

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:

1 Section 1. (a) The several amounts specified in this act for state
2 operations and for aid to localities, or so much thereof as shall be
3 sufficient to accomplish the purposes designated by the appropriations,
4 are hereby appropriated and authorized to be paid as hereinafter
5 provided, to the respective public officers and for the several purposes
6 specified.
7 (b) The several amounts specified in this act for capital projects, or
8 so much thereof as shall be necessary to accomplish the purpose of the
9 appropriations, are appropriated by comprehensive construction programs
10 (hereinafter referred to by the abbreviation CCP), purposes, and
11 projects designated by the appropriations, and authorized to be made
12 available as hereinafter provided to the respective public officers;
13 such appropriations shall be deemed to provide all costs necessary and
14 pertinent to accomplish the intent of the appropriations and are appro-
15 priated in accordance with the provisions of section 93 of the state
16 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

NONPERSONAL SERVICE

Supplies and materials 4,000,000
Contractual services 7,000,000

Amount available for nonpersonal service .. 11,000,000

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

General Fund/State Operations
State Purposes Account - 003

FOREST AND LAND RESOURCES PROGRAM 200,000

NONPERSONAL SERVICE

Supplies and materials 200,000

Amount available for nonpersonal service 200,000

MISCELLANEOUS - ALL STATE DEPARTMENTS AND AGENCIES

GENERAL STATE CHARGES

General Fund/State Operations
State Purposes Account - 003

GENERAL STATE CHARGES 5,000,000

Notwithstanding any law to the contrary, for
taxes on public lands and payments pursu-
ant to sections 532 through 546 of the
real property tax law (09TX10ER) 5,000,000

CAPITAL PROJECTS

ENVIRONMENT AND RECREATION (CCP) 134,000,000

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

1 and other relevant data for such areas
2 demonstrate that the areas are densely
3 populated and have sustained physical
4 deterioration, decay, neglect, or disin-
5 vestment, or where a substantial propor-
6 tion of the residential population is of
7 low income or is otherwise disadvantaged
8 and is underserved with respect to the
9 existing recreational opportunities in
10 the area; and provided further this
11 appropriation shall not be construed to
12 restrict the use of any additional
13 monies for such projects; \$550,000 for
14 Buffalo Waterfront; \$300,000 for Niagara
15 River Greenway; and \$250,000 for Hudson
16 and Champlain Docks (09WR10ER) 12,000,000

17 Parks, recreation and historic preserva-
18 tion projects, notwithstanding any law
19 to the contrary, not less than,
20 \$6,716,000 for municipal parks projects
21 which are in or primarily serve areas
22 where demographic and other relevant
23 data for such areas demonstrate that the
24 areas are densely populated and have
25 sustained physical deterioration, decay,
26 neglect or disinvestment or where a
27 substantial proportion of the residen-
28 tial population is of low income or is
29 otherwise disadvantaged and is under-
30 served with respect to the existing
31 recreational opportunities in the area,
32 and notwithstanding any law to the
33 contrary, \$225,000 for Olmstead Park,
34 \$125,000 for Hyde Park, \$225,000 for
35 Darwin Martin House and \$125,000 for
36 Graycliff Manor (09MP10ER) 13,432,000

37 Notwithstanding any law to the contrary,
38 for state parks and land and easement
39 infrastructure, access and stewardship
40 projects which shall include capital
41 projects: (i) on state parks and state
42 owned lands acquired pursuant to
43 sections 54-0303 and 56-0307 of the
44 environmental conservation law and (ii)
45 on state parks or state owned lands and
46 easements under the jurisdiction of the
47 department of environmental conservation
48 or the office of parks, recreation and
49 historic preservation for access oppor-
50 tunities for people with disabilities;
51 access to the State Forest Preserve;
52 State reforestation, Wildlife Management
53 areas and conservation easement lands;
54 recreational trail construction and

