S T A T E  O F  N E W  Y O R K

S. 7988 A. 11308

S E N A T E - A S S E M B L Y

May 27, 2010

IN SENATE -- Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to real estate transfer tax deposits into the environmental protection fund; to amend the environmental conservation law, in relation to the recycling, reuse and safe handling of electronic equipment sold in the state of New York; in relation to hazardous waste program fees and surcharges; and in relation to penalties for enforcement of violations; to repeal section 72-0403 of the environmental conservation law relating to hazardous waste program surcharges; and making appropriations for the support of government

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (a) The several amounts specified in this act for state operations and for aid to localities, or so much thereof as shall be sufficient to accomplish the purposes designated by the appropriations, are hereby appropriated and authorized to be paid as hereinafter provided, to the respective public officers and for the several purposes specified.

(b) The several amounts specified in this act for capital projects, or so much thereof as shall be necessary to accomplish the purpose of the appropriations, are appropriated by comprehensive construction programs (hereinafter referred to by the abbreviation CCP), purposes, and projects designated by the appropriations, and authorized to be made available as hereinafter provided to the respective public officers; such appropriations shall be deemed to provide all costs necessary and pertinent to accomplish the intent of the appropriations and are appropriated in accordance with the provisions of section 93 of the state finance law.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD12258-02-0

(c) No moneys appropriated by this act shall be available for payment until a certificate of approval has been issued by the director of the budget, who shall file such certificate with the department of audit and control, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee.

(d) The appropriations contained in this act shall be available for the fiscal year beginning on April 1, 2010.

OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

General Fund/State Operations
State Purposes Account - 003

PARK OPERATIONS PROGRAM ..... 11,000,000
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NONPERSONAL SERVICE

Supplies and materials ..... 4,000,000
Contractual services ..... 7,000,000
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Amount available for nonpersonal service .. 11,000,000
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DEPARTMENT OF ENVIRONMENTAL CONSERVATION

General Fund/State Operations
State Purposes Account - 003

FOREST AND LAND RESOURCES PROGRAM ..... 200,000
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NONPERSONAL SERVICE

Supplies and materials ..... 200,000
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Amount available for nonpersonal service ..... 200,000
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MISCELLANEOUS - ALL STATE DEPARTMENTS AND AGENCIES

GENERAL STATE CHARGES

General Fund/State Operations
State Purposes Account - 003

GENERAL STATE CHARGES ..... 5,000,000
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Notwithstanding any law to the contrary, for taxes on public lands and payments pursuant to sections 532 through 546 of the real property tax law (09TX10ER) ..... 5,000,000
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CAPITAL PROJECTS

ENVIRONMENT AND RECREATION (CCP) ..... 134,000,000
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Environmental Protection Fund

Environment and Recreation Purpose

For services and expenses of projects and purposes authorized by section 92-s of the state finance law to receive funding from the solid waste account in accordance with a programmatic and financial plan to be approved by the director of the budget, including suballocation to other state departments and agencies, according to the following:

Non-hazardous landfill closure projects (09LC10ER) ..... 600,000

Municipal waste reduction or recycling projects (09MR10ER) ..... 6,639,000

Secondary materials regional marketing assistance and energy conservation services projects (09SM10ER) ..... 1,000,000

Pesticides program (09PD10ER) ..... 575,000

Notwithstanding any law to the contrary, for assessment and recovery of any natural resource damages (09RD10ER) ..... 200,000

Notwithstanding any law to the contrary, for the pollution prevention institute; including $600,000 for the Green Initiative Institute (09PP10ER) ..... 2,000,000

For services and expenses of projects and purposes authorized by section 92-s of the state finance law to receive funding from the parks, recreation and historic preservation account in accordance with a programmatic and financial plan to be approved by the director of the budget, including suballocation to other state departments and agencies, according to the following:

Local waterfront revitalization programs, notwithstanding any law to the contrary, not less than, $6,000,000 for waterfront revitalization projects which are in or primarily serve areas where demographic

and other relevant data for such areas demonstrate that the areas are densely populated and have sustained physical deterioration, decay, neglect, or disinvestment, or where a substantial proportion of the residential population is of low income or is otherwise disadvantaged and is underserved with respect to the existing recreational opportunities in the area; and provided further this appropriation shall not be construed to restrict the use of any additional monies for such projects; $550,000 for Buffalo Waterfront; $300,000 for Niagara River Greenway; and $250,000 for Hudson and Champlain Docks (09WR10ER) ..... 12,000,000

Parks, recreation and historic preservation projects, notwithstanding any law to the contrary, not less than, $6,716,000 for municipal parks projects which are in or primarily serve areas where demographic and other relevant data for such areas demonstrate that the areas are densely populated and have sustained physical deterioration, decay, neglect or disinvestment or where a substantial proportion of the residential population is of low income or is otherwise disadvantaged and is underserved with respect to the existing recreational opportunities in the area, and notwithstanding any law to the contrary, $225,000 for Olmstead Park, $125,000 for Hyde Park, $225,000 for Darwin Martin House and $125,000 for Graycliff Manor (09MP10ER) ..... 13,432,000

Notwithstanding any law to the contrary, for state parks and land and easement infrastructure, access and stewardship projects which shall include capital projects: (i) on state parks and state owned lands acquired pursuant to sections 54-0303 and 56-0307 of the environmental conservation law and (ii) on state parks or state owned lands and easements under the jurisdiction of the department of environmental conservation or the office of parks, recreation and historic preservation for access opportunities for people with disabilities; access to the State Forest Preserve; State reforestation, Wildlife Management areas and conservation easement lands; recreational trail construction and

maintenance; Catskill and Adirondack campground improvements to public access and sanitation facilities; environmental education; conservation education facility improvements; archeological, historic, cultural and natural resource surveys, forest health surveys, interpretation, and inventories; Forest Preserve and state forest unit management planning; conservation easement public recreation planning; habitat restoration and enhancement; state fish hatchery improvements; water access facilities and safety improvements; public beach facility development and improvement; public access improvements at day use areas; state historic site exterior restoration; and cabin area and camping facility development, restoration and reconstruction (09ST10ER) ..... 16,228,000

Notwithstanding subdivision 7 of section 92-s of the state finance law or any other law to the contrary, for services and expenses of the Hudson River Park Trust for projects related to the development of the Hudson River Park consistent with provisions of chapter 592 of the laws of 1998; provided, however, such funds shall not be available for suballocation to any public benefit corporation or public authority with the exception of the Hudson River Park Trust and shall be available solely for the liabilities incurred by the Hudson River Park Trust or by other state departments or agencies on behalf of the Hudson River Park Trust and shall be available solely for the liabilities incurred by the Hudson River Park Trust or by other state departments or agencies on behalf of the Hudson River Park Trust on or after April 1, 1999. Provided further that, the comptroller is hereby authorized and directed to release monies to the Hudson River Park Trust in amounts set forth in a schedule approved by the director of the budget (09HR10ER) ..... 3,000,000

Notwithstanding any law to the contrary, for zoos, botanical gardens and aquaria program (09ZB10ER) ..... 9,000,000

For services and expenses of projects and purposes authorized by section 92-s of

the state finance law to receive funding from the open space account in accordance with a programmatic and financial plan to be approved by the director of the budget, including suballocation to other state departments and agencies, according to the following:

Costs related to the acquisition of the following properties: Atlantic Coast, Long Island Sound Coastal Area, Long Island South Shore Estuary Reserve, Peconic Pinelands Maritime Reserve Projects, Central Pine Barrens, Adirondack Mountain Club Lands, Hudson River projects, Western Suffolk/Nassau Special Groundwater Protection Areas, Harbor Herons Wildlife Complex, Inner City/Underserved Community Parks, Long Pond/Butler Woods, Staten Island Greenbelt, Staten Island Wet Woods, Harlem River Waterfront, Great Swamp, Neversink Highlands, Plutarch/Black Creek Wetlands Complex, New York Highlands, Mongaup Valley Wildlife Management Area, Northern Putnam Greenway, Putnam Railroad, Schunnemunk Mountain/Moodna Creek/Woodcock Mountain, Sterling Forest, Shawangunk Mountains, Northeastern Westchester Watershed and Biodiversity Lands, Rockland Riverfront Communities/Palisades Ridge, Catskill Mountain/Delaware River Region, Beaverkill/Willowemoc, Hudson River Estuary/Greenway Trail Corridor, Catskill Unfragmented Forest, Long Path, New York City Watershed Lands, Taconic Ridge/ Harlem Valley, Albany Pine Bush, Five Rivers Environmental Education Center, Helderberg Escarpment, Pine Bush-Hudson River Link/Tivoli Preserve, Batten Kill Watershed-Saratoga National Historic Park View shed, Washington County Agricultural Lands-Saratoga National Historic Park View shed, Westmere Woods, Lake George watershed, Lake Champlain watershed, Boeselager forestry, Domtar/Lyme Fee Lands, Catskill River and Road corridor, Rensselaer plateau, Hudson River Gorge, Franklinton Vlaie Wildlife Management area, Black Creek Marsh/Vly Swamp, Mohawk River Valley Corridor/Barge Canal, Oomsdale farm and surrounding landscape, Susquehanna River Valley Corridor, Pilot Knob, Floodwood Camp, Lake Champlain Shoreline and Wetlands, Saratoga County, Mays Pond Tract, State Forest and Wildlife Management Area Protection, Follensby

Park, Undeveloped Lake George Shore, Whitney Park, Finch Woodlands, Washington County Grasslands, Northern Flow River Corridors, Recreational Trail Linkages and Networks, Bog River/Beaver River Headwater Complex, Maumee Swamp, Moose River Corridor, Rome Sand Plains, Saint Lawrence River Islands, Shorelines and Wetlands, Eastern Lake Ontario Shoreline and Islands, Tug Hill Core Forests and Headwater Streams, Tioga County Park Opportunities, Nelson Swamp, Genny-Green Trail/Link Trail, Clark Reservation State Park, Salmon River Corridor, State Parks Greenbelt/Tompkins County, Cattaraugus Creek and tributaries, Carpenter Falls/Bear Swamp Creek Corridor, Tonawanda Creek Watershed, Two Rivers State Park, Finger Lakes Shoreline, Buffalo/Niagara River Corridors, Northern Montezuma Wetlands, HiTor/Bristol Hills, Braddock Bay, Catharine Valley Complex, Sonnenberg Gardens, Western Finger Lakes: Conesus, Hemlock, Canadice and Honeoye, Genesee Greenway/Recreationway, Allegany State Park, Alder Bottom Pond/French Creek, Great Lakes Shorelines and Niagara River, Chautauqua Lake Access, Shore Lands and Vistas, Randolph Swamp, Eighteen Mile Creek/Hampton Brook Woods, Statewide Small Projects, Working Forest Lands, State Park and State Historic Site Protection, (a) notwithstanding any law to the contrary, $500,000 from the land acquisition allocation for urban forestry projects provided that no less than $250,000 shall be made available for such programs in cities with populations of 65,000 or more; (b) notwithstanding any law to the contrary, $1,575,000 from the land acquisition allocation to the land trust alliance for the purpose of awarding grants on a competitive basis to local land trusts, provided that up to ten percent of such amount may be made available for administrative costs and/or technical assistance (09LA10ER) ..... 17,614,000

Albany Pine Bush Preserve Commission (09AP10ER) ..... 2,000,000

Long Island Central Pine Barrens Planning (09LP10ER) ..... 1,100,000

Long Island South Shore Estuary Reserve (09SE10ER) ..... 900,000

Agricultural non-point source abatement and control projects (09AN10ER) ..... 13,297,000

Non-agricultural non-point source abatement and control projects (09NP10ER) ..... 3,703,000

Agriculture and farmland protection activities (09FP10ER) ..... 10,750,000

Biodiversity stewardship and research, and notwithstanding any law to the contrary, $75,000 for Cayuga Island (09BD10ER) ..... 500,000

Notwithstanding any law to the contrary, for the Hudson River Estuary Management Plan prepared pursuant to section 11-0306 of the environmental conservation law (09HE10ER) ..... 3,000,000

Notwithstanding any law to the contrary, for state assistance payments, pursuant to a smart growth program, provided on a competitive basis, to counties, cities, towns, or villages to establish, update or implement comprehensive plans in a manner consistent with smart growth; provided, however, that up to 25 percent of such payments may be awarded to not-for-profit organizations for such purposes (09SG10ER) ..... 300,000

Notwithstanding any law to the contrary, for the Finger Lakes-Lake Ontario Watershed Protection Alliance (09FL10ER) ..... 1,000,000

