§ 27-2603. Manufacturer collection; recycling surcharge.

1. (a) Beginning April first, two thousand eleven, a manufacturer of covered electronic equipment must accept for collection, handling and recycling or reuse electronic waste for which it is the manufacturer. Such waste shall count toward the amount of electronic waste required to be accepted pursuant to subdivision four of this section.

(b) Beginning April first, two thousand eleven, a manufacturer of covered electronic equipment must accept for collection, handling and recycling or reuse one piece of electronic waste of any manufacturer's brand if offered by a consumer with the purchase of covered electronic equipment of the same type by a consumer. Such waste shall count toward the amount of the electronic waste required to be accepted pursuant to subdivision four of this section.

2. Beginning April first, two thousand eleven, each manufacturer must accept for collection, handling and recycling or reuse the manufacturer's acceptance standard as specified in subdivision four of this section.

3. Statewide recycling or reuse goal. (a) For the period from April first, two thousand eleven through December thirty-first, two thousand eleven, the statewide recycling or reuse goal for electronic waste shall be the product of the latest population estimate for the state, as published by the U.S. Census bureau multiplied by three pounds multiplied by three-quarters.

(b) For calendar year two thousand twelve, the statewide recycling or reuse goal for all electronic waste shall be the product of the latest population estimate for the state, as published by the U.S. Census bureau multiplied by four pounds.

(c) For calendar year two thousand thirteen, the statewide recycling or reuse goal for all electronic waste shall be the product of the latest population estimate for the state, as published by the U.S. Census bureau multiplied by five pounds.

(d) For calendar year two thousand fourteen and annually thereafter, the statewide recycling or reuse goal for all electronic waste is the product of the base weight multiplied by the goal attainment percentage.

For the purposes of this paragraph, "base weight" means the greater of: (i) the average weight of all electronic waste collected for recycling or reuse during the previous three calendar years as reported to the department pursuant to paragraph (b) of subdivision one of section 27-2617 of this title; or (ii) the three year average of the sum of all electronic waste collected for recycling or reuse during the previous three calendar years based on information reported to the department pursuant to paragraph (b) of subdivision one, paragraph (b) of subdivision two and paragraph (b) of subdivision three of section 27-2613 of this title.

(e) The "goal attainment percentage" means:

(i) ninety percent if the base weight is less than ninety percent of the statewide recycling or reuse goal for the previous calendar year;

(ii) ninety-five percent if the base weight is ninety percent or greater, but does not exceed ninety-five percent of the statewide recycling or reuse goal for the previous calendar year;

(iii) one hundred percent if the base weight is ninety-five percent or greater, but does not exceed one hundred five percent of the statewide recycling or reuse goal for the previous calendar year;

(iv) one hundred five percent if the base weight is one hundred five percent or greater, but does not exceed one hundred ten percent of the statewide recycling or reuse goal for the previous calendar year; and

(v) one hundred ten percent if the base weight is one hundred ten percent or greater of the statewide recycling or reuse goal for the previous calendar year.

4. Manufacturer acceptance standard. (a) For the period April first, two thousand eleven through December thirty-first, two thousand eleven and annually thereafter, each manufacturer's acceptance standard is the product of the statewide recycling or reuse goal under paragraph (a), (b), (c) or (d) of subdivision three of this section, as appropriate, multiplied by that manufacturer's market share pursuant to paragraph (b) of this subdivision.

(b) Each manufacturer's market share of electronic waste shall be determined by the department based on the manufacturer's percentage share of the total weight of covered electronic equipment sold as determined by the best available information, including, but not limited

to, state sales data reported by weight. Beginning April first, two thousand eleven, and every calendar year thereafter, the department shall provide each manufacturer with a determination of its market share of electronic waste which shall be the quotient of the total weight of the manufacturer's covered electronic equipment sold to persons in this state based on the average annual retail sales during the preceding three calendar years, as reported under sections 27-2605 and 27-2617 of this title divided by the total weight of all manufacturers covered electronic equipment sold to persons in this state based on the average annual retail sales during the preceding three calendar years, as reported under sections 27-2605 and 27-2617 of this title.

5. In the absence of a waiver by the department pursuant to subdivision three of section 27-2615 of this title, beginning in calendar year two thousand thirteen, a manufacturer that fails to meet its manufacturer's acceptance standard for the previous calendar year as required by subdivision four of this section shall be subject to a recycling surcharge, determined as follows:

(a) If a manufacturer accepts at least ninety percent but less than one hundred percent of its manufacturer's acceptance standard as required by subdivision four of this section, the surcharge shall be thirty cents multiplied by the number of additional pounds of electronic waste that should have been accepted by such manufacturer.

(b) If a manufacturer accepts at least fifty percent but less than ninety percent of its manufacturer's acceptance standard as required by subdivision four of this section, the surcharge shall be forty cents multiplied by the number of additional pounds of electronic waste that should have been accepted by such manufacturer.

(c) If a manufacturer accepts less than fifty percent of its manufacturer's acceptance standard as required by subdivision four of this section, the surcharge shall be fifty cents multiplied by the number of additional pounds of electronic waste that should have been accepted by such manufacturer.

6. The recycling surcharge shall be paid to the department with the annual report required pursuant to section 27-2617 of this title.

7. Beginning with calendar year two thousand fourteen, if a manufacturer accepts more than its manufacturer's acceptance standard as required by subdivision four of this section, the excess weight may be used as electronic waste acceptance credits and may be sold, traded, or banked for a period no longer than three calendar years succeeding the year in which the credits were earned; provided, however, that no more than twenty-five percent of a manufacturer's obligation for any calendar year may be met with recycling credits generated in a prior calendar year.