1 maintenance; Catskill and Adirondack
2 campground improvements to public access
3 and sanitation facilities; environmental
4 education; conservation education facil-
5 ity improvements; archeological, histor-
6 ic, cultural and natural resource
7 surveys, forest health surveys, inter-
8 pretation, and inventories; Forest
9 Preserve and state forest unit manage-
10 ment planning; conservation easement
11 public recreation planning; habitat
12 restoration and enhancement; state fish
13 hatchery improvements; water access
14 facilities and safety improvements;
15 public beach facility development and
16 improvement; public access improvements
17 at day use areas; state historic site
18 exterior restoration; and cabin area and
19 camping facility development, restora-
20 tion and reconstruction (09ST10ER) 16,228,000

21 Notwithstanding subdivision 7 of section
22 92-s of the state finance law or any
23 other law to the contrary, for services
24 and expenses of the Hudson River Park
25 Trust for projects related to the devel-
26 opment of the Hudson River Park consist-
27 ent with provisions of chapter 592 of
28 the laws of 1998; provided, however,
29 such funds shall not be available for
30 suballocation to any public benefit
31 corporation or public authority with the
32 exception of the Hudson River Park Trust
33 and shall be available solely for the
34 liabilities incurred by the Hudson River
35 Park Trust or by other state departments
36 or agencies on behalf of the Hudson
37 River Park Trust and shall be available
38 solely for the liabilities incurred by
39 the Hudson River Park Trust or by other
40 state departments or agencies on behalf
41 of the Hudson River Park Trust on or
42 after April 1, 1999. Provided further
43 that, the comptroller is hereby author-
44 ized and directed to release monies to
45 the Hudson River Park Trust in amounts
46 set forth in a schedule approved by the
47 director of the budget (09HR10ER) 3,000,000

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

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

1 the state finance law to receive funding
2 from the open space account in accord-
3 ance with a programmatic and financial
4 plan to be approved by the director of
5 the budget, including suballocation to
6 other state departments and agencies,
7 according to the following:

8 Costs related to the acquisition of the
9 following properties: Atlantic Coast, Long
10 Island Sound Coastal Area, Long Island
11 South Shore Estuary Reserve, Peconic Pine-
12 lands Maritime Reserve Projects, Central
13 Pine Barrens, Adirondack Mountain Club
14 Lands, Hudson River projects, Western
15 Suffolk/Nassau Special Groundwater
16 Protection Areas, Harbor Herons Wildlife
17 Complex, Inner City/Underserved Community
18 Parks, Long Pond/Butler Woods, Staten
19 Island Greenbelt, Staten Island Wet Woods,
20 Harlem River Waterfront, Great Swamp,
21 Neversink Highlands, Plutarch/Black Creek
22 Wetlands Complex, New York Highlands,
23 Mongaup Valley Wildlife Management Area,
24 Northern Putnam Greenway, Putnam Railroad,
25 Schunnemunk Mountain/Moodna Creek/Woodcock
26 Mountain, Sterling Forest, Shawangunk
27 Mountains, Northeastern Westchester
28 Watershed and Biodiversity Lands, Rockland
29 Riverfront Communities/Palisades Ridge,
30 Catskill Mountain/Delaware River Region,
31 Beaverkill/Willowemoc, Hudson River
32 Estuary/Greenway Trail Corridor, Catskill
33 Unfragmented Forest, Long Path, New York
34 City Watershed Lands, Taconic Ridge/
35 Harlem Valley, Albany Pine Bush, Five
36 Rivers Environmental Education Center,
37 Helderberg Escarpment, Pine Bush-Hudson
38 River Link/Tivoli Preserve, Batten Kill
39 Watershed-Saratoga National Historic Park
40 View shed, Washington County Agricultural
41 Lands-Saratoga National Historic Park View
42 shed, Westmere Woods, Lake George
43 watershed, Lake Champlain watershed,
44 Boeselager forestry, Domtar/Lyme Fee
45 Lands, Catskill River and Road corridor,
46 Rensselaer plateau, Hudson River Gorge,
47 Franklinton Vlaie Wildlife Management
48 area, Black Creek Marsh/Vly Swamp, Mohawk
49 River Valley Corridor/Barge Canal, Ooms-
50 dale farm and surrounding landscape,
51 Susquehanna River Valley Corridor, Pilot
52 Knob, Floodwood Camp, Lake Champlain
53 Shoreline and Wetlands, Saratoga County,
54 Mays Pond Tract, State Forest and Wildlife
55 Management Area Protection, Follensby