Notwithstanding any law to the contrary, for the state share of costs of wastewater treatment improvement projects undertaken by municipalities to upgrade municipal systems to meet stormwater, combined sewer overflow, sanitary sewer overflow and wastewater treatment discharge requirements with priority given to systems that are in violation of title 8 of article 17 of the environmental conservation law and aquatic habitat restoration projects undertaken by municipalities and not-for-profit corporations for aquatic habitat restoration projects as defined in subdivision 1 of section 56-0101 of the environmental conservation law (09WQ10ER) ..... 2,932,000

Notwithstanding any law to the contrary for New York ocean and Great Lakes ecosystem conservation projects, consistent with the policy articulated in article 14 of the environmental conservation law (09GL10ER) ..... 5,000,000

Notwithstanding any law to the contrary, for the implementation of the recommendations of the invasive species task force prepared pursuant to chapter 324 of the laws of 2003 and for the purposes set forth in chapter 674 of the laws of 2007 including not less than $95,000 for Lake George, provided that not less than $1,000,000 be made available for invasive species eradication, and including grants related to the control and management of invasive species. Such funding for grants shall be provided on a competitive basis in consultation with the New York Invasive Species Council (09IS10ER) ..... 3,800,000

Notwithstanding any law to the contrary, for Soil and Water Conservation District activities as authorized for reimbursement in section 11-a of the soil and water conservation districts law (09SW10ER) ..... 3,000,000

Notwithstanding any law to the contrary, for Agricultural Waste Management projects (09AW10ER) ..... 430,000

S 2. Section 1421 of the tax law, as amended by section 1 of part T of chapter 59 of the laws of 2009, is amended to read as follows:

S 1421. Deposit and dispositions of revenues. From the taxes, interest and penalties attributable to the tax imposed pursuant to section fourteen hundred two of this article, the amount of [thirty-three and one-half million] ONE HUNDRED NINETY-NINE MILLION THREE HUNDRED THOUSAND dollars shall be deposited by the comptroller in the environmental protection fund established pursuant to section ninety-two-s of the state finance law for the fiscal year beginning April first, [nineteen hundred ninety-five] TWO THOUSAND NINE; the amount of [eighty-seven million dollars shall be deposited in such fund for the fiscal years beginning April first, nineteen hundred ninety-six and nineteen hundred ninety-seven; the amount of one hundred twelve million dollars shall be deposited in such fund for the fiscal years beginning April first, nineteen hundred ninety-eight, nineteen hundred ninety-nine, two thousand, two thousand one, two thousand two, two thousand three, two thousand four and two thousand five; the amount of one hundred thirty-seven million dollars shall be deposited in such fund for the fiscal year beginning April first, two thousand six; the amount of two hundred twelve million dollars shall be deposited in such fund for the fiscal year beginning April first, two thousand seven; the amount of two hundred thirty-seven million dollars shall be deposited in such fund for

the fiscal year beginning April first, two thousand eight; the amount of one hundred ninety-nine million three hundred thousand dollars shall be deposited in such fund for four fiscal years beginning April first, two thousand nine;] ONE HUNDRED NINETEEN MILLION ONE HUNDRED THOUSAND DOLLARS SHALL BE DEPOSITED IN SUCH FUND FOR THE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOUSAND TEN; and for each fiscal year thereafter[; provided however that at the direction of the director of the budget, an additional amount of up to twenty-five million dollars may be deposited in such fund for the fiscal year beginning April first, two thousand seven and ending March thirty-first, two thousand eight, for disposition as provided under such section]. On or before June twelfth, nineteen hundred ninety-five and on or before the twelfth day of each month thereafter (excepting the first and second months of each fiscal year), the comptroller shall deposit into such fund from the taxes, interest and penalties collected pursuant to such section fourteen hundred two of this article which have been deposited and remain to the comptroller's credit in the banks, banking houses or trust companies referred to in section one hundred seventy-one-a of this chapter at the close of business on the last day of the preceding month, an amount equal to one-tenth of the annual amount required to be deposited in such fund pursuant to this section for the fiscal year in which such deposit is required to be made. In the event such amount of taxes, interest and penalties so remaining to the comptroller's credit is less than the amount required to be deposited in such fund by the comptroller, an amount equal to the shortfall shall be deposited in such fund by the comptroller with subsequent deposits, as soon as the revenue is available. Beginning April first, nineteen hundred ninety-seven, the comptroller shall transfer monthly to the clean water/clean air fund established pursuant to section ninety-seven-bbb of the state finance law, all moneys remaining from such taxes, interest and penalties collected that are not required for deposit in the environmental protection fund.

S 3. Short title. Sections three, four and five of this act shall be known and may be cited as the "electronic equipment recycling and reuse act".

S 4. Article 27 of the environmental conservation law is amended by adding a new title 26 to read as follows:

TITLE 26

ELECTRONIC EQUIPMENT RECYCLING AND REUSE

SECTION 27-2601. DEFINITIONS.
27-2603. MANUFACTURER COLLECTION; RECYCLING SURCHARGE.
27-2605. MANUFACTURER ELECTRONIC WASTE REGISTRATION AND RESPONSIBILITIES.
27-2607. RETAILER REQUIREMENTS.
27-2609. LABELING.
27-2611. DISPOSAL BAN.
27-2613. ELECTRONIC WASTE COLLECTION, CONSOLIDATION AND RECYCLING.
27-2615. DEPARTMENT RESPONSIBILITIES.
27-2617. REPORTING REQUIREMENTS.
27-2619. PREEMPTION.
27-2621. DISPOSITION OF FEES.

S 27-2601. DEFINITIONS.

AS USED IN THIS TITLE:

1. "CATHODE RAY TUBE" MEANS A VACUUM TUBE OR PICTURE TUBE USED TO CONVERT AN ELECTRONIC SIGNAL INTO A VISUAL IMAGE.

2. "COMPUTER" MEANS AN ELECTRONIC, MAGNETIC, OPTICAL, ELECTROCHEMICAL OR OTHER HIGH-SPEED DATA PROCESSING DEVICE PERFORMING A LOGICAL, ARITHMETIC OR STORAGE FUNCTION, INCLUDING A LAPTOP COMPUTER AND DESKTOP COMPUTER, AND INCLUDES ANY CABLE, CORD, OR WIRING PERMANENTLY AFFIXED TO OR INCORPORATED INTO SUCH PRODUCT, AND MAY INCLUDE BOTH A COMPUTER CENTRAL PROCESSING UNIT AND A MONITOR; BUT SUCH TERM SHALL NOT INCLUDE AN AUTOMATED TYPEWRITER OR TYPESETTER, A PORTABLE HAND-HELD CALCULATOR, A PORTABLE DIGITAL ASSISTANT, SERVER, OR OTHER SIMILAR DEVICE.

3. "COMPUTER PERIPHERAL" MEANS A MONITOR; ELECTRONIC KEYBOARD; ELECTRONIC MOUSE OR SIMILAR POINTING DEVICE; FACSIMILE MACHINE, DOCUMENT SCANNER, OR PRINTER INTENDED FOR USE WITH A COMPUTER; AND INCLUDES ANY CABLE, CORD, OR WIRING PERMANENTLY AFFIXED TO OR INCORPORATED INTO ANY SUCH PRODUCT. COMPUTER PERIPHERAL SHALL NOT INCLUDE ANY DOCUMENT SCANNER OR PRINTER WHICH WEIGHS ONE HUNDRED POUNDS OR MORE.

4. "CONSUMER" MEANS A PERSON LOCATED IN THE STATE WHO OWNS OR USES COVERED ELECTRONIC EQUIPMENT, INCLUDING BUT NOT LIMITED TO AN INDIVIDUAL, A BUSINESS, CORPORATION, LIMITED PARTNERSHIP, NOT-FOR-PROFIT CORPORATION, THE STATE, A PUBLIC CORPORATION, PUBLIC SCHOOL, SCHOOL DISTRICT, PRIVATE OR PAROCHIAL SCHOOL OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES OR GOVERNMENTAL ENTITY, BUT DOES NOT INCLUDE AN ENTITY INVOLVED IN A WHOLESALE TRANSACTION BETWEEN A DISTRIBUTOR AND RETAILER.

5. "COVERED ELECTRONIC EQUIPMENT" MEANS: A COMPUTER; COMPUTER PERIPHERAL; SMALL ELECTRONIC EQUIPMENT; SMALL-SCALE SERVER; CATHODE RAY TUBE; OR TELEVISION, AS DEFINED IN THIS SECTION. "COVERED ELECTRONIC EQUIPMENT" DOES NOT INCLUDE ANY MOTOR VEHICLE OR ANY PART THEREOF; CAMERA OR VIDEO CAMERA; PORTABLE OR STATIONARY RADIO; HOUSEHOLD APPLIANCES SUCH AS CLOTHES WASHERS, CLOTHES DRYERS, REFRIGERATORS, FREEZERS, MICROWAVE OVENS, OVENS, RANGES OR DISHWASHERS; EQUIPMENT THAT IS FUNCTIONALLY OR PHYSICALLY PART OF A LARGER PIECE OF EQUIPMENT INTENDED FOR USE IN AN INDUSTRIAL, RESEARCH AND DEVELOPMENT OR COMMERCIAL SETTING; SECURITY OR ANTI-TERRORISM EQUIPMENT; MONITORING AND CONTROL INSTRUMENT OR SYSTEM; THERMOSTAT; HAND-HELD TRANSCEIVER; TELEPHONE OF ANY TYPE; PORTABLE DIGITAL ASSISTANT OR SIMILAR DEVICE; CALCULATOR; GLOBAL POSITIONING SYSTEM (GPS) RECEIVER OR SIMILAR NAVIGATION DEVICE; A SERVER OTHER THAN A SMALL-SCALE SERVER; A CASH REGISTER OR RETAIL SELF CHECKOUT SYSTEM; A STAND-ALONE STORAGE PRODUCT INTENDED FOR USE IN INDUSTRIAL, RESEARCH AND DEVELOPMENT OR COMMERCIAL SETTINGS; COMMERCIAL MEDICAL EQUIPMENT THAT CONTAINS WITHIN IT A CATHODE RAY TUBE, A FLAT PANEL DISPLAY OR SIMILAR VIDEO DISPLAY DEVICE, AND IS NOT SEPARATE FROM THE LARGER PIECE OF EQUIPMENT; OR OTHER MEDICAL DEVICES AS THAT TERM IS DEFINED UNDER THE FEDERAL FOOD, DRUG AND COSMETIC ACT.

6. "ELECTRONIC WASTE" MEANS COVERED ELECTRONIC EQUIPMENT THAT HAS BEEN DISCARDED OR IS NO LONGER WANTED BY ITS OWNER, OR FOR ANY OTHER REASON ENTERS THE WASTE COLLECTION, RECOVERY, TREATMENT, PROCESSING, OR RECYCLING SYSTEM. FOR PURPOSES OF SECTION 27-2611 OF THIS TITLE, "ELECTRONIC WASTE" DOES NOT INCLUDE THE CASE, SHELL, OR OTHER ENCLOSURE OF COVERED ELECTRONIC EQUIPMENT FROM WHICH INCORPORATED ASSEMBLIES, SUB-ASSEMBLIES, COMPONENTS, MATERIALS, WIRING, CIRCUITRY AND COMMODITIES HAVE BEEN REMOVED.

7. "ELECTRONIC WASTE COLLECTION SITE" MEANS A FACILITY AT A FIXED OR TEMPORARY SITE AT WHICH ELECTRONIC WASTE IS ACCEPTED FROM CONSUMERS AND TEMPORARILY STORED FOR MORE THAN FIVE DAYS IN A CALENDAR YEAR BEFORE SUCH WASTE IS TRANSPORTED TO AN ELECTRONIC WASTE CONSOLIDATION FACILITY OR ELECTRONIC WASTE RECYCLING FACILITY. ELECTRONIC WASTE COLLECTION SITES INCLUDE, BUT ARE NOT LIMITED TO, DEDICATED SITES AND FACILITIES FOR THE ACCEPTANCE OF ELECTRONIC WASTE, AND RETAIL STORES AND OUTLETS,

MUNICIPAL OR PRIVATE ELECTRONIC WASTE COLLECTION SITES AND NOT-FOR-PROFIT DONATION SITES THAT HAVE AGREED TO ACCEPT ELECTRONIC WASTE.

8. "ELECTRONIC WASTE CONSOLIDATION FACILITY" MEANS A FACILITY THAT RECEIVES AND STORES ELECTRONIC WASTE FOR THE PURPOSE OF ORGANIZING, CATEGORIZING OR CONSOLIDATING ITEMS OF ELECTRONIC WASTE BEFORE SUCH WASTE IS TRANSPORTED TO AN ELECTRONIC WASTE RECYCLING FACILITY. ELECTRONIC WASTE CONSOLIDATION FACILITIES INCLUDE, BUT ARE NOT LIMITED TO, FACILITIES OF BROKERS ACTING AS INTERMEDIARIES BETWEEN ELECTRONIC WASTE BUYERS AND SELLERS, AND REGIONAL CENTERS AT WHICH ELECTRONIC WASTE IS ORGANIZED, CATEGORIZED OR CONSOLIDATED AFTER BEING TRANSPORTED TO SUCH CENTERS FROM ELECTRONIC WASTE COLLECTION SITES OR OTHER ELECTRONIC WASTE CONSOLIDATION FACILITIES.

