06-096 DEPARTMENT OF ENVIRONMENTAL PROTECTION

Chapter 415: reasonable costs for handling, TRANSPORTATION, and recycling of electronic Wastes

**SUMMARY**: This chapter establishes the requirements and procedures for determining reasonable costs for the handling, transportation, and recycling of electronic waste generated by covered entities in Maine pursuant to 38 M.R.S. §1610.

**1. Definitions.** The following terms, as used in this chapter, have the following meanings unless the context indicates otherwise.

1. **3D Printer.** “3D printer” means an electronic device that produces a three-dimensional object from a digital file.
2. **Consolidation facility.** “Consolidation facility” means a facility where electronic wastes are consolidated and temporarily stored while awaiting shipment of at least a 40-foot trailer full of covered electronic devices to a recycling, treatment or disposal facility. Consolidation facility includes a transport vehicle owned or leased by a consolidator and used to collect and transport covered electronic devices in this State at a cost no greater than the per pound transportation rate for a full 40-foot trailer as approved by the Department for each consolidator pursuant to this chapter. For purposes of this chapter, 16,000 pounds of covered electronic devices is equivalent to a full 40-foot trailer.
3. **Consolidator.** “Consolidator” means a person that provides consolidation services including handling, transportation, and recycling for covered electronic devices, and that operates at least one consolidation facility, as provided for in this chapter.
4. **Covered electronic device.** “Covered electronic device” means a desktop printer, a video game console, or a video display device with a screen that is greater than four inches measured diagonally and that contains one or more circuit boards. Covered electronic device does not include an automobile; a household appliance; a large piece of commercial or industrial equipment, such as commercial medical equipment, that contains a cathode ray tube, a cathode ray tube device, a flat panel display or similar video display device that is contained within, and is not separate from, the larger piece of equipment; other medical devices as that term is defined under the Federal *Food, Drug, and Cosmetic Act*; or a cellular telephone subject to 38 M.R.S. §2143.
5. **Covered electronic device type.** “Covered electronic device type” means a category of consumer electronic products delineated by the Department based on similar recycling management systems and costs and/or materials value resulting from recycling.
6. **Covered entity.** “Covered entity” means a household in this State; a business that employs 100 or fewer individuals; a nonprofit organization exempt from taxation under the *United States Internal Revenue Code*, Section 501(c)(3), that employs 100 or fewer individuals; a primary school; or a secondary school.
7. **Department.** “Department” means the Maine Department of Environmental Protection.
8. **Desktop printer.** “Desktop printer” means a device weighing 100 pounds or less that prints text or illustrations on paper or that prints three-dimensional objects, and is designed for external use with a desktop or portable computer. Desktop printer includes, but is not limited to, a daisy wheel, dot matrix, inkjet, laser, LCD and LED line or thermal printer, including a device that performs other functions in addition to printing such as copying, scanning or transmitting a facsimile.
9. **Geographic service area.** “Geographic service area” means one of four regions of Maine delineated as: Region 1 – Aroostook, Washington, and Hancock Counties; Region 2 – Piscataquis and Penobscot Counties; Region 3 – Sagadahoc, Kennebec, Somerset, Waldo, Knox and Lincoln Counties; and Region 4 – Franklin, Oxford, Cumberland, Androscoggin and York Counties.
10. **Handle.** “Handle” means to receive, collect, consolidate, store, transfer, track, package, load for transport, and perform associated administrative tasks, including recordkeeping and reporting.
11. **Maine’s E-waste Law.** “Maine’s E-waste Law” means the provisions in 38 M.R.S. §1610.
12. **Manufacturer.** “Manufacturer” means a person who:
13. Manufactures or has manufactured a covered electronic device under its own brand or label;
14. Sells, or has sold under its own brand or label a covered electronic device produced by other suppliers;
15. Owns a brand that it licenses or licensed to another person for use on a covered electronic device; or
16. Imports or has imported a covered electronic device into the United States that is manufactured by a person without a presence in the United States.
17. **Market share.** “Market share” means a manufacturer’s national sales of a covered electronic device expressed as a percentage of the total of all manufacturers’ national sales by weight for that category of covered electronic devices.
18. **Municipal collection site.** “Municipal collection site” means a municipally owned solid waste transfer station or recycling center, including a facility owned by a consortium of municipalities or a facility that is under contract with a municipality or consortium of municipalities to provide solid waste management services. A municipal collection site as defined herein is not inherently a consolidation facility for purposes of this chapter.
19. **Person.** “Person” means any individual; partnership; corporation; firm; federal, state or local government entity; or public or private organization of any character.
20. **Qualified recycling and dismantling facility.** “Qualified recycling and dismantling facility” means a business that processes covered electronic devices for reuse or recycling and that provides the consolidator with a sworn certification that its processing, refurbishment for reuse, and recycling of covered electronic devices meets the guidelines for environmentally sound management contained in Appendix A; or a facility that maintains a current R2 or e-Stewards certification.
21. **Recycling.** “Recycling” means processing of covered electronic devices or their component materials for recovery of useable materials. Recycling includes refurbishment, but does not include resale of unrefurbished units into the consumer market, or energy recovery or energy generation by means of combustion.