1 Park, Undeveloped Lake George Shore, Whit-
2 ney Park, Finch Woodlands, Washington
3 County Grasslands, Northern Flow River
4 Corridors, Recreational Trail Linkages and
5 Networks, Bog River/Beaver River Headwater
6 Complex, Maumee Swamp, Moose River Corri-
7 dor, Rome Sand Plains, Saint Lawrence
8 River Islands, Shorelines and Wetlands,
9 Eastern Lake Ontario Shoreline and
10 Islands, Tug Hill Core Forests and Headwa-
11 ter Streams, Tioga County Park Opportu-
12 nities, Nelson Swamp, Genny-Green
13 Trail/Link Trail, Clark Reservation State
14 Park, Salmon River Corridor, State Parks
15 Greenbelt/Tompkins County, Cattaraugus
16 Creek and tributaries, Carpenter
17 Falls/Bear Swamp Creek Corridor, Tonawanda
18 Creek Watershed, Two Rivers State Park,
19 Finger Lakes Shoreline, Buffalo/Niagara
20 River Corridors, Northern Montezuma
21 Wetlands, HiTor/Bristol Hills, Braddock
22 Bay, Catharine Valley Complex, Sonnenberg
23 Gardens, Western Finger Lakes: Conesus,
24 Hemlock, Canadice and Honeoye, Genesee
25 Greenway/Recreationway, Allegany State
26 Park, Alder Bottom Pond/French Creek,
27 Great Lakes Shorelines and Niagara River,
28 Chautauqua Lake Access, Shore Lands and
29 Vistas, Randolph Swamp, Eighteen Mile
30 Creek/Hampton Brook Woods, Statewide Small
31 Projects, Working Forest Lands, State Park
32 and State Historic Site Protection, (a)
33 notwithstanding any law to the contrary,
34 \$500,000 from the land acquisition allo-
35 cation for urban forestry projects
36 provided that no less than \$250,000 shall
37 be made available for such programs in
38 cities with populations of 65,000 or more;
39 (b) notwithstanding any law to the contra-
40 ry, \$1,575,000 from the land acquisition
41 allocation to the land trust alliance for
42 the purpose of awarding grants on a
43 competitive basis to local land trusts,
44 provided that up to ten percent of such
45 amount may be made available for adminis-
46 trative costs and/or technical assistance
47 (09LA10ER) 17,614,000

48 Albany Pine Bush Preserve Commission
49 (09AP10ER) 2,000,000

50 Long Island Central Pine Barrens Planning
51 (09LP10ER) 1,100,000

52 Long Island South Shore Estuary Reserve
53 (09SE10ER) 900,000

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

3 Non-agricultural non-point source abate-
4 ment and control projects (09NP10ER) 3,703,000

5 Agriculture and farmland protection activ-
6 ities (09FP10ER) 10,750,000

7 Biodiversity stewardship and research, and
8 notwithstanding any law to the contrary,
9 \$75,000 for Cayuga Island (09BD10ER) 500,000

10 Notwithstanding any law to the contrary,
11 for the Hudson River Estuary Management
12 Plan prepared pursuant to section
13 11-0306 of the environmental conserva-
14 tion law (09HE10ER) 3,000,000

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

26 Notwithstanding any law to the contrary,
27 for the Finger Lakes-Lake Ontario
28 Watershed Protection Alliance (09FL10ER)
29 1,000,000

30 Notwithstanding any law to the contrary,
31 for the state share of costs of wastewa-
32 ter treatment improvement projects
33 undertaken by municipalities to upgrade
34 municipal systems to meet stormwater,
35 combined sewer overflow, sanitary sewer
36 overflow and wastewater treatment
37 discharge requirements with priority
38 given to systems that are in violation
39 of title 8 of article 17 of the environ-
40 mental conservation law and aquatic
41 habitat restoration projects undertaken
42 by municipalities and not-for-profit
43 corporations for aquatic habitat resto-
44 ration projects as defined in subdivi-
45 sion 1 of section 56-0101 of the envi-
46 ronmental conservation law (09WQ10ER) 2,932,000