9. "ELECTRONIC WASTE RECYCLING FACILITY" MEANS A FACILITY AT WHICH ELECTRONIC WASTE IS RECYCLED.

10. "LABEL" MEANS A MARKER ON THE SURFACE OF COVERED ELECTRONIC EQUIPMENT CONVEYING INFORMATION; FOR THE PURPOSES OF THIS TITLE, LABELS MUST BE PERMANENT AND CAN BE ATTACHED, PRINTED, ENGRAVED OR INCORPORATED IN ANY OTHER PERMANENT WAY THAT IS OBVIOUS AND VISIBLE TO USERS OF THE PRODUCT.

11. "MANUFACTURER" MEANS A PERSON WHO: (A) ASSEMBLES OR SUBSTANTIALLY ASSEMBLES COVERED ELECTRONIC EQUIPMENT FOR SALE IN THE STATE; (B) MANUFACTURES COVERED ELECTRONIC EQUIPMENT UNDER ITS OWN BRAND NAME OR UNDER ANY OTHER BRAND NAME FOR SALE IN THE STATE; (C) SELLS, UNDER ITS OWN BRAND NAME, COVERED ELECTRONIC EQUIPMENT SOLD IN THE STATE; (D) OWNS A BRAND NAME THAT IT LICENSES TO ANOTHER PERSON FOR USE ON COVERED ELECTRONIC EQUIPMENT SOLD IN THE STATE; (E) IMPORTS COVERED ELECTRONIC EQUIPMENT FOR SALE IN THE STATE; OR (F) MANUFACTURES COVERED ELECTRONIC EQUIPMENT FOR SALE IN THE STATE WITHOUT AFFIXING A BRAND NAME. "MANUFACTURER" DOES NOT MEAN A PERSON WHO ASSEMBLES OR SUBSTANTIALLY ASSEMBLES, AND SELLS LESS THAN ONE THOUSAND UNITS OF COVERED ELECTRONIC EQUIPMENT ANNUALLY IN THIS STATE, OR WHOSE PRIMARY BUSINESS IS THE SALE OF COVERED ELECTRONIC EQUIPMENT WHICH IS COMPRISED PRIMARILY OF REBUILT, REFURBISHED OR USED COMPONENTS. IF MORE THAN ONE PERSON IS A MANUFACTURER OF A BRAND OF COVERED ELECTRONIC EQUIPMENT, ANY SUCH PERSON MAY ASSUME RESPONSIBILITY FOR OBLIGATIONS OF A MANUFACTURER OF THAT BRAND UNDER THIS TITLE. IF NONE OF THOSE PERSONS ASSUMES RESPONSIBILITY FOR THE OBLIGATIONS OF A MANUFACTURER UNDER THIS TITLE, ANY AND ALL SUCH PERSONS JOINTLY AND SEVERALLY MAY BE CONSIDERED TO BE THE RESPONSIBLE MANUFACTURER OF THAT BRAND FOR PURPOSES OF THIS TITLE.

12. "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 A LEGAL RIGHT OR INTEREST, INCLUDING THOSE NAMES, BRAND NAMES, AND BRAND LABELS OF COMPANIES THAT HAVE BEEN ACQUIRED BY THE MANUFACTURER OR IN WHICH THE MANUFACTURER ASSERTS A LEGAL INTEREST SUCH AS TRADEMARK, LICENSE, SERVICE MARK, OR PATENT.

13. "MONITOR" MEANS A SEPARATE VISUAL DISPLAY COMPONENT OF A COMPUTER, WHETHER SOLD SEPARATELY OR TOGETHER WITH A COMPUTER CENTRAL PROCESSING UNIT, 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, AND ANY CABLE CORD OR WIRING PERMANENTLY AFFIXED THERETO OR INCORPORATED INTO SUCH PRODUCT.

14. "PERSON" MEANS ANY INDIVIDUAL, BUSINESS ENTITY, PARTNERSHIP, COMPANY, CORPORATION, NOT-FOR-PROFIT CORPORATION, ASSOCIATION, GOVERNMENTAL ENTITY, PUBLIC BENEFIT CORPORATION, PUBLIC AUTHORITY, FIRM,

ORGANIZATION, OR ANY OTHER GROUP OF INDIVIDUALS, OR ANY OFFICER OR EMPLOYEE OR AGENT THEREOF.

15. "RECYCLE" MEANS TO SEPARATE, DISMANTLE OR PROCESS THE MATERIALS, COMPONENTS OR COMMODITIES CONTAINED IN ELECTRONIC WASTE FOR THE PURPOSE OF PREPARING THE MATERIALS, COMPONENTS OR COMMODITIES FOR USE OR REUSE IN NEW PRODUCTS OR COMPONENTS THEREOF, BUT NOT FOR ENERGY RECOVERY OR ENERGY GENERATION BY MEANS OF COMBUSTION, GASIFICATION, PYROLYSIS OR OTHER MEANS. RECYCLING INCLUDES THE MANUAL AND MECHANICAL SEPARATION OF ELECTRONIC WASTE TO RECOVER MATERIALS, COMPONENTS OR COMMODITIES CONTAINED THEREIN FOR THE PURPOSE OF REUSE OR RECYCLING, AND CHANGING THE PHYSICAL OR CHEMICAL COMPOSITION OF ELECTRONIC WASTE TO SEGREGATE COMPONENTS FOR PURPOSES OF RECYCLING THOSE COMPONENTS.

16. "RETAILER" MEANS A PERSON WHO SELLS COVERED ELECTRONIC EQUIPMENT TO A PERSON IN THE STATE THROUGH ANY MEANS, INCLUDING, BUT NOT LIMITED TO, TRANSACTIONS CONDUCTED THROUGH RETAIL SALES OUTLETS, MAIL, CATALOGS, THE TELEPHONE OR THE INTERNET, OR ANY ELECTRONIC MEANS. "RETAILER" DOES NOT INCLUDE A PERSON WHO SELLS OR OFFERS FOR SALE FEWER THAN TEN ITEMS OF COVERED ELECTRONIC EQUIPMENT DURING A CALENDAR YEAR.

17. "REUSE" MEANS THE USE OF ELECTRONIC WASTE THAT IS TESTED AND CERTIFIED TO BE IN GOOD WORKING ORDER AND WHICH WAS REMOVED FROM THE WASTE STREAM FOR USE FOR THE SAME PURPOSE FOR WHICH IT WAS MANUFACTURED, INCLUDING THE CONTINUED USE OF WHOLE SYSTEMS OR COMPONENTS.

18. "SELL" OR "SALE" MEANS ANY TRANSFER FOR CONSIDERATION OF TITLE OR THE RIGHT TO USE, FROM A MANUFACTURER OR RETAILER TO A PERSON, INCLUDING, BUT NOT LIMITED TO, TRANSACTIONS CONDUCTED THROUGH RETAIL SALES OUTLETS, CATALOGS, MAIL, THE TELEPHONE, THE INTERNET, OR ANY ELECTRONIC MEANS; THIS INCLUDES TRANSFER OF NEW PRODUCTS OR USED PRODUCTS THAT MAY HAVE BEEN REFURBISHED BY THEIR MANUFACTURER OR MANUFACTURER-APPROVED PARTY AND THAT ARE OFFERED FOR SALE BY A MANUFACTURER OR RETAILER, BUT DOES NOT INCLUDE CONSUMER-TO-CONSUMER SECOND-HAND TRANSFER. "SELL OR SALE" DOES NOT INCLUDE: (A) THE TRANSFER OF USED COVERED ELECTRONIC EQUIPMENT OR A LEASE OF COVERED ELECTRONIC EQUIPMENT; OR (B) WHOLESALE TRANSACTIONS AMONG A MANUFACTURER, WHOLESALER AND RETAILER.

19. "SMALL ELECTRONIC EQUIPMENT" MEANS ANY PORTABLE DIGITAL MUSIC PLAYER THAT HAS MEMORY CAPABILITY AND IS BATTERY-POWERED, VIDEO CASSETTE RECORDER, A DIGITAL VIDEO DISC PLAYER, DIGITAL VIDEO RECORDER, DIGITAL CONVERTER BOX, CABLE OR SATELLITE RECEIVER, OR ELECTRONIC OR VIDEO GAME CONSOLE, AND INCLUDES ANY CABLE, CORD, OR WIRING PERMANENTLY AFFIXED TO OR INCORPORATED INTO ANY SUCH PRODUCT.

20. "SMALL-SCALE SERVER" MEANS A COMPUTER THAT TYPICALLY USES DESKTOP COMPONENTS IN A DESKTOP FORM FACTOR, BUT IS DESIGNED PRIMARILY TO BE A STORAGE HOST FOR OTHER COMPUTERS. TO BE CONSIDERED A SMALL-SCALE SERVER, A COMPUTER MUST HAVE THE FOLLOWING CHARACTERISTICS: DESIGNED IN A PEDESTAL, TOWER, OR OTHER FORM FACTOR SIMILAR TO THOSE OF DESKTOP COMPUTERS SUCH THAT ALL DATA PROCESSING, STORAGE, AND NETWORK INTERFACING IS CONTAINED WITHIN ONE BOX OR PRODUCT; INTENDED TO BE OPERATIONAL TWENTY-FOUR HOURS PER DAY AND SEVEN DAYS A WEEK, AND UNSCHEDULED DOWNTIME IS EXTREMELY LOW, SUCH AS ON THE ORDER OF HOURS PER YEAR; IS CAPABLE OF OPERATING IN A SIMULTANEOUS MULTI-USER ENVIRONMENT SERVING SEVERAL USERS THROUGH NETWORKED CLIENT UNITS; AND DESIGNED FOR AN INDUSTRY ACCEPTED OPERATING SYSTEM FOR HOME OR LOW-END SERVER APPLICATIONS.

21. "TELEVISION" MEANS A DISPLAY SYSTEM CONTAINING A CATHODE RAY TUBE OR ANY OTHER TYPE OF DISPLAY PRIMARILY INTENDED TO RECEIVE VIDEO PROGRAMMING VIA BROADCAST, CABLE OR SATELLITE TRANSMISSION, HAVING A VIEWABLE AREA GREATER THAN FOUR INCHES WHEN MEASURED DIAGONALLY.

S 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.

S 27-2605. MANUFACTURER ELECTRONIC WASTE REGISTRATION AND RESPONSIBILITIES.

1. A MANUFACTURER SHALL SUBMIT A REGISTRATION ON A FORM PRESCRIBED BY THE DEPARTMENT TO THE DEPARTMENT BY JANUARY FIRST, TWO THOUSAND ELEVEN, ALONG WITH A REGISTRATION FEE OF FIVE THOUSAND DOLLARS. THE DEPARTMENT MAY REQUIRE SUCH FORM TO BE FILED ELECTRONICALLY. SUCH REGISTRATION SHALL INCLUDE:

(A) THE MANUFACTURER'S NAME, ADDRESS, AND TELEPHONE NUMBER;

(B) THE NAME AND TITLE OF AN OFFICER, DIRECTOR, OR OTHER INDIVIDUAL DESIGNATED AS THE MANUFACTURER'S CONTACT FOR PURPOSES OF THIS TITLE;

(C) A LIST IDENTIFYING THE MANUFACTURER'S BRANDS;

(D) A GENERAL DESCRIPTION OF THE MANNER IN WHICH THE MANUFACTURER WILL COMPLY WITH SECTION 27-2603 OF THIS TITLE, INCLUDING SPECIFIC INFORMATION ON THE MANUFACTURER'S ELECTRONIC WASTE ACCEPTANCE PROGRAM IN THE STATE, AND A CURRENT LIST OF LOCATIONS WITHIN THE STATE WHERE CONSUMERS MAY RETURN ELECTRONIC WASTE;

(E) SALES DATA REPORTED BY WEIGHT FOR THE MANUFACTURER'S COVERED ELECTRONIC EQUIPMENT SOLD IN THIS STATE FOR THE PREVIOUS THREE CALENDAR YEARS, CATEGORIZED BY TYPE TO THE EXTENT KNOWN. IF THE MANUFACTURER CANNOT PROVIDE ACCURATE STATE SALES DATA, IT MUST EXPLAIN WHY SUCH DATA CANNOT BE PROVIDED, AND ESTIMATE STATE SALES DATA BY (I) DIVIDING ITS NATIONAL SALES DATA BY WEIGHT BY THE NATIONAL POPULATION ACCORDING TO THE MOST RECENT CENSUS AND MULTIPLYING THE RESULT BY THE POPULATION OF THE STATE, OR (II) ANOTHER METHOD APPROVED BY THE DEPARTMENT;

(F) A STATEMENT DISCLOSING WHETHER: (I) ANY COVERED ELECTRONIC DEVICE SOLD IN THIS STATE EXCEEDS THE MAXIMUM CONCENTRATION VALUES ESTABLISHED FOR LEAD, MERCURY, CADMIUM, HEXAVALENT CHROMIUM, POLYBROMINATED BIPHENYLS (PBBS), AND POLYBROMINATED DIPHENYL ETHERS (PBDES) UNDER THE RESTRICTION OF HAZARDOUS SUBSTANCES DIRECTIVE (ROHS) PURSUANT TO 2002/95/EC OF THE EUROPEAN PARLIAMENT AND COUNCIL AND ANY AMENDMENTS THERETO AND IF SO, A LISTING OF ANY COVERED ELECTRONIC EQUIPMENT THAT IS NOT IN COMPLIANCE WITH SUCH DIRECTIVE; OR (II) 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; AND

(G) ANY OTHER INFORMATION AS THE DEPARTMENT MAY REQUIRE.