**NOTE**: Smelting of hazardous wastes to recover metals for reuse in conformance with all applicable laws and regulations is not considered disposal or energy recovery.

1. **Recycling share.** “Recycling share” means the percentage of the cost of transportation, handling, and recycling of the total weight of a covered electronic device type assigned to a manufacturer by the Department.
2. **Refurbishment.** “Refurbishment” means the production of a fully functional device that performs original intended functions from parts of one or more discarded devices and/or new component parts by a facility certified to the Sustainable Electronics Recycling International’s R2 Standard for responsible recycling (R2).
3. **Television.** “Television” means a covered electronic device that has a display and receives video programming via broadcast, cable or satellite transmission; recorded transmissions from VHS, DVD and similar video players; and/or video from surveillance or other similar cameras.
4. **Universal waste.** “Universal waste” means cathode ray tubes, lamps, mercury-containing devices, non-leaking polychlorinated biphenyl ballasts, and certain batteries as further defined in Maine’s *Identification of Hazardous Wastes*, 06-096 CMR 850(4)(A)(14) and *Universal Waste* 06-096 CMR 858(12).
5. **Video game console.** “Video game console” means an interactive entertainment computer or electronic device that produces a video display signal that can be used with a display device such as a television or computer monitor to display a video game.

## 2. Criteria for determining reasonable costs of consolidation operations

**A. Consolidator approval process.** To be eligible to receive reimbursement from manufacturers for the handling, transportation, and recycling of covered electronic devices generated as waste by covered entities in Maine, a consolidator must be approved by the Department. By October 1 each year, a consolidator may submit information to the Department to demonstrate that it meets the criteria for approval to offer handling, transportation, and recycling services for covered electronic devices from Maine covered entities and to receive reimbursement from manufacturers. The Department shall approve annually a group of up to 10 consolidators. The Department’s approval shall be for a period of one year.

* 1. The Department shall include in the approved group consolidators that:
		+ 1. Provide adequate demonstration that they have the ability to operate in conformance with this chapter and Maine’s E-waste Law;
			2. Submit the lowest cost schedules, with overall consolidator costs for handling, transportation to a recycling and dismantling facility, and recycling not to exceed $0.48 per pound for covered electronic devices; and
			3. When considered in aggregate, ensure that geographically convenient consolidation services are provided throughout the state.

The Department will make the current list of approved consolidators available through its website, and, upon request, in writing.