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

7 Notwithstanding any law to the contrary,
8 for the implementation of the recommen-
9 dations of the invasive species task
10 force prepared pursuant to chapter 324
11 of the laws of 2003 and for the purposes
12 set forth in chapter 674 of the laws of
13 2007 including not less than \$95,000 for
14 Lake George, provided that not less than
15 \$1,000,000 be made available for inva-
16 sive species eradication, and including
17 grants related to the control and
18 management of invasive species. Such
19 funding for grants shall be provided on
20 a competitive basis in consultation with
21 the New York Invasive Species Council
22 (09IS10ER) 3,800,000

23 Notwithstanding any law to the contrary,
24 for Soil and Water Conservation District
25 activities as authorized for reimburse-
26 ment in section 11-a of the soil and
27 water conservation districts law
28 (09SW10ER) 3,000,000

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

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

34 S 1421. Deposit and dispositions of revenues. From the taxes, interest
35 and penalties attributable to the tax imposed pursuant to section four-
36 teen hundred two of this article, the amount of [thirty-three and one-
37 half million] ONE HUNDRED NINETY-NINE MILLION THREE HUNDRED THOUSAND
38 dollars shall be deposited by the comptroller in the environmental
39 protection fund established pursuant to section ninety-two-s of the
40 state finance law for the fiscal year beginning April first, [nineteen
41 hundred ninety-five] TWO THOUSAND NINE; the amount of [eighty-seven
42 million dollars shall be deposited in such fund for the fiscal years
43 beginning April first, nineteen hundred ninety-six and nineteen hundred
44 ninety-seven; the amount of one hundred twelve million dollars shall be
45 deposited in such fund for the fiscal years beginning April first, nine-
46 teen hundred ninety-eight, nineteen hundred ninety-nine, two thousand,
47 two thousand one, two thousand two, two thousand three, two thousand
48 four and two thousand five; the amount of one hundred thirty-seven
49 million dollars shall be deposited in such fund for the fiscal year
50 beginning April first, two thousand six; the amount of two hundred
51 twelve million dollars shall be deposited in such fund for the fiscal
52 year beginning April first, two thousand seven; the amount of two
53 hundred thirty-seven million dollars shall be deposited in such fund for

1 the fiscal year beginning April first, two thousand eight; the amount of
2 one hundred ninety-nine million three hundred thousand dollars shall be
3 deposited in such fund for four fiscal years beginning April first, two
4 thousand nine;] ONE HUNDRED NINETEEN MILLION ONE HUNDRED THOUSAND
5 DOLLARS SHALL BE DEPOSITED IN SUCH FUND FOR THE FISCAL YEAR BEGINNING
6 APRIL FIRST, TWO THOUSAND TEN; and for each fiscal year thereafter[;
7 provided however that at the direction of the director of the budget, an
8 additional amount of up to twenty-five million dollars may be deposited
9 in such fund for the fiscal year beginning April first, two thousand
10 seven and ending March thirty-first, two thousand eight, for disposition
11 as provided under such section]. On or before June twelfth, nineteen
12 hundred ninety-five and on or before the twelfth day of each month ther-
13 eafter (excepting the first and second months of each fiscal year), the
14 comptroller shall deposit into such fund from the taxes, interest and
15 penalties collected pursuant to such section fourteen hundred two of
16 this article which have been deposited and remain to the comptroller's
17 credit in the banks, banking houses or trust companies referred to in
18 section one hundred seventy-one-a of this chapter at the close of busi-
19 ness on the last day of the preceding month, an amount equal to one-
20 tenth of the annual amount required to be deposited in such fund pursu-
21 ant to this section for the fiscal year in which such deposit is
22 required to be made. In the event such amount of taxes, interest and
23 penalties so remaining to the comptroller's credit is less than the
24 amount required to be deposited in such fund by the comptroller, an
25 amount equal to the shortfall shall be deposited in such fund by the
26 comptroller with subsequent deposits, as soon as the revenue is avail-
27 able. Beginning April first, nineteen hundred ninety-seven, the comp-
28 troller shall transfer monthly to the clean water/clean air fund estab-
29 lished pursuant to section ninety-seven-bbb of the state finance law,
30 all moneys remaining from such taxes, interest and penalties collected
31 that are not required for deposit in the environmental protection fund.