2. A MANUFACTURER'S REGISTRATION IS EFFECTIVE UPON ACCEPTANCE BY THE DEPARTMENT AND MUST BE UPDATED WITHIN THIRTY DAYS OF ANY MATERIAL CHANGE TO THE INFORMATION REQUIRED BY SUBDIVISION ONE OF THIS SECTION.

3. ANY PERSON WHO BECOMES A MANUFACTURER ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN SHALL REGISTER WITH THE DEPARTMENT PRIOR TO SELLING OR OFFERING FOR SALE IN THE STATE ANY COVERED ELECTRONIC EQUIPMENT, AND MUST COMPLY WITH THE REQUIREMENTS OF THIS TITLE.

4. NO LATER THAN APRIL FIRST, TWO THOUSAND ELEVEN, A MANUFACTURER SHALL NOT SELL OR OFFER FOR SALE ELECTRONIC EQUIPMENT IN THE STATE UNLESS THE MANUFACTURER HAS REGISTERED WITH THE DEPARTMENT AND MAINTAINS AN ELECTRONIC WASTE ACCEPTANCE PROGRAM THROUGH WHICH THE MANUFACTURER, EITHER DIRECTLY OR THROUGH AN AGENT OR DESIGNEE, ACCEPTS ELECTRONIC WASTE FROM CONSUMERS IN THE STATE FOR RECYCLING. THE MANUFACTURER SHALL ENSURE THAT RETAILERS ARE NOTIFIED OF SUCH REGISTRATION.

5. THE ELECTRONIC WASTE ACCEPTANCE PROGRAM SHALL INCLUDE, AT A MINIMUM:

(A) COLLECTION, HANDLING AND RECYCLING OR REUSE OF ELECTRONIC WASTE PURSUANT TO SECTION 27-2603 OF THIS TITLE IN A MANNER CONVENIENT TO

CONSUMERS. THE FOLLOWING ACCEPTANCE METHODS SHALL BE CONSIDERED REASONABLY CONVENIENT: (I) MAIL OR SHIP BACK RETURN PROGRAMS; (II) COLLECTION OR ACCEPTANCE EVENTS CONDUCTED BY THE MANUFACTURER OR THE MANUFACTURER'S AGENT OR DESIGNEE, INCLUDING EVENTS CONDUCTED THROUGH LOCAL GOVERNMENTS OR PRIVATE PARTIES; (III) FIXED ACCEPTANCE LOCATIONS SUCH AS DEDICATED ACCEPTANCE SITES OPERATED BY THE MANUFACTURER OR ITS AGENT OR DESIGNEE; (IV) AGREEMENTS WITH LOCAL GOVERNMENTS, RETAIL STORES, SALES OUTLETS AND NOT-FOR-PROFIT ORGANIZATIONS WHICH HAVE AGREED TO PROVIDE FACILITIES FOR THE COLLECTION OF ELECTRONIC WASTE; (V) COMMUNITY COLLECTION EVENTS; AND (VI) ANY COMBINATION OF THESE OR OTHER ACCEPTANCE METHODS WHICH EFFECTIVELY PROVIDE FOR THE ACCEPTANCE OF ELECTRONIC WASTE FOR RECYCLING OR REUSE THROUGH MEANS THAT ARE AVAILABLE AND REASONABLY CONVENIENT TO CONSUMERS IN THE STATE. AT A MINIMUM, THE MANUFACTURER SHALL ENSURE THAT ALL COUNTIES OF THE STATE, AND ALL MUNICIPALITIES WHICH HAVE A POPULATION OF TEN THOUSAND OR GREATER, HAVE AT LEAST ONE METHOD OF ACCEPTANCE THAT IS AVAILABLE WITHIN SUCH COUNTY OR MUNICIPALITY. THE DEPARTMENT MAY ESTABLISH ADDITIONAL REQUIREMENTS TO ENSURE CONVENIENT COLLECTION FROM CONSUMERS;

(B) INFORMATION ON HOW CONSUMERS CAN DESTROY ALL DATA ON ANY ELECTRONIC WASTE, EITHER THROUGH PHYSICAL DESTRUCTION OF THE HARD DRIVE OR THROUGH DATA WIPING;

(C) A PUBLIC EDUCATION PROGRAM TO INFORM CONSUMERS ABOUT THE MANUFACTURER'S ELECTRONIC WASTE ACCEPTANCE PROGRAM, INCLUDING AT A MINIMUM: (I) AN INTERNET WEBSITE AND A TOLL-FREE TELEPHONE NUMBER AND WRITTEN INFORMATION INCLUDED IN THE PRODUCT MANUAL FOR, OR AT THE TIME OF SALE OF, COVERED ELECTRONIC EQUIPMENT THAT PROVIDES SUFFICIENT INFORMATION TO ALLOW A CONSUMER OF COVERED ELECTRONIC EQUIPMENT TO LEARN HOW TO RETURN THE COVERED EQUIPMENT FOR RECYCLING OR REUSE, AND IN THE CASE OF MANUFACTURERS OF COMPUTERS, HARD DRIVES AND OTHER COVERED ELECTRONIC EQUIPMENT THAT HAVE INTERNAL MEMORY ON WHICH PERSONAL OR OTHER CONFIDENTIAL DATA CAN BE STORED, SUCH WEBSITE SHALL PROVIDE INSTRUCTIONS FOR HOW CONSUMERS CAN DESTROY SUCH DATA BEFORE SURRENDERING THE PRODUCTS FOR RECYCLING OR REUSE; (II) ADVERTISEMENTS AND PRESS RELEASES IF ANY; AND

(D) ANY OTHER INFORMATION AS REQUIRED BY THE DEPARTMENT IN ACCORDANCE WITH REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE.

6. A MANUFACTURER SHALL MAINTAIN RECORDS DEMONSTRATING COMPLIANCE WITH THIS TITLE AND MAKE THEM AVAILABLE FOR AUDIT AND INSPECTION BY THE DEPARTMENT FOR A PERIOD OF THREE YEARS.

7. A MANUFACTURER MAY SATISFY THE ELECTRONIC WASTE COLLECTION REQUIREMENTS OF THIS SECTION BY AGREEING TO PARTICIPATE IN A COLLECTIVE ELECTRONIC WASTE ACCEPTANCE PROGRAM WITH OTHER MANUFACTURERS. ANY SUCH COLLECTIVE ELECTRONIC WASTE ACCEPTANCE PROGRAM MUST MEET THE SAME REQUIREMENTS AS AN INDIVIDUAL MANUFACTURER. ANY COLLECTIVE ELECTRONIC WASTE ACCEPTANCE PROGRAM MUST INCLUDE A LIST OF MANUFACTURERS THAT ARE PARTICIPATING IN SUCH PROGRAM ALONG WITH OTHER IDENTIFYING INFORMATION AS MAY BE REQUIRED BY THE DEPARTMENT. SUCH PROGRAM SHALL SUBMIT A REGISTRATION TO THE DEPARTMENT ALONG WITH A REGISTRATION FEE OF TEN THOUSAND DOLLARS.

8. A MANUFACTURER SHALL BE RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THE ELECTRONIC WASTE ACCEPTANCE PROGRAM. THE MANUFACTURER SHALL NOT CHARGE CONSUMERS FOR THE COLLECTION, HANDLING AND RECYCLING AND REUSE OF ELECTRONIC WASTE, PROVIDED THAT SUCH PROHIBITION SHALL NOT APPLY TO A CHARGE ON BUSINESS CONSUMERS OR TO CHARGES FOR PREMIUM SERVICES. THIS PROHIBITION SHALL NOT APPLY TO A MANUFACTURER'S CONTRACT WITH A CONSUMER FOR THE COLLECTION, HANDLING, RECYCLING OR REUSE OF ELECTRONIC WASTE THAT WAS ENTERED INTO PRIOR TO THE EFFECTIVE

DATE OF THIS SECTION. FOR PURPOSES OF THIS SUBDIVISION, "BUSINESS CONSUMER" MEANS A FOR-PROFIT ENTITY WHICH HAS FIFTY OR MORE FULL TIME EMPLOYEES OR A NOT-FOR-PROFIT CORPORATION WITH SEVENTY-FIVE OR MORE FULL TIME EMPLOYEES, BUT NOT A NOT-FOR-PROFIT CORPORATION DESIGNATED UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE. FOR PURPOSES OF THIS SUBDIVISION, "PREMIUM SERVICES" MEANS EQUIPMENT AND DATA SECURITY SERVICES, REFURBISHMENT FOR REUSE BY THE CONSUMER, AND OTHER CUSTOM SERVICES AS MAY BE DETERMINED BY THE DEPARTMENT.

S 27-2607. RETAILER REQUIREMENTS.

1. AT THE LOCATION OF SALE OF COVERED ELECTRONIC EQUIPMENT, A RETAILER SHALL PROVIDE PURCHASERS OF COVERED ELECTRONIC EQUIPMENT WITH INFORMATION, IF ANY, ABOUT OPPORTUNITIES FOR THE RETURN OF ELECTRONIC WASTE THAT HAS BEEN PROVIDED TO THE RETAILER BY A MANUFACTURER.

2. BEGINNING APRIL FIRST, TWO THOUSAND ELEVEN, NO RETAILER SHALL SELL OR OFFER FOR SALE IN THE STATE ANY COVERED ELECTRONIC EQUIPMENT UNLESS THE MANUFACTURER AND THE MANUFACTURER'S BRANDS ARE REGISTERED WITH THE DEPARTMENT PURSUANT TO SECTION 27-2605 OF THIS TITLE. IF THE RETAILER PURCHASED COVERED ELECTRONIC EQUIPMENT FROM A MANUFACTURER WHO FAILS TO REGISTER BY JANUARY FIRST, TWO THOUSAND ELEVEN, OR PRIOR TO THE DATE THE MANUFACTURER WITHDREW ITS REGISTRATION OR THE REGISTRATION WAS REVOKED BY THE DEPARTMENT, THE RETAILER MAY CONTINUE TO SELL THE COVERED ELECTRONIC EQUIPMENT FOR ONE HUNDRED EIGHTY DAYS AFTER APRIL FIRST, TWO THOUSAND ELEVEN, OR THE DATE THE REGISTRATION WAS WITHDRAWN OR REVOKED.

S 27-2609. LABELING.

BEGINNING APRIL FIRST, TWO THOUSAND ELEVEN, A MANUFACTURER MAY NOT OFFER FOR SALE IN THE STATE OR DELIVER TO RETAILERS FOR SUBSEQUENT SALE COVERED ELECTRONIC EQUIPMENT UNLESS IT HAS A VISIBLE, PERMANENT LABEL CLEARLY IDENTIFYING THE MANUFACTURER OF THAT EQUIPMENT.

S 27-2611. DISPOSAL BAN.

1. BEGINNING APRIL FIRST, TWO THOUSAND ELEVEN, NO MANUFACTURER, RETAILER, OR OWNER OR OPERATOR OF AN ELECTRONIC WASTE COLLECTION SITE, ELECTRONIC WASTE CONSOLIDATION FACILITY OR ELECTRONIC WASTE RECYCLING FACILITY IN THE STATE SHALL DISPOSE OF ELECTRONIC WASTE AT A SOLID WASTE MANAGEMENT FACILITY OR HAZARDOUS WASTE MANAGEMENT FACILITY, OR PLACE ELECTRONIC WASTE FOR COLLECTION WHICH IS INTENDED FOR DISPOSAL AT A SOLID WASTE MANAGEMENT FACILITY OR HAZARDOUS WASTE MANAGEMENT FACILITY.