* 1. An approved consolidator must submit updated information to the Department when there are any changes to the information included in the consolidator’s application under section 2(B) of this chapter.
	2. The Department may request updated information from any approved consolidator regarding changes in any of the information provided to the Department under section 2(B) of this chapter.
	3. The Department may remove a consolidator from the approved list when violations of Maine’s environmental laws are adjudicated or otherwise resolved, when violations of the laws of the United States Environmental Protection Agency or of any jurisdiction where electronic waste from Maine is processed are adjudicated or otherwise resolved, or when the Department determines that inaccurate information has been provided by a consolidator to the Department and the consolidator cannot cure the inaccuracy within 30 days of notice or an alternative timeframe approved by the Department.
	4. Any approval issued to a consolidator by the Department may contain any conditions the Department deems necessary to ensure compliance with this chapter and 38 M.R.S. §1610.
	5. Effective August 1, 2018 – December 31, 2018, approved consolidators shall amend their cost schedules approved for implementation beginning January 1, 2018 as follows:
1. Remove costs related to “Option 1” handling; and
2. Reduce the per pound cost for recycling of video display devices other than televisions by $0.03 per pound, and for recycling of desktop printers by $0.01 per pound.

**B. Application requirements.** To be approved to receive reimbursement from manufacturers for the handling, transportation, and recycling of covered electronic devices from covered entities, the consolidator shall submit to the Department a completed application, using forms developed by the Department, that includes at a minimum the following information:

1. A description of the company’s qualifications and experience in managing covered electronic devices and other universal wastes.
2. Evidence of the company’s technical ability to comply with the consolidator responsibilities in Maine’s E-waste Law, 38 M.R.S. §1610(5)(B).
3. A listing and explanation of any adjudicated civil violations and criminal convictions, and administrative agreements or consent decrees or administrative orders, for violations of any applicable state or federal laws.
4. A copy of the company’s standard operating procedures for managing covered electronic devices, including procedures to track covered electronic devices that are identified at receipt as having been generated by a covered entity, and to implement the operational standards in section 3 of this chapter. This must include the identification of the electronic waste dismantling and recycling facilities that may be utilized by the consolidator, as well as information on the commodity materials generated by these facilities.
5. A description of the company’s consolidation capacity, including the location and description of consolidation facilities and geographic service area(s) served.
6. A description and disclosure of all of the company’s business relationships with electronic waste recycling and dismantling facilities and electronics manufacturers, including ownership interest in any electronic waste recycling and dismantling facilities or related companies, exclusive of any contractual relationships entered into to meet the requirements of this chapter.
7. Evidence of financial capacity sufficient to operate in compliance with this chapter and Maine’s E-waste Law.
8. A fee schedule for the next calendar year of allowable costs to be billed to the responsible manufacturers for each geographic service area served by the company. The proposed fees shall be expressed as the price per pound.

Costs for transportation must be based on transporting an average load of 16,000 pounds.

1. Evidence of commercial general liability insurance or equivalent corporate guarantee for accidents and other emergencies with limits of not less than $1,000,000 per occurrence and $2,000,000 aggregate.

### Allowable costs

### (1) Each consolidator shall bill a manufacturer in accordance with their most recent fee schedule as submitted to and approved by the Department for allowable costs associated with the handling, transportation, and recycling of covered electronic devices generated by covered entities.

### (2) The only costs that a consolidator may bill to manufacturers are those associated with managing covered electronic devices in conformance with this chapter, unless otherwise contracted by the manufacturer.

(3) Allowable handling, transportation and recycling costs are those costs that are directly incurred by the consolidator and that are associated with meeting the requirements of this chapter for covered electronic devices, including but not limited to:

(a) Providing transport from geographically convenient collection sites, at a per pound rate assuming an average load of 16,000 pounds;

(b) Accounting, by total weight of each covered electronic device type, and collection of other information as required in sections 3(C)(1) and 3(C)(2) of this chapter;

(c) Storing, loading, and unloading;

(d) Packaging for transport;

(e) Transportation and tracking of covered electronic devices to a qualified recycling and dismantling facility;

(f) Billing, record-keeping, and reporting as required by section 3 of this chapter;

(g) A reasonable rate of profit or return on investment; and

(h) Costs billed to the consolidator by a qualified recycling and dismantling facility for recycling.

(4) Costs associated with gathering and providing additional information not required by this chapter are not allowable costs. These additional costs must be borne by each manufacturer that requests these services by arrangement between the manufacturer and consolidator.