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

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

37 TITLE 26

38 ELECTRONIC EQUIPMENT RECYCLING AND REUSE

39 SECTION 27-2601. DEFINITIONS.

40 27-2603. MANUFACTURER COLLECTION; RECYCLING SURCHARGE.

41 27-2605. MANUFACTURER ELECTRONIC WASTE REGISTRATION AND RESPON-
42 SIBILITIES.

43 27-2607. RETAILER REQUIREMENTS.

44 27-2609. LABELING.

45 27-2611. DISPOSAL BAN.

46 27-2613. ELECTRONIC WASTE COLLECTION, CONSOLIDATION AND RECYCL-
47 ING.

48 27-2615. DEPARTMENT RESPONSIBILITIES.

49 27-2617. REPORTING REQUIREMENTS.

50 27-2619. PREEMPTION.

51 27-2621. DISPOSITION OF FEES.

52 S 27-2601. DEFINITIONS.

53 AS USED IN THIS TITLE:

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

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

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

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

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

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

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

1 MUNICIPAL OR PRIVATE ELECTRONIC WASTE COLLECTION SITES AND NOT-FOR-PRO-
2 FIT DONATION SITES THAT HAVE AGREED TO ACCEPT ELECTRONIC WASTE.

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

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

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

20 11. "MANUFACTURER" MEANS A PERSON WHO: (A) ASSEMBLES OR SUBSTANTIALLY
21 ASSEMBLES COVERED ELECTRONIC EQUIPMENT FOR SALE IN THE STATE; (B) MANU-
22 FACTURES COVERED ELECTRONIC EQUIPMENT UNDER ITS OWN BRAND NAME OR UNDER
23 ANY OTHER BRAND NAME FOR SALE IN THE STATE; (C) SELLS, UNDER ITS OWN
24 BRAND NAME, COVERED ELECTRONIC EQUIPMENT SOLD IN THE STATE; (D) OWNS A
25 BRAND NAME THAT IT LICENSES TO ANOTHER PERSON FOR USE ON COVERED ELEC-
26 TRONIC EQUIPMENT SOLD IN THE STATE; (E) IMPORTS COVERED ELECTRONIC
27 EQUIPMENT FOR SALE IN THE STATE; OR (F) MANUFACTURES COVERED ELECTRONIC
28 EQUIPMENT FOR SALE IN THE STATE WITHOUT AFFIXING A BRAND NAME. "MANUFAC-
29 Turer" DOES NOT MEAN A PERSON WHO ASSEMBLES OR SUBSTANTIALLY ASSEMBLES,
30 AND SELLS LESS THAN ONE THOUSAND UNITS OF COVERED ELECTRONIC EQUIPMENT
31 ANNUALLY IN THIS STATE, OR WHOSE PRIMARY BUSINESS IS THE SALE OF COVERED
32 ELECTRONIC EQUIPMENT WHICH IS COMPRISED PRIMARILY OF REBUILT, REFUR-
33 BISHED OR USED COMPONENTS. IF MORE THAN ONE PERSON IS A MANUFACTURER OF
34 A BRAND OF COVERED ELECTRONIC EQUIPMENT, ANY SUCH PERSON MAY ASSUME
35 RESPONSIBILITY FOR OBLIGATIONS OF A MANUFACTURER OF THAT BRAND UNDER
36 THIS TITLE. IF NONE OF THOSE PERSONS ASSUMES RESPONSIBILITY FOR THE
37 OBLIGATIONS OF A MANUFACTURER UNDER THIS TITLE, ANY AND ALL SUCH PERSONS
38 JOINTLY AND SEVERALLY MAY BE CONSIDERED TO BE THE RESPONSIBLE MANUFAC-
39 Turer OF THAT BRAND FOR PURPOSES OF THIS TITLE.

40 12. "MANUFACTURER'S BRANDS" MEANS A MANUFACTURER'S NAME, BRAND NAME OR
41 BRAND LABEL, AND ALL MANUFACTURER'S NAMES, BRAND NAMES AND BRAND LABELS
42 FOR WHICH THE MANUFACTURER HAS A LEGAL RIGHT OR INTEREST, INCLUDING
43 THOSE NAMES, BRAND NAMES, AND BRAND LABELS OF COMPANIES THAT HAVE BEEN
44 ACQUIRED BY THE MANUFACTURER OR IN WHICH THE MANUFACTURER ASSERTS A
45 LEGAL INTEREST SUCH AS TRADEMARK, LICENSE, SERVICE MARK, OR PATENT.