2. BEGINNING JANUARY FIRST, TWO THOUSAND TWELVE, NO PERSON EXCEPT FOR AN INDIVIDUAL OR HOUSEHOLD SHALL PLACE OR DISPOSE OF ANY ELECTRONIC WASTE IN ANY SOLID WASTE MANAGEMENT FACILITY, OR PLACE ELECTRONIC WASTE FOR COLLECTION WHICH IS INTENDED FOR DISPOSAL AT A SOLID WASTE MANAGEMENT FACILITY OR HAZARDOUS WASTE MANAGEMENT FACILITY IN THIS STATE. PERSONS ENGAGED IN THE COLLECTION OF SOLID WASTE FOR DELIVERY TO A SOLID WASTE MANAGEMENT FACILITY SHALL PROVIDE WRITTEN INFORMATION TO USERS OF SUCH FACILITY ON THE PROPER METHODS FOR THE RECYCLING OF ELECTRONIC WASTE.

3. BEGINNING JANUARY FIRST, TWO THOUSAND FIFTEEN, NO INDIVIDUAL OR HOUSEHOLD SHALL PLACE OR DISPOSE OF ANY ELECTRONIC WASTE IN ANY SOLID WASTE MANAGEMENT FACILITY, OR PLACE ELECTRONIC WASTE FOR COLLECTION WHICH IS INTENDED FOR DISPOSAL AT A SOLID WASTE MANAGEMENT FACILITY OR HAZARDOUS WASTE MANAGEMENT FACILITY IN THIS STATE.

4. BEGINNING JANUARY FIRST, TWO THOUSAND TWELVE, AN OWNER OR OPERATOR OF A SOLID WASTE MANAGEMENT FACILITY OR HAZARDOUS WASTE MANAGEMENT FACILITY SHALL EDUCATE USERS OF SUCH FACILITY ON THE PROPER METHODS FOR THE MANAGEMENT OF ELECTRONIC WASTE. SUCH EDUCATION SHALL INCLUDE:

(A) PROVIDING WRITTEN INFORMATION TO USERS OF SUCH FACILITY ON THE PROPER METHODS FOR RECYCLING OF ELECTRONIC WASTE; AND

(B) POSTING, IN CONSPICUOUS LOCATIONS AT SUCH FACILITY, SIGNS STATING THAT ELECTRONIC WASTE MAY NOT BE DISPOSED OF AT THE FACILITY.

S 27-2613. ELECTRONIC WASTE COLLECTION, CONSOLIDATION AND RECYCLING.

1. ELECTRONIC WASTE COLLECTION SITES. NO LATER THAN JANUARY FIRST, TWO THOUSAND ELEVEN, EACH PERSON WHO OWNS OR OPERATES AN ELECTRONIC WASTE COLLECTION SITE IN THE STATE SHALL:

(A) REGISTER WITH THE DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT MAY REQUIRE SUCH FORM TO BE FILED ELECTRONICALLY. THE REGISTRATION SHALL INCLUDE: (I) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE OWNERS AND THE OPERATORS OF THE ELECTRONIC WASTE COLLECTION SITE; AND (II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE ELECTRONIC WASTE COLLECTION SITE. ANY PERSON WHO COMMENCES THE OPERATION OF AN ELECTRONIC WASTE COLLECTION SITE ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN SHALL REGISTER WITH THE DEPARTMENT AT LEAST THIRTY DAYS PRIOR TO RECEIVING ANY ELECTRONIC WASTE AT SUCH COLLECTION SITE. A REGISTRATION IS EFFECTIVE UPON ACCEPTANCE BY THE DEPARTMENT. IN THE CASE OF COLLECTION SITES OPERATED BY A RETAILER, A SINGLE REGISTRATION LISTING THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE INDIVIDUAL COLLECTION SITES MAY BE SUBMITTED COVERING ALL THEIR COLLECTION SITES;

(B) BEGINNING MARCH FIRST, TWO THOUSAND TWELVE, EACH PERSON OPERATING AN ELECTRONIC WASTE COLLECTION SITE SHALL SUBMIT TO THE DEPARTMENT AN ANNUAL REPORT FOR THE PERIOD OF APRIL FIRST, TWO THOUSAND ELEVEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN AND EACH CALENDAR YEAR THEREAFTER, ON A FORM PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT MAY REQUIRE ANNUAL REPORTS TO BE FILED ELECTRONICALLY. ANNUAL REPORTS SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING INFORMATION: (I) THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE RECEIVED FROM CONSUMERS IN THE STATE; (II) THE NAME AND ADDRESS OF EACH PERSON TO WHOM THE ELECTRONIC WASTE COLLECTION SITE SENT ELECTRONIC WASTE DURING THE REPORTING PERIOD, ALONG WITH THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE THAT WAS SENT TO EACH SUCH PERSON; AND (III) THE WEIGHT OF ELECTRONIC WASTE COLLECTED ON BEHALF OF OR PURSUANT TO AN AGREEMENT WITH EACH MANUFACTURER DURING THE REPORTING PERIOD. ALL QUANTITIES OF ELECTRONIC WASTE REPORTED BY THE COLLECTION SITE MUST SEPARATELY INCLUDE ELECTRONIC WASTE GENERATED BY NEW YORK STATE CONSUMERS AND ELECTRONIC WASTE RECEIVED FROM OR SHIPPED OUTSIDE THE STATE;

(C) MANAGE ELECTRONIC WASTE IN A MANNER THAT COMPLIES WITH ALL APPLICABLE LAWS, RULES AND REGULATIONS;

(D) STORE ELECTRONIC WASTE (I) IN A FULLY ENCLOSED BUILDING WITH A ROOF, FLOOR AND WALLS, OR (II) IN A SECURE CONTAINER (E.G., PACKAGE OR VEHICLE), THAT IS CONSTRUCTED AND MAINTAINED TO MINIMIZE BREAKAGE OF ELECTRONIC WASTE AND TO PREVENT RELEASES OF HAZARDOUS MATERIALS TO THE ENVIRONMENT;

(E) REMOVE ELECTRONIC WASTE FROM THE SITE WITHIN ONE YEAR OF THE WASTE'S RECEIPT AT THE SITE, AND MAINTAIN RECORDS DEMONSTRATING COMPLIANCE WITH THIS REQUIREMENT.

2. ELECTRONIC WASTE CONSOLIDATION FACILITIES. (A) NO LATER THAN JANUARY FIRST, TWO THOUSAND ELEVEN, EACH PERSON WHO OPERATES AN ELECTRONIC WASTE CONSOLIDATION FACILITY IN THE STATE SHALL REGISTER WITH THE DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT MAY REQUIRE SUCH FORM TO BE FILED ELECTRONICALLY. THE REGISTRATION SHALL INCLUDE: (I) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE OWNER AND THE OPERATOR OF THE FACILITY; AND (II) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE ELECTRONIC WASTE CONSOLIDATION FACILITY. ANY PERSON WHO COMMENCES THE OPERATION OF AN ELECTRONIC WASTE CONSOLIDATION FACILITY ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN SHALL REGISTER WITH THE

DEPARTMENT AT LEAST THIRTY DAYS PRIOR TO RECEIVING ANY ELECTRONIC WASTE. A REGISTRATION IS EFFECTIVE UPON ACCEPTANCE BY THE DEPARTMENT. ANY REGISTRATION REQUIRED BY THIS PARAGRAPH SHALL BE ACCOMPANIED BY A REGISTRATION FEE OF TWO HUNDRED FIFTY DOLLARS.

(B) BEGINNING MARCH FIRST, TWO THOUSAND TWELVE, EACH PERSON OPERATING AN ELECTRONIC WASTE CONSOLIDATION FACILITY SHALL SUBMIT TO THE DEPARTMENT AN ANNUAL REPORT FOR THE PERIOD OF APRIL FIRST, TWO THOUSAND ELEVEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN AND EACH CALENDAR YEAR THEREAFTER, ON A FORM PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT MAY REQUIRE ANNUAL REPORTS TO BE FILED ELECTRONICALLY. ANNUAL REPORTS SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING INFORMATION: (I) THE NAME AND ADDRESS OF EACH ELECTRONIC WASTE COLLECTION SITE FROM WHICH THE CONSOLIDATION FACILITY RECEIVED ELECTRONIC WASTE DURING THE REPORTING PERIOD, ALONG WITH THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE RECEIVED FROM EACH COLLECTION SITE; (II) THE NAME AND ADDRESS OF EACH PERSON TO WHOM THE ELECTRONIC WASTE CONSOLIDATION FACILITY SENT ELECTRONIC WASTE DURING THE REPORTING PERIOD, ALONG WITH THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE THAT WAS SENT TO EACH SUCH PERSON; (III) THE WEIGHT OF ELECTRONIC WASTE COLLECTED ON BEHALF OF OR PURSUANT TO AN AGREEMENT WITH EACH MANUFACTURER DURING THE REPORTING PERIOD; AND (IV) A CERTIFICATION BY THE OWNER OR OPERATOR OF THE ELECTRONIC WASTE CONSOLIDATION FACILITY THAT SUCH A FACILITY HAS COMPLIED WITH THE REQUIREMENTS OF THIS TITLE AND ALL OTHER APPLICABLE LAWS, RULES, AND REGULATIONS. ALL QUANTITIES OF ELECTRONIC WASTE REPORTED BY THE CONSOLIDATION FACILITY MUST SEPARATELY INCLUDE ELECTRONIC WASTE GENERATED BY NEW YORK STATE CONSUMERS AND ELECTRONIC WASTE RECEIVED FROM OR SHIPPED OUTSIDE THE STATE.

(C) EACH PERSON OPERATING AN ELECTRONIC WASTE CONSOLIDATION FACILITY SHALL:

(I) MANAGE ELECTRONIC WASTE IN A MANNER THAT COMPLIES WITH ALL APPLICABLE LAWS, RULES AND REGULATIONS;

(II) STORE ELECTRONIC WASTE (A) IN A FULLY ENCLOSED BUILDING WITH A ROOF, FLOOR AND WALLS, OR (B) IN A SECURE CONTAINER (E.G., PACKAGE OR VEHICLE), THAT IS CONSTRUCTED AND MAINTAINED TO MINIMIZE BREAKAGE OF ELECTRONIC WASTE AND TO PREVENT RELEASES OF HAZARDOUS MATERIALS TO THE ENVIRONMENT;

(III) HAVE A MEANS TO CONTROL ENTRY, AT ALL TIMES, TO THE ACTIVE PORTION OF THE FACILITY;

(IV) INFORM ALL EMPLOYEES WHO HANDLE OR HAVE RESPONSIBILITY FOR MANAGING ELECTRONIC WASTE ABOUT THE PROPER HANDLING AND EMERGENCY PROCEDURES APPROPRIATE TO THE TYPE OR TYPES OF ELECTRONIC WASTE HANDLED AT THE FACILITY;

(V) REMOVE ELECTRONIC WASTE FROM THE SITE WITHIN ONE YEAR OF THE WASTE'S RECEIPT AT THE SITE, AND MAINTAIN RECORDS DEMONSTRATING COMPLIANCE WITH THIS REQUIREMENT; AND

(VI) MAINTAIN THE RECORDS REQUIRED BY PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION AND BY SUBPARAGRAPH (V) OF THIS PARAGRAPH ON SITE AND MAKE THEM AVAILABLE FOR AUDIT AND INSPECTION BY THE DEPARTMENT FOR A PERIOD OF THREE YEARS.

(D) A PERSON OPERATING AN ELECTRONIC WASTE CONSOLIDATION FACILITY SHALL NOT ENGAGE IN ELECTRONIC WASTE RECYCLING UNLESS SUCH PERSON IS ALSO REGISTERED AS AN ELECTRONIC WASTE RECYCLING FACILITY, AND COMPLIES WITH THE REQUIREMENTS OF THIS SECTION THAT ARE APPLICABLE TO EACH TYPE OF FACILITY.

(E) A PERSON OPERATING AN ELECTRONIC WASTE CONSOLIDATION FACILITY MAY ACCEPT ELECTRONIC WASTE IN THE SAME MANNER AS AN ELECTRONIC WASTE COLLECTION SITE PROVIDED THAT SUCH PERSON COMPLIES WITH THE REQUIREMENTS

OF THIS SECTION THAT ARE APPLICABLE TO ELECTRONIC WASTE COLLECTION SITES.