**D. Department determination of recycling share responsibilities**

1. The Department shall determine recycling shares by covered electronic device type. For a minimum of two years after the effective date of this rule, the Department shall delineate covered electronic device types to be televisions, video game consoles, desktop printers, and all other covered electronic devices.
2. Based on readily available national market share data, the Department shall use the formula R= A/T to calculate the recycling shares for each manufacturer, where:

R = recycling share for a given device type,

A = pounds of the device type marketed by a manufacturer, adjusted in accordance with paragraph (3), and

T = total of adjusted pounds (A) of the device type marketed by current manufacturers with more than a *de minimis* share.

1. In calculating a manufacturer’s recycling share for a covered electronic device type, the Department shall adjust that manufacturer’s total pounds of that covered electronic device type marketed nationally by subtracting: 15% of that manufacturer’s nationally marketed weight of that covered electronic device type that qualifies for the Electronic Product Environmental Assessment Tool (EPEAT) gold standard; 10% of that manufacturer’s nationally marketed weight of that covered electronic device type that qualifies for the EPEAT silver standard; and 5% of that manufacturer’s nationally marketed weight of that covered electronic device type that qualifies for the EPEAT bronze standard. To receive this credit, the manufacturer must provide documentation to the Department of its annual sales of EPEAT-certified devices, and any additional data as requested by the Department to verify the self-reported sales data.

In calculating a manufacturer’s recycling share for a covered electronic device type, the Department shall reduce that manufacturer’s total pounds of that covered electronic device type marketed nationally by the total weight of the covered electronic device type collected from covered entities in Maine and recycled through a manufacturer-run takeback program. To receive this credit, the manufacturer shall provide sufficient documentation to the Department to demonstrate: the number of units and pounds of each product type collected and sent for recycling, including a breakout of the amount sent for refurbishment or an estimate of pounds refurbished; the pounds collected are covered electronic devices generated as waste by covered entities; the program is provided at no cost to covered entities; the devices are recycled in accordance with the definition of recycling in this chapter; and electronics recycling is performed in an environmentally responsible manner. Manufacturers may receive credit for pounds refurbished through a manufacturer-run takeback program by a recycler without R2 certification if the manufacturer provides documentation to demonstrate that the recycler meets or exceeds R2 standards and that the manufacturer provides auditing at least equivalent to that provided as part of R2 certification. Sufficient documentation includes, but is not limited to: a description of the manufacturer’s collection program, including collection locations and procedures for limiting collection to covered entities; material flow diagrams showing the movement of materials; a description of data collection procedures for tracking recycling and refurbishment, including an explanation of the manner of arriving at any estimates of refurbishment; and evidence that the electronics recyclers meet the standards in Appendix A.

To receive credit, a manufacturer must include the documentation required under this section with its annual registration under 38 M.R.S. §1610(6-A).

1. If the Department determines that a manufacturer is responsible for a *de minimis* share of a waste stream based on readily available national market share data adjusted by design incentives and qualifying pounds collected, the Department may identify that manufacturer as not responsible for a recycling share of that waste stream. In no instance shall the Department determine that any manufacturer with greater than 0.1% adjusted market share has a *de minimis* share for purposes of allocating recycling shares.
2. Annually by December 1, the Department shall provide manufacturers and approved consolidators with a schedule of each manufacturer’s recycling share effective for the following calendar year. When a manufacturer with a recycling share exits the market during any calendar year, the Department shall recalculate and distribute new recycling shares for that calendar year to affected manufacturers and approved consolidators.

**E. Consolidator and manufacturer arrangements.** Manufacturers may establish arrangements with approved consolidators to facilitate implementation of this chapter. Those arrangements may include billing arrangements that are consistent with this chapter.

## 3. Operational standards

**A. Required handling.** Consolidators shall manage the handling, transportation, and recycling of covered electronic devices, and shall bill each manufacturer for the manufacturer’s recycling share as determined by the Department in accordance with section 2(D) of this chapter for each covered electronic device type for which that manufacturer is responsible.