46 13. "MONITOR" MEANS A SEPARATE VISUAL DISPLAY COMPONENT OF A COMPUTER,
47 WHETHER SOLD SEPARATELY OR TOGETHER WITH A COMPUTER CENTRAL PROCESSING
48 UNIT, AND INCLUDES A CATHODE RAY TUBE, LIQUID CRYSTAL DISPLAY, GAS PLAS-
49 MA, DIGITAL LIGHT PROCESSING OR OTHER IMAGE PROJECTION TECHNOLOGY,
50 GREATER THAN FOUR INCHES WHEN MEASURED DIAGONALLY, AND ITS CASE, INTERI-
51 OR WIRES AND CIRCUITRY, AND ANY CABLE CORD OR WIRING PERMANENTLY AFFIXED
52 THERETO OR INCORPORATED INTO SUCH PRODUCT.

53 14. "PERSON" MEANS ANY INDIVIDUAL, BUSINESS ENTITY, PARTNERSHIP,
54 COMPANY, CORPORATION, NOT-FOR-PROFIT CORPORATION, ASSOCIATION, GOVERN-
55 MENTAL ENTITY, PUBLIC BENEFIT CORPORATION, PUBLIC AUTHORITY, FIRM,

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

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

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

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

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

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

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

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

56 S 27-2603. MANUFACTURER COLLECTION; RECYCLING SURCHARGE.

1 1. (A) BEGINNING APRIL FIRST, TWO THOUSAND ELEVEN, A MANUFACTURER OF
2 COVERED ELECTRONIC EQUIPMENT MUST ACCEPT FOR COLLECTION, HANDLING AND
3 RECYCLING OR REUSE ELECTRONIC WASTE FOR WHICH IT IS THE MANUFACTURER.
4 SUCH WASTE SHALL COUNT TOWARD THE AMOUNT OF ELECTRONIC WASTE REQUIRED TO
5 BE ACCEPTED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION.

6 (B) BEGINNING APRIL FIRST, TWO THOUSAND ELEVEN, A MANUFACTURER OF
7 COVERED ELECTRONIC EQUIPMENT MUST ACCEPT FOR COLLECTION, HANDLING AND
8 RECYCLING OR REUSE ONE PIECE OF ELECTRONIC WASTE OF ANY MANUFACTURER'S
9 BRAND IF OFFERED BY A CONSUMER WITH THE PURCHASE OF COVERED ELECTRONIC
10 EQUIPMENT OF THE SAME TYPE BY A CONSUMER. SUCH WASTE SHALL COUNT TOWARD
11 THE AMOUNT OF THE ELECTRONIC WASTE REQUIRED TO BE ACCEPTED PURSUANT TO
12 SUBDIVISION FOUR OF THIS SECTION.

13 2. BEGINNING APRIL FIRST, TWO THOUSAND ELEVEN, EACH MANUFACTURER MUST
14 ACCEPT FOR COLLECTION, HANDLING AND RECYCLING OR REUSE THE MANUFACTUR-
15 ER'S ACCEPTANCE STANDARD AS SPECIFIED IN SUBDIVISION FOUR OF THIS
16 SECTION.

17 3. STATEWIDE RECYCLING OR REUSE GOAL. (A) FOR THE PERIOD FROM APRIL
18 FIRST, TWO THOUSAND ELEVEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND
19 ELEVEN, THE STATEWIDE RECYCLING OR REUSE GOAL FOR ELECTRONIC WASTE SHALL
20 BE THE PRODUCT OF THE LATEST POPULATION ESTIMATE FOR THE STATE, AS
21 PUBLISHED BY THE U.S. CENSUS BUREAU MULTIPLIED BY THREE POUNDS MULTI-
22 PLIED BY THREE-QUARTERS.

23 (B) FOR CALENDAR YEAR TWO THOUSAND TWELVE, THE STATEWIDE RECYCLING OR
24 REUSE GOAL FOR ALL ELECTRONIC WASTE SHALL BE THE PRODUCT OF THE LATEST
25 POPULATION ESTIMATE FOR THE STATE, AS PUBLISHED BY THE U.S. CENSUS
26 BUREAU MULTIPLIED BY FOUR POUNDS.