3. ELECTRONIC WASTE RECYCLING FACILITIES. (A) NO LATER THAN JANUARY FIRST, TWO THOUSAND ELEVEN, EACH PERSON OPERATING AN ELECTRONIC WASTE RECYCLING FACILITY IN THE STATE SHALL REGISTER WITH THE DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT MAY REQUIRE SUCH FORM TO BE FILED ELECTRONICALLY. THE REGISTRATION SHALL INCLUDE: (I) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE OWNER AND THE OPERATOR OF THE FACILITY; AND (II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE ELECTRONIC WASTE RECYCLING FACILITY. ANY PERSON WHO COMMENCES THE OPERATION OF AN ELECTRONIC WASTE RECYCLING FACILITY ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN SHALL REGISTER WITH THE DEPARTMENT AT LEAST THIRTY DAYS PRIOR TO RECEIVING ANY ELECTRONIC WASTE. A REGISTRATION IS EFFECTIVE UPON ACCEPTANCE BY THE DEPARTMENT. ANY REGISTRATION REQUIRED BY THIS PARAGRAPH SHALL BE ACCOMPANIED BY A REGISTRATION FEE OF TWO HUNDRED FIFTY DOLLARS.

(B) BEGINNING MARCH FIRST, TWO THOUSAND TWELVE, EACH PERSON OPERATING AN ELECTRONIC WASTE RECYCLING FACILITY SHALL SUBMIT TO THE DEPARTMENT AN ANNUAL REPORT FOR THE PERIOD OF APRIL FIRST, TWO THOUSAND ELEVEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN AND EACH CALENDAR YEAR THEREAFTER, ON A FORM PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT MAY REQUIRE ANNUAL REPORTS TO BE FILED ELECTRONICALLY. ANNUAL REPORTS SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING INFORMATION: (I) THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE RECEIVED FROM CONSUMERS IN THE STATE; (II) THE NAME AND ADDRESS OF EACH ELECTRONIC WASTE COLLECTION SITE AND ELECTRONIC WASTE CONSOLIDATION FACILITY FROM WHICH ELECTRONIC WASTE WAS RECEIVED DURING THE REPORTING PERIOD, ALONG WITH THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE RECEIVED FROM EACH PERSON; (III) THE NAME AND ADDRESS OF EACH PERSON TO WHOM THE FACILITY SENT ELECTRONIC WASTE OR COMPONENT MATERIALS DURING THE REPORTING PERIOD, ALONG WITH THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE OR COMPONENT MATERIALS THEREOF SENT TO EACH SUCH PERSON; (IV) THE WEIGHT OF ELECTRONIC WASTE COLLECTED ON BEHALF OF OR PURSUANT TO AN AGREEMENT WITH EACH MANUFACTURER DURING THE REPORTING PERIOD; AND (V) A CERTIFICATION BY THE OWNER OR OPERATOR OF THE FACILITY THAT SUCH FACILITY HAS COMPLIED WITH THE REQUIREMENTS OF THIS TITLE AND ALL OTHER APPLICABLE LAWS, RULES, AND REGULATIONS. ALL QUANTITIES OF ELECTRONIC WASTE REPORTED BY THE RECYCLING FACILITY MUST SEPARATELY INCLUDE ELECTRONIC WASTE GENERATED BY NEW YORK STATE CONSUMERS AND ELECTRONIC WASTE RECEIVED FROM OR SHIPPED OUTSIDE THE STATE.

(C) EACH PERSON OPERATING AN ELECTRONIC WASTE RECYCLING FACILITY SHALL:

(I) MANAGE AND RECYCLE ELECTRONIC WASTE IN A MANNER THAT COMPLIES WITH ALL APPLICABLE LAWS, RULES AND REGULATIONS;

(II) STORE ELECTRONIC WASTE (A) IN A FULLY ENCLOSED BUILDING WITH A ROOF, FLOOR AND WALLS, OR (B) IN A SECURE CONTAINER (E.G., PACKAGE OR VEHICLE), THAT IS CONSTRUCTED AND MAINTAINED TO MINIMIZE BREAKAGE OF ELECTRONIC WASTE AND TO PREVENT RELEASES OF HAZARDOUS MATERIALS TO THE ENVIRONMENT;

(III) HAVE A MEANS TO CONTROL ENTRY, AT ALL TIMES, THROUGH GATES OR OTHER ENTRANCES TO THE ACTIVE PORTION OF THE FACILITY;

(IV) INFORM ALL EMPLOYEES WHO HANDLE OR HAVE RESPONSIBILITY FOR MANAGING ELECTRONIC WASTE ABOUT PROPER HANDLING AND EMERGENCY PROCEDURES APPROPRIATE TO THE TYPE OR TYPES OF ELECTRONIC WASTE HANDLED AT THE FACILITY;

(V) REMOVE ELECTRONIC WASTE FROM THE SITE WITHIN ONE YEAR OF THE WASTE'S RECEIPT AT THE SITE, AND MAINTAIN RECORDS DEMONSTRATING COMPLIANCE WITH THIS REQUIREMENT; AND

(VI) MAINTAIN THE RECORDS REQUIRED BY PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION AND BY SUBPARAGRAPH (V) OF THIS PARAGRAPH ON SITE AND MAKE THEM AVAILABLE FOR AUDIT AND INSPECTION BY THE DEPARTMENT FOR A PERIOD OF THREE YEARS.

(D) A PERSON OPERATING AN ELECTRONIC WASTE RECYCLING FACILITY MAY ALSO OPERATE SUCH FACILITY AS AN ELECTRONIC WASTE CONSOLIDATION FACILITY PROVIDED THAT SUCH PERSON COMPLIES WITH THE REQUIREMENTS OF THIS SECTION THAT ARE APPLICABLE TO EACH TYPE OF FACILITY. WHERE A FACILITY IS OPERATED FOR BOTH PURPOSES, ONLY ONE REGISTRATION FEE MUST BE PAID.

(E) A PERSON OPERATING AN ELECTRONIC WASTE RECYCLING FACILITY MAY ACCEPT ELECTRONIC WASTE IN THE SAME MANNER AS AN ELECTRONIC WASTE COLLECTION SITE PROVIDED THAT SUCH PERSON COMPLIES WITH THE REQUIREMENTS OF THIS SECTION THAT ARE APPLICABLE TO ELECTRONIC WASTE COLLECTION SITES.

4. EXCEPT TO THE EXTENT OTHERWISE REQUIRED BY LAW, NO MANUFACTURER OR PERSON OPERATING AN ELECTRONIC WASTE COLLECTION SITE, ELECTRONIC WASTE CONSOLIDATION FACILITY OR ELECTRONIC WASTE RECYCLING FACILITY SHALL HAVE ANY RESPONSIBILITY OR LIABILITY FOR ANY DATA IN ANY FORM STORED ON ELECTRONIC WASTE SURRENDERED FOR RECYCLING OR REUSE, UNLESS SUCH PERSON MISUSES OR KNOWINGLY AND INTENTIONALLY, OR WITH GROSS NEGLIGENCE, DISCLOSES THE DATA. THIS PROVISION SHALL NOT PROHIBIT ANY SUCH PERSON FROM ENTERING INTO AGREEMENTS THAT PROVIDE FOR THE DESTRUCTION OF DATA ON COVERED ELECTRONIC EQUIPMENT.

S 27-2615. DEPARTMENT RESPONSIBILITIES.

1. THE DEPARTMENT IS AUTHORIZED TO PROMULGATE RULES AND REGULATIONS NECESSARY TO IMPLEMENT AND ADMINISTER THIS TITLE. AT A MINIMUM, THE DEPARTMENT SHALL PROMULGATE RULES AND REGULATIONS ON: STANDARDS FOR REUSE; ELECTRONIC WASTE ACCEPTANCE CREDITS; WAIVERS OF THE RECYCLING SURCHARGE; AND ACCEPTABLE ALTERNATIVE METHODS FOR THE DETERMINATION OF STATE SALES DATA.

2. THE DEPARTMENT SHALL (A) MAINTAIN A LIST OF MANUFACTURERS WHO ARE REGISTERED PURSUANT TO SECTION 27-2605 OF THIS TITLE, (B) MAINTAIN A LIST OF EACH SUCH MANUFACTURER'S BRANDS, AND (C) POST SUCH LISTS ON THE DEPARTMENT'S WEBSITE.

3. THE DEPARTMENT MAY WAIVE THE RECYCLING SURCHARGE PAYABLE BY A MANUFACTURER UNDER THIS TITLE WHEN THE MANUFACTURER DEMONSTRATES IN AN APPLICATION TO THE DEPARTMENT IT WAS UNABLE TO ACCEPT THE WEIGHT OF ELECTRONIC WASTE REQUIRED BY SECTION 27-2603 OF THIS TITLE DESPITE THE MANUFACTURER'S BEST EFFORTS. THE APPLICATION SHALL BE MADE WITH THE ANNUAL REPORT REQUIRED BY SECTION 27-2617 OF THIS TITLE. THE APPLICATION SHALL INCLUDE SUCH INFORMATION AS THE DEPARTMENT REQUIRES. A WAIVER PROVIDED PURSUANT TO THIS SUBDIVISION SHALL NOT RELIEVE A MANUFACTURER FROM THE OBLIGATION TO COMPLY WITH THE PROVISIONS OF THIS TITLE NOT SPECIFICALLY ADDRESSED IN SUCH WAIVER.

S 27-2617. REPORTING REQUIREMENTS.

1. BEGINNING MARCH FIRST, TWO THOUSAND TWELVE, FOR THE PERIOD OF APRIL FIRST, TWO THOUSAND ELEVEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN AND EACH CALENDAR YEAR THEREAFTER, A MANUFACTURER THAT OFFERS COVERED ELECTRONIC EQUIPMENT FOR SALE IN THIS STATE SHALL SUBMIT A REPORT TO THE DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT THAT INCLUDES THE FOLLOWING:

(A) SALES DATA REPORTED BY WEIGHT FOR THE MANUFACTURER'S COVERED ELECTRONIC EQUIPMENT SOLD IN THIS STATE FOR THE PREVIOUS THREE CALENDAR

YEARS, CATEGORIZED BY TYPE TO THE EXTENT KNOWN. IF THE MANUFACTURER CANNOT PROVIDE ACCURATE STATE SALES DATA, IT MUST EXPLAIN WHY SUCH DATA CANNOT BE PROVIDED, AND ESTIMATE STATE SALES DATA BY (I) DIVIDING ITS NATIONAL SALES DATA BY WEIGHT BY THE NATIONAL POPULATION ACCORDING TO THE MOST RECENT CENSUS AND MULTIPLYING THE RESULT BY THE POPULATION OF THE STATE, OR (II) ANOTHER METHOD APPROVED BY THE DEPARTMENT;

(B) THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE COLLECTED FOR RECYCLING OR REUSE IN THIS STATE, CATEGORIZED BY THE TYPE OF COVERED ELECTRONIC EQUIPMENT COLLECTED DURING THE REPORTING PERIOD, THE METHODS USED TO ACCEPT THE ELECTRONIC WASTE, AND THE APPROXIMATE WEIGHT OF ELECTRONIC WASTE ACCEPTED BY EACH METHOD USED TO THE EXTENT KNOWN;

(C) ALL QUANTITIES OF ELECTRONIC WASTE REPORTED BY THE MANUFACTURER MUST SEPARATELY INCLUDE ELECTRONIC WASTE GENERATED BY NEW YORK STATE CONSUMERS AND ELECTRONIC WASTE RECEIVED FROM OR SHIPPED OUTSIDE THE STATE: (I) THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE RECEIVED DIRECTLY FROM CONSUMERS IN THE STATE THROUGH A MAIL BACK PROGRAM; (II) THE NAME AND ADDRESS OF EACH ELECTRONIC WASTE COLLECTION SITE, ELECTRONIC WASTE CONSOLIDATION FACILITY, AND ELECTRONIC WASTE RECYCLING FACILITY AT WHICH ELECTRONIC WASTE FROM CONSUMERS WAS RECEIVED ON BEHALF OF THE MANUFACTURER DURING THE REPORTING PERIOD, ALONG WITH THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE RECEIVED; AND (III) THE NAME AND ADDRESS OF EACH PERSON TO WHOM THE MANUFACTURER SENT ELECTRONIC WASTE OR COMPONENT MATERIALS DURING THE REPORTING PERIOD, ALONG WITH THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE OR COMPONENT MATERIALS THEREOF SENT TO EACH SUCH PERSON;

(D) THE NUMBER OF ELECTRONIC WASTE ACCEPTANCE CREDITS PURCHASED, SOLD, BANKED AND TRADED DURING THE REPORTING PERIOD, THE NUMBER OF ELECTRONIC WASTE ACCEPTANCE CREDITS USED TO MEET THE REQUIREMENTS OF SECTION 27-2603 OF THIS TITLE, AND FROM WHOM THEY WERE PURCHASED AND TO WHOM THEY WERE SOLD OR TRADED, AND THE NUMBER OF ELECTRONIC WASTE ACCEPTANCE CREDITS RETAINED AS OF THE DATE OF THE REPORT;