**B. Handling, transport and recordkeeping requirements**

1. All handling, transport and recordkeeping shall be performed in accordance with 06-096 CMR chapter 858, *Universal Waste*.
2. A consolidator shall determine a total net weight of each covered electronic device type identified at receipt as generated by a covered entity in Maine.
3. Costs associated with the handling, transportation, and recycling of covered electronic devices not clearly identified as generated by covered entities are the responsibility of the entity that delivers, or causes to be delivered, the covered electronic device to the consolidator.

**NOTE**: Maine law at 38 M.R.S. §1610(5)(A-1) prohibits a covered entity from delivering more than seven covered electronic devices at one time to a municipally-designated collection site or consolidator collection event unless the collection site or consolidator is willing to accept them.

1. The consolidator shall establish and implement procedures for clearly distinguishing and tracking covered electronic devices from covered entities separately from electronic waste generated by non-covered entities.
2. The consolidator shall transport all covered electronic devices only to qualified recycling and dismantling facilities.
3. When provided with at least 24 hours’ notice, the consolidator must allow on-site audit reviews by manufacturers during normal business hours of Monday – Friday from 9:00 a.m. to 4:00 p.m. to evaluate the consolidator’s operations in relation to Maine’s E-waste Law and this chapter, and to check the systems that ensure the validity of data provided to the manufacturer and the Department.

**NOTE**: A manufacturer may provide the Department with the results of any audit it performs. The Department may use this information to target unannounced inspections to determine compliance with applicable Maine laws and rules.

(7) A consolidator must maintain, for a minimum of three years, a copy of the certifications of compliance with the environmentally sound management guidelines contained in Appendix A from each recycling and dismantling facility that receives covered electronic devices from the consolidator and must provide the Department with a copy of these records within 24 hours of its request.

**C. Billing.** Consolidators and manufacturers shall work cooperatively to ensure implementation of a practical and feasible billing system. At a minimum, a consolidator shall invoice a manufacturer for the allowable costs incurred by the consolidator and associated with the handling, transportation, and recycling of covered electronic devices for which each manufacturer is responsible under the provisions of this chapter in conformance with its most recent fee schedule submitted to and approved by the Department. A consolidator shall bill each manufacturer monthly for its recycling share of the appropriate waste stream, except that a consolidator may bill a manufacturer quarterly whenever monthly billing on average would result in invoicing for less than $100.

(1) At a minimum, each bill submitted by a consolidator to a manufacturer must include the following information:

(a) Total weight for each covered electronic device type generated by covered entities and managed by the consolidator during the billing term;

(b) Total cost per pound billed; and

(c) Total amount due from the manufacturer, which equals:

 W x S x C

Where:

W = the total weight of the covered electronic device type managed by the consolidator during the billing term,

S = the manufacturer’s recycling share for the calendar year for that waste stream, and

C = cost per pound for management services provided.

(2) Manufacturers may request additional information from consolidators at their discretion, provided that obtaining the requested information does not pose an unreasonable operating burden on the consolidator. The manufacturer shall pay the cost of obtaining and transmitting additional information to that manufacturer, including any costs incurred in meeting manufacturer audit requirements. The consolidator must provide the manufacturer with documentation of the cost of fulfilling the additional information request by the manufacturer.

(3) A manufacturer shall pay all bills received from approved consolidators and generated in conformance with this chapter, including invoices for work performed on the manufacturer’s behalf prior to a consolidator’s cessation of services under sections 2(A) and 3(G) of this chapter.

(4) A consolidator may notify the Department whenever a manufacturer fails to meet its obligation to reimburse the consolidator for allowable costs within 90 days of receipt of an invoice and the consolidator and manufacturer have not agreed upon an alternative payment schedule.

**D. Insurance requirement.** A consolidator shall maintain commercial general liability insurance or equivalent corporate guarantee for accidents and other emergencies with limits of not less than $1,000,000 per occurrence and $2,000,000 aggregate.