27 (C) FOR CALENDAR YEAR TWO THOUSAND THIRTEEN, THE STATEWIDE RECYCLING
28 OR REUSE GOAL FOR ALL ELECTRONIC WASTE SHALL BE THE PRODUCT OF THE
29 LATEST POPULATION ESTIMATE FOR THE STATE, AS PUBLISHED BY THE U.S.
30 CENSUS BUREAU MULTIPLIED BY FIVE POUNDS.

31 (D) FOR CALENDAR YEAR TWO THOUSAND FOURTEEN AND ANNUALLY THEREAFTER,
32 THE STATEWIDE RECYCLING OR REUSE GOAL FOR ALL ELECTRONIC WASTE IS THE
33 PRODUCT OF THE BASE WEIGHT MULTIPLIED BY THE GOAL ATTAINMENT PERCENTAGE.
34 FOR THE PURPOSES OF THIS PARAGRAPH, "BASE WEIGHT" MEANS THE GREATER OF:

35 (I) THE AVERAGE WEIGHT OF ALL ELECTRONIC WASTE COLLECTED FOR RECYCLING
36 OR REUSE DURING THE PREVIOUS THREE CALENDAR YEARS AS REPORTED TO THE
37 DEPARTMENT PURSUANT TO PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION
38 27-2617 OF THIS TITLE; OR (II) THE THREE YEAR AVERAGE OF THE SUM OF ALL
39 ELECTRONIC WASTE COLLECTED FOR RECYCLING OR REUSE DURING THE PREVIOUS
40 THREE CALENDAR YEARS BASED ON INFORMATION REPORTED TO THE DEPARTMENT
41 PURSUANT TO PARAGRAPH (B) OF SUBDIVISION ONE, PARAGRAPH (B) OF SUBDIVI-
42 SION TWO AND PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION 27-2613 OF
43 THIS TITLE.

44 (E) THE "GOAL ATTAINMENT PERCENTAGE" MEANS:

45 (I) NINETY PERCENT IF THE BASE WEIGHT IS LESS THAN NINETY PERCENT OF
46 THE STATEWIDE RECYCLING OR REUSE GOAL FOR THE PREVIOUS CALENDAR YEAR;

47 (II) NINETY-FIVE PERCENT IF THE BASE WEIGHT IS NINETY PERCENT OR
48 GREATER, BUT DOES NOT EXCEED NINETY-FIVE PERCENT OF THE STATEWIDE RECY-
49 CLING OR REUSE GOAL FOR THE PREVIOUS CALENDAR YEAR;

50 (III) ONE HUNDRED PERCENT IF THE BASE WEIGHT IS NINETY-FIVE PERCENT OR
51 GREATER, BUT DOES NOT EXCEED ONE HUNDRED FIVE PERCENT OF THE STATEWIDE
52 RECYCLING OR REUSE GOAL FOR THE PREVIOUS CALENDAR YEAR;

53 (IV) ONE HUNDRED FIVE PERCENT IF THE BASE WEIGHT IS ONE HUNDRED FIVE
54 PERCENT OR GREATER, BUT DOES NOT EXCEED ONE HUNDRED TEN PERCENT OF THE
55 STATEWIDE RECYCLING OR REUSE GOAL FOR THE PREVIOUS CALENDAR YEAR; AND

1 (V) ONE HUNDRED TEN PERCENT IF THE BASE WEIGHT IS ONE HUNDRED TEN
2 PERCENT OR GREATER OF THE STATEWIDE RECYCLING OR REUSE GOAL FOR THE
3 PREVIOUS CALENDAR YEAR.

4 4. MANUFACTURER ACCEPTANCE STANDARD. (A) FOR THE PERIOD APRIL FIRST,
5 TWO THOUSAND ELEVEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN
6 AND ANNUALLY THEREAFTER, EACH MANUFACTURER'S ACCEPTANCE STANDARD IS THE
7 PRODUCT OF THE STATEWIDE RECYCLING OR REUSE GOAL UNDER PARAGRAPH (A),
8 (B), (C) OR (D) OF SUBDIVISION THREE OF THIS SECTION, AS APPROPRIATE,
9 MULTIPLIED BY THAT MANUFACTURER'S MARKET SHARE PURSUANT TO PARAGRAPH (B)
10 OF THIS SUBDIVISION.