(E) THE AMOUNT OF ANY RECYCLING SURCHARGE OWED FOR THE REPORTING PERIOD, WITH SUFFICIENT INFORMATION TO DEMONSTRATE THE BASIS FOR THE CALCULATION OF THE SURCHARGE;

(F) THE NAMES AND LOCATIONS OF ELECTRONIC WASTE RECYCLING FACILITIES UTILIZED BY THE MANUFACTURER AND ENTITIES TO WHICH ELECTRONIC WASTE IS SENT FOR REUSE, WHETHER IN THE STATE OR OUTSIDE THE STATE, INCLUDING DETAILS ON THE METHODS OF RECYCLING OR REUSE OF ELECTRONIC WASTE, ANY DISASSEMBLY OR PHYSICAL RECOVERY OPERATION USED, AND THE ENVIRONMENTAL MANAGEMENT MEASURES IMPLEMENTED BY SUCH RECYCLING FACILITY OR ENTITY;

(G) INFORMATION DETAILING THE ACCEPTANCE METHODS MADE AVAILABLE TO CONSUMERS IN MUNICIPALITIES WHICH HAVE A POPULATION OF GREATER THAN TEN THOUSAND AND IN EACH COUNTY OF THE STATE TO MEET THE REQUIREMENTS OF PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION 27-2605 OF THIS TITLE;

(H) A BRIEF DESCRIPTION OF ITS PUBLIC EDUCATION PROGRAM INCLUDING THE NUMBER OF VISITS TO THE INTERNET WEBSITE AND CALLS TO THE TOLL-FREE TELEPHONE NUMBER PROVIDED BY THE MANUFACTURER AS REQUIRED BY SECTION 27-2605 OF THIS TITLE;

(I) ANY OTHER INFORMATION AS REQUIRED BY THE DEPARTMENT; AND

(J) A SIGNATURE BY AN OFFICER, DIRECTOR, OR OTHER INDIVIDUAL AFFIRMING THE ACCURACY OF THE REPORT.

2. THE DEPARTMENT MAY REQUIRE ANNUAL REPORTS TO BE FILED ELECTRONICALLY.

3. THE REPORT SHALL BE ACCOMPANIED BY AN ANNUAL REPORTING FEE OF THREE THOUSAND DOLLARS, AND ANY RECYCLING SURCHARGE DUE PURSUANT TO SECTION 27-2603 OF THIS TITLE.

4. THE DEPARTMENT SHALL SUBMIT A REPORT ON IMPLEMENTATION OF THE TITLE IN THIS STATE TO THE GOVERNOR AND LEGISLATURE BY APRIL FIRST, TWO THOUSAND TWELVE AND EVERY TWO YEARS THEREAFTER. THE REPORT MUST INCLUDE, AT A MINIMUM, AN EVALUATION OF:

(A) THE ELECTRONIC WASTE STREAM IN THE STATE;

(B) RECYCLING AND REUSE RATES IN THE STATE FOR COVERED ELECTRONIC EQUIPMENT;

(C) A DISCUSSION OF COMPLIANCE AND ENFORCEMENT RELATED TO THE REQUIREMENTS OF THIS TITLE;

(D) RECOMMENDATIONS FOR ANY CHANGES TO THIS TITLE; AND

(E) A DISCUSSION OF OPPORTUNITIES FOR BUSINESS DEVELOPMENT IN THE STATE RELATED TO THE ACCEPTANCE, COLLECTION, HANDLING AND RECYCLING OR REUSE OF ELECTRONIC EQUIPMENT IN THIS STATE.

S 27-2619. PREEMPTION.

JURISDICTION IN ALL MATTERS PERTAINING TO ELECTRONIC WASTE RECYCLING, INCLUDING BUT NOT LIMITED TO THE OBLIGATIONS OF MANUFACTURERS, RETAILERS, ELECTRONIC WASTE COLLECTION SITES, ELECTRONIC WASTE CONSOLIDATION FACILITIES AND ELECTRONIC WASTE RECYCLING FACILITIES WITH RESPECT TO ELECTRONIC WASTE RECYCLING, IS, BY THIS TITLE, VESTED EXCLUSIVELY IN THE STATE. ANY PROVISION OF ANY LOCAL LAW OR ORDINANCE, OR ANY RULE OR REGULATION PROMULGATED THERETO, GOVERNING COVERED ELECTRONIC EQUIPMENT AND THE COLLECTION, REUSE, OR RECYCLING OF ELECTRONIC WASTE SHALL UPON THE EFFECTIVE DATE OF THIS TITLE BE PREEMPTED.

S 27-2621. DISPOSITION OF FEES.

ALL FEES AND CHARGES COLLECTED PURSUANT TO THIS TITLE SHALL BE DEPOSITED INTO THE ENVIRONMENTAL PROTECTION FUND ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE STATE FINANCE LAW.

S 5. The environmental conservation law is amended by adding a new section 71-2729 to read as follows:

S 71-2729. ENFORCEMENT OF TITLE 26 OF ARTICLE 27 OF THIS CHAPTER.

1. A. ANY CONSUMER, AS DEFINED IN TITLE TWENTY-SIX OF ARTICLE TWENTY-SEVEN OF THIS CHAPTER, WHO VIOLATES ANY PROVISION OF, OR FAILS TO PERFORM ANY DUTY IMPOSED BY, SECTION 27-2611 OF THIS CHAPTER, SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED ONE HUNDRED DOLLARS FOR EACH VIOLATION.

B. ANY PERSON, EXCEPT A CONSUMER, MANUFACTURER, OR AN OWNER OR OPERATOR OF AN ELECTRONIC WASTE COLLECTION SITE, ELECTRONIC WASTE CONSOLIDATION FACILITY, OR ELECTRONIC WASTE RECYCLING FACILITY AS THESE TERMS ARE DEFINED IN TITLE TWENTY-SIX OF ARTICLE TWENTY-SEVEN OF THIS CHAPTER, WHO VIOLATES ANY PROVISION, OR FAILS TO PERFORM ANY DUTY IMPOSED BY SECTION 27-2611 OF THIS CHAPTER, SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED TWO HUNDRED FIFTY DOLLARS FOR EACH VIOLATION.

C. ANY MANUFACTURER, OR ANY PERSON OPERATING AN ELECTRONIC WASTE COLLECTION SITE, AN ELECTRONIC WASTE CONSOLIDATION FACILITY, OR AN ELECTRONIC WASTE RECYCLING FACILITY AS THOSE TERMS ARE DEFINED IN TITLE TWENTY-SIX OF ARTICLE TWENTY-SEVEN OF THIS CHAPTER, WHO:

I. FAILS TO SUBMIT ANY REPORT, REGISTRATION, FEE, OR SURCHARGE TO THE DEPARTMENT AS REQUIRED BY TITLE TWENTY-SIX OF ARTICLE TWENTY-SEVEN OF THIS CHAPTER SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS FOR EACH DAY SUCH REPORT, REGISTRATION, FEE, OR SURCHARGE IS NOT SUBMITTED; AND

II. VIOLATES ANY OTHER PROVISION OF TITLE TWENTY-SIX OF ARTICLE TWENTY-SEVEN OF THIS CHAPTER OR FAILS TO PERFORM ANY DUTY IMPOSED BY SUCH TITLE, EXCEPT FOR SUBDIVISION FOUR OF SECTION 27-2603 OF THIS CHAPTER, SHALL BE LIABLE FOR A CIVIL PENALTY FOR EACH VIOLATION NOT TO EXCEED ONE THOUSAND DOLLARS FOR THE FIRST VIOLATION, TWO THOUSAND FIVE HUNDRED

DOLLARS FOR THE SECOND VIOLATION AND FIVE THOUSAND DOLLARS FOR THE THIRD AND SUBSEQUENT VIOLATIONS OF THIS TITLE WITHIN A TWELVE-MONTH PERIOD.

D. ANY RETAILER, AS DEFINED BY SECTION 27-2601 OF THIS CHAPTER, WHO VIOLATES ANY PROVISION OF TITLE TWENTY-SIX OF ARTICLE TWENTY-SEVEN OF THIS CHAPTER OR FAILS TO PERFORM ANY DUTY IMPOSED BY SUCH TITLE, SHALL BE LIABLE FOR A CIVIL PENALTY FOR EACH VIOLATION NOT TO EXCEED TWO HUNDRED FIFTY DOLLARS FOR THE FIRST VIOLATION, FIVE HUNDRED DOLLARS FOR THE SECOND VIOLATION AND ONE THOUSAND DOLLARS FOR THE THIRD AND SUBSEQUENT VIOLATIONS OF THIS TITLE IN A TWELVE-MONTH PERIOD.

E. CIVIL PENALTIES UNDER THIS SECTION SHALL BE ASSESSED BY THE COMMISSIONER AFTER A HEARING OR OPPORTUNITY TO BE HEARD PURSUANT TO THE PROVISIONS OF SECTION 71-1709 OF THIS ARTICLE, OR BY THE COURT IN ANY ACTION OR PROCEEDING PURSUANT TO THIS SECTION, AND, IN ADDITION THERETO, SUCH PERSON MAY BY SIMILAR PROCESS BE ENJOINED FROM CONTINUING SUCH VIOLATION.

2. ALL PENALTIES COLLECTED PURSUANT TO THIS SECTION SHALL BE PAID OVER TO THE COMMISSIONER FOR DEPOSIT TO THE ENVIRONMENTAL PROTECTION FUND ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE STATE FINANCE LAW.

S 6. Subdivision 1 of section 72-0402 of the environmental conservation law, as amended by chapter 62 of the laws of 1989, subparagraph (v) of paragraph f as amended and subparagraphs (vi) and (vii) of paragraph f as added by section 6 of part I of chapter 577 of the laws of 2004 and paragraph g as added by chapter 138 of the laws of 2000, is amended to read as follows:

1. [All generators shall submit annually to the department a fee in the amount to be determined as follows:

a. $1,000 for generators of equal to or greater than fifteen tons per year and less than or equal to one hundred tons per year of hazardous waste.

b. $6,000 for generators of greater than one hundred tons per year and less than or equal to five hundred tons per year of hazardous waste.

c. $20,000 for generators of greater than five hundred tons per year and less than or equal to one thousand tons per year of hazardous waste.

d. $40,000 for generators of greater than one thousand tons per year of hazardous waste.

e.] A. FOR THE PERIOD BEGINNING JANUARY 1, 2010, ALL GENERATORS OF EQUAL TO OR GREATER THAN FIFTEEN TONS PER YEAR OF HAZARDOUS WASTE SHALL SUBMIT ANNUALLY TO THE DEPARTMENT A FEE IN THE AMOUNT OF ONE HUNDRED THIRTY DOLLARS PER TON OF HAZARDOUS WASTE GENERATED NOT TO EXCEED $300,000, EXCEPT NOT TO EXCEED $400,000 FOR THOSE WITH GREATER THAN 4,000 TONS GENERATED AND LESS THAN OR EQUAL TO 10,000 TONS GENERATED, AND NOT TO EXCEED $800,000 FOR THOSE WITH GREATER THAN 10,000 TONS GENERATED.

B. $3,000 for generators of equal to or greater than fifteen tons per year of hazardous wastewater, payable in addition to fees for hazardous wastes, other than wastewater, as required by [paragraphs a, b, c and d] PARAGRAPH A of this subdivision.

[f.] C. $6,000 FOR GENERATORS OF EQUAL TO OR GREATER THAN FIFTEEN THOUSAND TONS PER YEAR OF HAZARDOUS WASTEWATER, PAYABLE IN ADDITION TO THE FEES FOR HAZARDOUS WASTES, OTHER THAN WASTEWATER, AS REQUIRED BY THIS SUBDIVISION.

D. No fee shall be payable for waste resulting from services which are provided:

(i) under a contract with the department, or with the department's WRITTEN approval and in compliance with department regulations, or pursuant to an order of the department, the United States environmental

protection agency or a court, related to the cleanup or remediation of a hazardous materials or hazardous waste spill, discharge, or surficial cleanup, pursuant to this chapter[, other than section 27-1313 or a removal action pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.)]; or

(ii) under a contract for, or with the department's approval and in compliance with department regulations for, the cleanup and removal of a petroleum spill or discharge, pursuant to subdivision seven of section one hundred seventy-six of the navigation law; or

(iii) under the order of a court, the department or the department of health, or the United States environmental protection agency related to an inactive hazardous waste disposal site pursuant to section 27-1313 of this chapter, section thirteen hundred eighty-nine-b of the public health law, or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.); or

(iv) voluntarily and without expectation of monetary compensation in accordance with subdivision one of section 27-1321 of this chapter; or

(v) under permit or order requiring corrective action pursuant to title nine of article twenty-seven of this chapter, TITLE TWENTY-SEVEN OF ARTICLE SEVENTY-ONE OF THIS CHAPTER or the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.); or

(vi) under a brownfield site cleanup agreement with the department pursuant to section 27-1409 of this chapter; or

(vii) under an environmental restoration project state assistance contract with the department pursuant to section 56-0503 of this chapter.