**E. Reporting requirements**

1. By April 1 and October 1 each year, a consolidator shall submit a semi-annual report to the Department covering operations from the previous July 1 to December 31 and January 1 to June 30 respectively. These reports must include at a minimum:
2. Updates to any information submitted under the provisions of sections 2(A) and 2(B) of this chapter;
3. A narrative summary of the facility’s activities related to consolidation of covered electronic devices; and
4. An accounting consistent with section 3(A) of this chapter, by numbers and weight for the covered electronic devices handled in the applicable timeframe.
5. Upon request, the consolidator must provide the Department with all records and reports necessary to determine compliance with Maine’s E-waste Law and this chapter.

**F. Notification of cessation of services.** At least 30 days prior to ceasing operations as a consolidation facility in any of the geographic service areas indicated as served in the consolidator’s documents submitted under the provisions of section 2(B) of this chapter, an approved consolidator must provide the Department notice of intent to cease operations for purposes of managing covered electronic devices.

STATUTORY AUTHORITY: 38 M.R.S. Sections 341-D(1-C) and 1610(5)(D)(1)

EFFECTIVE DATE:

November 13, 2005 – filing 2005-459

AMENDED:

September 19, 2007 – filing 2007-405

March 13, 2010 – filing 2010-78

March 7, 2016 – filing 2016-030

August 20, 2018 – filing 2018-149

**APPENDIX A**

**Maine Department of Environmental Protection**

## Guidelines for the Environmentally Sound Management of Electronic Waste

Pursuant to 38 M.R.S. §1610(5)(C), the Maine Department of Environmental Protection (the Department) has developed the following guidelines for recycling and dismantling facilities engaged in the handling, processing, refurbishment and recycling of covered electronic devices from covered entities as these terms are defined in this Chapter. These guidelines provide a framework for environmentally sound management of these wastes. Consolidators operating in Maine may not transport covered electronic devices to a recycling or dismantling facility unless the facility has provided a sworn certification to the consolidator that the facility substantially meets these guidelines, or the facility has a current R2 or e-Stewards certification.

1. The facility must comply with federal, state and local laws and regulations, specifically as relating to the handling, processing, refurbishment and recycling of covered electronic devices, and must possess proper authorization by all appropriate governing authorities to perform such handling, processing, refurbishment and recycling.
2. The facility must implement appropriate measures to safeguard occupational and environmental health and safety, through the following:
	1. Environmental health & safety (EH&S) training of personnel, including training with regard to material and equipment handling, worker exposure to hazardous materials, controlling releases of pollutants, and safety and emergency procedures;
	2. An up-to-date, written hazardous materials identification and management plan;
	3. An up-to-date, written plan for reporting and responding to pollutant releases, including emergencies such as accidents, spills, fires, and explosions;
	4. Maintenance of Commercial General Liability Insurance or equivalent corporate guarantee for accidents and other emergencies with limits of not less than $1,000,000 per occurrence and $2,000,000 aggregate. Additionally, maintenance of Pollution Legal Liability Insurance with a limit of not less than $1,000,000 per occurrence for companies engaged solely in dismantling activities and $5,000,000 per occurrence for companies engaged in processing of recyclable materials;
	5. Documentation that an EH&S audit is completed and certified by a competent internal or external auditor on a periodic basis (generally annually). A competent auditor is an individual who through professional training and/or work experience is appropriately qualified to evaluate the EH&S conditions, practices, and procedures at the facility. Documentation of the auditor’s qualifications must be available for inspection by government officials and third party auditors; and
	6. The facility must maintain on file proof of procurement of workers’ compensation/employers’ liability insurance.
3. The facility must have adequate financial assurance (e.g. bonds, corporate guarantee) to cover environmental and other costs of the closure of its facility, including the cleanup of stockpiled equipment and materials.
4. The facility must apply due diligence principles to selection of facilities to which components and materials (e.g. plastics, metals, circuit boards, CRTs) from covered electronic devices are sent for reuse and recycling.
5. The facility must establish a documented environmental management system, appropriate in level of detail and documentation to the scale and function of the facility, including documented regular self-audits and/or inspections of its environmental compliance.
6. The facility must use appropriate equipment for proper processing of incoming materials as well as controlling environmental releases. The facility must manage all materials to minimize adverse exposures to workers and releases to the environment. Dismantling operations and storage of electronics or components of electronics that contain hazardous substances must be conducted indoors over impervious floors. Storage areas must be adequate to hold all processed and unprocessed inventory. When heat is used to soften solder and when electronics or components thereof are shredded, operations must be designed to control indoor and outdoor hazardous air emissions.
7. The facility must establish a system for identifying and properly managing components that are removed from covered electronic devices during disassembly and that, if waste, may be hazardous (e.g. circuit boards, batteries, CRTs, mercury phosphor lamps, etc.). The facility must properly manage all hazardous components and other components requiring special handling from covered electronic devices in a manner consistent with relevant federal, state, and local regulations. The facility must provide visible tracking (such as hazardous waste manifests or Bills of Lading) of hazardous components and materials from the facility to the destination facilities, and documentation (such as contracts) stating how the destination facility processes materials received. The facility must not send, either directly or through intermediaries, hazardous wastes to solid waste (non-hazardous waste) landfills or to non-hazardous waste incinerators for disposal or energy recovery. For the purposes of these guidelines, smelting of hazardous wastes to recover metals for reuse in conformance with all applicable laws and regulations is not considered disposal or energy recovery.
8. The facility must use a regularly implemented and documented monitoring and record keeping program that tracks inbound material weights (total) and outbound material weights (total to each destination), injury and illness rates, and compliance with applicable permit parameters including monitoring of effluents and emissions. The facility must maintain contracts or other documents, such as sales receipts, sufficient to demonstrate: (a) a reasonable expectation that there is a downstream market or use~~s~~ for designated electronics (such uses may include recycling and/or reclamation processes such as smelting to recover metals for reuse); and (b) that any residual materials from recycling and/or reclamation processes are properly handled and managed to maximize reuse and recycling of materials to the extent practicable.

