this subdivision, the commissioner of revenue may grant extensions to pay, and impose and abate penalties and interest on, the fee due under section 115A.1314, subdivision 1, in the manner provided in chapters 270C and 289A as if the fee were a tax imposed under chapter 297A.
- (d) The department may disclose nonpublic data to the agency only when necessary for the efficient and effective administration of the activities regulated under sections 115A.1310 to 115A.1330. Any data disclosed by the department to the agency retains the classification it had when in the possession of the department.

Sec. 7. [115A.1322] OTHER RECYCLING PROGRAMS.

A city, county, or other public agency may not require households to use public facilities to recycle their covered electronic devices to the exclusion of other lawful programs

available. Cities, counties, and other public agencies, including those awarded contracts by the agency under section 115A.1314, subdivision 2, are encouraged to work with manufacturers to assist them in meeting their recycling obligations under section 115A.1318, subdivision 1. Nothing in sections 115A.1310 to 115A.1330 prohibits or restricts the operation of any program recycling covered electronic devices in addition to those provided by manufacturers or prohibits or restricts any persons from receiving, collecting, transporting, or recycling covered electronic devices, provided that those persons are registered under section 115A.1312.

Sec. 8. [115A.1323] ANTICOMPETITIVE CONDUCT.

- (a) A manufacturer that organizes collection or recycling under this section is authorized to engage in anti-competitive conduct to the extent necessary to plan and implement its chosen organized collection or recycling system and is immune from liability under state laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.
- (b) An organization of manufacturers, an individual manufacturer, and its officers, members, employees, and agents who cooperate with a political subdivision that organizes collection or recycling under this section are authorized to engage in anticompetitive conduct to the extent necessary to plan and implement the organized collection or recycling system, provided that the political subdivision actively supervises the participation of each entity. An organization, entity, or person covered by this paragraph is immune from liability under state law relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.

Sec. 9. [115A.1324] REQUIREMENTS FOR PURCHASES BY STATE AGENCIES.

- (a) The Department of Administration must ensure that acquisitions of video display devices under chapter 16C are in compliance with or not subject to sections 115A.1310 to 115A.1318.
- (b) The solicitation documents must specify that the prospective responder is required to cooperate fully in providing reasonable access to its records and documents that evidence compliance with paragraph (a) and sections 115A.1310 to 115A.1318.
- (c) Any person awarded a contract under chapter 16C for purchase or lease of video display devices that is found to be in violation of paragraph (a) or sections 115A.1310 to 115A.1318 is subject to the following sanctions:
 - (1) the contract must be voided if the commissioner of administration determines that the potential

adverse impact to the state is exceeded by the benefit obtained from voiding the contract;

- (2) the contractor is subject to suspension and disbarment under Minnesota Rules, part 1230.1150; and
- (3) if the attorney general establishes that any money, property, or benefit was obtained by a contractor as a result of violating paragraph (a) or sections 115A.1310 to 115A.1318, the court may, in addition to any other remedy, order the disgorgement of the unlawfully obtained money, property, or benefit.

Sec. 10. [115A.1326] REGULATION OF VIDEO DISPLAY DEVICES.

If the United States Environmental Protection Agency adopts regulations under the Resource Conservation and Recovery Act regarding the handling, storage, or treatment of any type of video display device being recycled, those regulations are automatically effective in this state on the same date and supersede any rules previously adopted by the agency regarding the handling, storage, or treatment of all video display devices being recycled.

Sec. 11. [115A.1328] MULTISTATE IMPLEMENTATION.

The agency and department are authorized to participate in the establishment of a regional multistate organization or compact to assist in carrying out the requirements of this chapter.

Sec. 12. [115A.1330] LIMITATIONS.

Sections 115A.1310 to 115A.1330 expire if a federal law, or combination of federal laws, take effect that is applicable to all video display devices sold in the United States and establish a program for the collection and recycling or reuse of video display devices that is applicable to all video display devices discarded by households.

Sec. 13. DIRECT APPROPRIATION.

Prior to the governor making budget recommendations to the legislature in 2009, the Pollution Control Agency must report on revenues received and expenditures made under Minnesota Statutes, section 115A.1314, subdivision 2, during fiscal years 2008 and 2009 and request the governor to recommend a direct appropriation for the purposes of that section.

Sec. 14. EFFECTIVE DATE.

Sections 1 to 13 are effective the day following final enactment.

Presented to the governor May 4, 2007

Signed by the governor May 8, 2007, 4:00 p.m.