[g.] E. Notwithstanding any other provision of this section, no fee shall be payable for the generation of universal wastes. For purposes of this paragraph, "universal wastes" shall mean those defined and listed in regulations promulgated pursuant to this title, provided that such wastes are regulated consistent with rules adopted by the administrator pursuant to RCRA for the management of universal wastes.

F. IN ANY CASE WHERE A GENERATOR RECYCLES MORE THAN NINETY PERCENT OF THE AMOUNT OF HAZARDOUS WASTE OR MORE THAN NINETY PERCENT OF THE AMOUNT OF HAZARDOUS WASTEWATER IT PRODUCES IN ANY CALENDAR YEAR, AS CERTIFIED TO THE COMMISSIONER, UPON WHICH A FEE IS IMPOSED PURSUANT TO THIS SECTION, ANY SUCH FEE IMPOSED OR TO BE IMPOSED IN SUCH CASE SHALL BE DETERMINED BASED UPON THE NET AMOUNT OF HAZARDOUS WASTE OR HAZARDOUS WASTEWATER GENERATED, AS APPLICABLE, WHICH IS NOT SO RECYCLED IN SUCH CALENDAR YEAR, RATHER THAN UPON THE GROSS AMOUNT OF HAZARDOUS WASTE OR HAZARDOUS WASTEWATER GENERATED IN SUCH CALENDAR YEAR.

S 7. Subdivision 4 of section 72-0402 of the environmental conservation law, as added by chapter 471 of the laws of 1985 and renumbered by chapter 62 of the laws of 1989, is amended to read as follows:

4. Bills issued for annual hazardous waste program fees shall be [estimated bills] based [either:

a. upon the actual activity of the preceding calendar year, as reported to the department, or as adjusted by the department to reflect non-recurring events or reporting errors, or

b. in those instances where actual activity cannot be determined or where the status of a person subject to the provisions of this title has changed since the issuance of the bill for the preceding year so that a different fee category is applicable, upon estimated activity for the current calendar year, as determined by the department] UPON ACTUAL HAZARDOUS WASTE GENERATED FOR THE PRIOR CALENDAR YEAR, AS DEMONSTRATED TO THE DEPARTMENT'S SATISFACTION. DURING THE FIRST YEAR OF IMPLEMENTA-

TION OF THIS SUBDIVISION, BILLS WILL BE BASED ON THE AVERAGE QUANTITY OF HAZARDOUS WASTE GENERATED FOR THE PREVIOUS THREE CALENDAR YEARS.

S 8. Section 72-0403 of the environmental conservation law is REPEALED.

S 9. Paragraph b of subdivision 1 of section 72-0201 of the environmental conservation law, as added by chapter 38 of the laws of 1985, is amended to read as follows:

b. Notwithstanding any general or special law to the contrary, one-half of all monies collected by the department pursuant to section [72-0402 and section] 72-0502 of this article shall be deposited in the hazardous waste remedial fund, created pursuant to section ninety-seven-b of the state finance law.

S 10. Paragraph e of subdivision 1 of section 72-0201 of the environmental conservation law, as added by section 2 of part I of chapter 1 of the laws of 2003, is amended to read as follows:

e. Notwithstanding any general or special law to the contrary, all monies collected by the department pursuant to section [72-0403] 72-0402 of this article shall be deposited AS FOLLOWS: (I) FIFTEEN PERCENT IN THE ENVIRONMENTAL PROTECTION FUND ESTABLISHED BY SECTION NINETY-TWO-S OF THE STATE FINANCE LAW NOT TO EXCEED TWO MILLION ONE HUNDRED THOUSAND DOLLARS; AND (II) SEVENTY-ONE PERCENT in the industry fee transfer account of the hazardous waste remedial fund established by subdivision one of section ninety-seven-b of the state finance law.

S 11. Subdivisions 1, 3 and 5 of section 71-1307 of the environmental conservation law, subdivision 1 as amended by chapter 166 of the laws of 1991, subdivision 3 as added by chapter 846 of the laws of 1981, and subdivision 5 as added by chapter 169 of the laws of 1994, are amended to read as follows:

1. Administrative sanctions. Any person who violates any provision of article 23 of this chapter or commits any offense described in section 71-1305 of this title shall be liable to the people of the state for a civil penalty not to exceed [five] EIGHT thousand dollars and an additional penalty of [one] TWO thousand dollars for each day during which such violation continues, to be assessed by the commissioner after a hearing or opportunity to be heard. The commissioner, acting by the attorney general, may bring suit for collection of such assessed civil penalty in any court of competent jurisdiction. Such civil penalty may be released or compromised by the commissioner before the matter has been referred to the attorney general; and where such matter has been referred to the attorney general, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the attorney general with the consent of the commissioner. In addition, the commissioner shall have the power, following a hearing conducted pursuant to rules and regulations adopted by the department, to direct the violator to cease the violation and reclaim and repair the affected site to a condition acceptable to the commissioner, to the extent possible within a reasonable time and under the direction and supervision of the commissioner. Any such order of the commissioner shall be enforceable in any action brought by the commissioner in any court of competent jurisdiction. Any civil penalty or order issued by the commissioner under this subdivision shall be reviewable in a proceeding under article seventy-eight of the civil practice law and rules.

3. Criminal sanctions. Any person who, having any of the culpable mental states defined in sections 15.05 and 20.20 of the penal law, violates any provision of article 23 of this chapter or commits any

offense described in section 71-1305 of this title shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed one thousand dollars for each day during which such violation continues or by imprisonment for a term of not more than one year, or by both such fine and imprisonment. If the conviction is for a subsequent offense committed after a first conviction of such person under this subdivision, punishment shall be by a fine not to exceed [five] EIGHT thousand dollars for each day during which such violation continues or by imprisonment for a term of not more than one year, or by both such fine and imprisonment.

5. All fines collected pursuant to this section shall be paid into the [general fund to the credit of the state purposes account] ENVIRONMENTAL PROTECTION FUND ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE STATE FINANCE LAW.

S 12. Section 71-2303 of the environmental conservation law, as amended by chapter 654 of the laws of 1977, is amended to read as follows:

S 71-2303. Violation; penalties.

1. Administrative sanctions. Any person who violates, disobeys or disregards any provision of article twenty-four, including title five and section 24-0507 thereof or any rule or regulation, local law or ordinance, permit or order issued pursuant thereto, shall be liable to the people of the state for a civil penalty of not to exceed [three] ELEVEN thousand dollars for every such violation, to be assessed, after a hearing or opportunity to be heard upon due notice and with the rights to specification of the charges and representation by counsel at such hearing, by the commissioner or local government. Such penalty may be recovered in an action brought by the attorney general at the request and in the name of the commissioner or local government in any court of competent jurisdiction. Such civil penalty may be released or compromised by the commissioner or local government before the matter has been referred to the attorney general; and where such matter has been referred to the attorney general, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the attorney general with the consent of the commissioner or local government. In addition, the commissioner or local government shall have power, following a hearing held in conformance with the procedures set forth in section 71-1709 of this [chapter] ARTICLE, to direct the violator to cease his violation of the act and to restore the affected freshwater wetland to its condition prior to the violation, insofar as that is possible within a reasonable time and under the supervision of the commissioner or local government. Any such order of the commissioner or local government shall be enforceable in an action brought by the attorney general at the request and in the name of the commissioner or local government in any court of competent jurisdiction. Any civil penalty or order issued by the commissioner or local government pursuant to this subdivision shall be reviewable in a proceeding pursuant to article seventy-eight of the civil practice law and rules.

2. Criminal sanctions. Any person who violates any provision of article twenty-four of this chapter, including any rule or regulation, local law or ordinance, permit or order issued pursuant thereto, shall, in addition, for the first offense, be guilty of a violation punishable by a fine of not less than [five hundred] TWO THOUSAND nor more than [one] FOUR thousand dollars; for a second and each subsequent offense he shall be guilty of a misdemeanor punishable by a fine of not less than [one]

FOUR thousand nor more than [two] SEVEN thousand dollars or a term of imprisonment of not less than fifteen days nor more than six months or both. Instead of these punishments, any offender may be punishable by being ordered by the court to restore the affected freshwater wetland to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the commissioner or local government. Each offense shall be a separate and distinct offense and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

3. ALL FINES COLLECTED PURSUANT TO THIS SECTION SHALL BE PAID INTO THE ENVIRONMENTAL PROTECTION FUND ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE STATE FINANCE LAW.

S 13. Section 71-1105 of the environmental conservation law, as amended by chapter 640 of the laws of 1977, is amended to read as follows:

S 71-1105. Enforcement of subdivision 4 of section 15-0313.

Any violation of subdivision 4 of section 15-0313 shall be a violation, punishable by a fine of not more than [five] ONE THOUSAND EIGHT hundred dollars, and in addition thereto, by a civil penalty of not more than [five] ONE THOUSAND EIGHT hundred dollars.

S 14. Subdivision 1 of section 71-2103 of the environmental conservation law, as amended by section 21 of part C of chapter 62 of the laws of 2003, is amended to read as follows:

1. Except as provided in section 71-2113, any person who violates any provision of article nineteen or any code, rule or regulation which was promulgated pursuant thereto; or any order except an order directing such person to pay a penalty by a specified date issued by the commissioner pursuant thereto, shall be liable, in the case of a first violation, for a penalty not less than [three] FIVE hundred [seventy-five] dollars nor more than [fifteen] EIGHTEEN thousand dollars for said violation and an additional penalty of not to exceed fifteen thousand dollars for each day during which such violation continues. In the case of a second or any further violation, the liability shall be for a penalty not to exceed [twenty-two] TWENTY-SIX thousand [five hundred] dollars for said violation and an additional penalty not to exceed twenty-two thousand five hundred dollars for each day during which such violation continues. In addition thereto, such person may be enjoined from continuing such violation as hereinafter provided.

S 15. Subdivision 1 of section 71-2105 of the environmental conservation law, as amended by section 22 of part C of chapter 62 of the laws of 2003, is amended to read as follows:

1. Except as provided in section 71-2113, any person who shall wilfully violate any of the provisions of article 19 or any code, rule or regulation promulgated pursuant thereto or any final determination or order of the commissioner made pursuant to article 19 shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine, in the case of a first conviction, of not less than [three] FIVE hundred [seventy-five] dollars nor more than [fifteen] EIGHTEEN thousand dollars or by imprisonment for a term of not more than one year, or by both such fine and imprisonment, for each separate violation. If the conviction is for an offense committed after the first conviction of such person under this subdivision, such person shall be punished by a fine not to exceed [twenty-two] TWENTY-SIX thousand [five hundred] dollars, or by imprisonment, or by both such fine and imprisonment. Each

day on which such violation occurs shall constitute a separate violation.

S 16. Section 71-4001 of the environmental conservation law, as added by chapter 640 of the laws of 1977, as renumbered by chapter 732 of the laws of 1980 and the opening paragraph as amended by chapter 602 of the laws of 2003, is amended to read as follows:

S 71-4001. General criminal penalty.

Except as otherwise specifically provided elsewhere in [the environmental conservation law] THIS CHAPTER or in the penal law, (a) a person who violates any provision of [the environmental conservation law] THIS CHAPTER, or any rule, regulation or order promulgated pursuant thereto, or the terms or conditions of any permit issued thereunder, shall be guilty of a violation; (b) each day on which such violation occurs shall constitute a separate violation; and (c) for each such violation the person shall be subject upon conviction to imprisonment for not more than fifteen days or to a fine of not more than [two] NINE hundred [fifty] dollars, or to both such imprisonment and such fine.

S 17. Section 71-4003 of the environmental conservation law, as amended by chapter 76 of the laws of 1982, is amended to read as follows:

S 71-4003. General civil penalty.

Except as otherwise specifically provided elsewhere in [the environmental conservation law] THIS CHAPTER, a person who violates any provision of [the environmental conservation law] THIS CHAPTER, or any rule, regulation or order promulgated pursuant thereto, or the terms or conditions of any permit issued thereunder, shall be liable to a civil penalty of not more than [five hundred] ONE THOUSAND dollars, and an additional civil penalty of not more than [five hundred] ONE THOUSAND dollars for each day during which each such violation continues. Any civil penalty provided for by this chapter may be assessed following a hearing or opportunity to be heard.

S 18. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 19. This act shall take effect immediately; provided that sections one, two and six through ten of this act shall be deemed to have been in full force and effect on and after April 1, 2010.