On an annual basis, the facility must provide a statement to consolidators operating in Maine that ship covered electronic devices to the facility that includes a description of how the electronics are recycled, a listing of facilities to which it ships materials for recycling, and the following data:

* percentage of each covered electronic device type that is sent for reuse;
* percentage of components recovered for reuse;
* percentage of materials recycled by type of material;
* residual rates by material; and
* fate of materials not recycled.

The facility may calculate these numbers based on the total electronic waste stream handled by the facility. The facility must maintain on file these statements to consolidators for a minimum of 3 years for inspection by government officials and relevant auditors.

1. The facility must comply with federal and international law and agreements regarding the export of used products or materials. In the case of export of televisions, computer monitors and CPUs, this includes compliance with applicable requirements of the United States of America and of the import and transit countries, and maintenance of proper business records documenting such compliance. The facility agrees not to establish or utilize intermediaries for the purpose of circumventing these U.S., import, and transit country requirements.

For transactions that involve the transboundary shipment of used televisions and computer monitors, the facility must conduct those transactions based on contracts (or equivalent commercial arrangements) made in advance that detail the quantity and nature of the materials to be shipped. For the export of materials to a foreign country (directly or indirectly through downstream market contractors):

* Shipment of intact televisions and computer monitors destined for reuse must include only whole products, tested and certified as being in working order or requiring only minor repair (e.g., not requiring replacement of circuit boards or CRTs), that are destined for reuse with respect to their original purpose, where the recipient has verified a market for the sale or donation of such products for reuse; and
* Shipments of televisions and computer monitors for materials recovery must be prepared in a manner appropriate for processing, including smelting where metals will be recovered, plastics recovery, and glass-to-glass recycling.

The facility must maintain the following export records on file for a minimum of three years:

* 1. destinations (including facility name and address) to which shipments are exported;
	2. shipment contents and weights;
	3. intended use of contents by the destination facilities;
	4. specifications required by the destination facilities in relation to shipment contents; and
	5. assurance that all shipments for export are legal and satisfy all applicable laws in the destination countries.