11 (B) EACH MANUFACTURER'S MARKET SHARE OF ELECTRONIC WASTE SHALL BE
12 DETERMINED BY THE DEPARTMENT BASED ON THE MANUFACTURER'S PERCENTAGE
13 SHARE OF THE TOTAL WEIGHT OF COVERED ELECTRONIC EQUIPMENT SOLD AS DETER-
14 MINED BY THE BEST AVAILABLE INFORMATION, INCLUDING, BUT NOT LIMITED TO,
15 STATE SALES DATA REPORTED BY WEIGHT. BEGINNING APRIL FIRST, TWO THOU-
16 SAND ELEVEN, AND EVERY CALENDAR YEAR THEREAFTER, THE DEPARTMENT SHALL
17 PROVIDE EACH MANUFACTURER WITH A DETERMINATION OF ITS MARKET SHARE OF
18 ELECTRONIC WASTE WHICH SHALL BE THE QUOTIENT OF THE TOTAL WEIGHT OF THE
19 MANUFACTURER'S COVERED ELECTRONIC EQUIPMENT SOLD TO PERSONS IN THIS
20 STATE BASED ON THE AVERAGE ANNUAL RETAIL SALES DURING THE PRECEDING
21 THREE CALENDAR YEARS, AS REPORTED UNDER SECTIONS 27-2605 AND 27-2617 OF
22 THIS TITLE DIVIDED BY THE TOTAL WEIGHT OF ALL MANUFACTURERS COVERED
23 ELECTRONIC EQUIPMENT SOLD TO PERSONS IN THIS STATE BASED ON THE AVERAGE
24 ANNUAL RETAIL SALES DURING THE PRECEDING THREE CALENDAR YEARS, AS
25 REPORTED UNDER SECTIONS 27-2605 AND 27-2617 OF THIS TITLE.

26 5. IN THE ABSENCE OF A WAIVER BY THE DEPARTMENT PURSUANT TO SUBDIVI-
27 SION THREE OF SECTION 27-2615 OF THIS TITLE, BEGINNING IN CALENDAR YEAR
28 TWO THOUSAND THIRTEEN, A MANUFACTURER THAT FAILS TO MEET ITS MANUFACTUR-
29 ER'S ACCEPTANCE STANDARD FOR THE PREVIOUS CALENDAR YEAR AS REQUIRED BY
30 SUBDIVISION FOUR OF THIS SECTION SHALL BE SUBJECT TO A RECYCLING
31 SURCHARGE, DETERMINED AS FOLLOWS:

32 (A) IF A MANUFACTURER ACCEPTS AT LEAST NINETY PERCENT BUT LESS THAN
33 ONE HUNDRED PERCENT OF ITS MANUFACTURER'S ACCEPTANCE STANDARD AS
34 REQUIRED BY SUBDIVISION FOUR OF THIS SECTION, THE SURCHARGE SHALL BE
35 THIRTY CENTS MULTIPLIED BY THE NUMBER OF ADDITIONAL POUNDS OF ELECTRONIC
36 WASTE THAT SHOULD HAVE BEEN ACCEPTED BY SUCH MANUFACTURER.

37 (B) IF A MANUFACTURER ACCEPTS AT LEAST FIFTY PERCENT BUT LESS THAN
38 NINETY PERCENT OF ITS MANUFACTURER'S ACCEPTANCE STANDARD AS REQUIRED BY
39 SUBDIVISION FOUR OF THIS SECTION, THE SURCHARGE SHALL BE FORTY CENTS
40 MULTIPLIED BY THE NUMBER OF ADDITIONAL POUNDS OF ELECTRONIC WASTE THAT
41 SHOULD HAVE BEEN ACCEPTED BY SUCH MANUFACTURER.

42 (C) IF A MANUFACTURER ACCEPTS LESS THAN FIFTY PERCENT OF ITS MANUFAC-
43 Turer's ACCEPTANCE STANDARD AS REQUIRED BY SUBDIVISION FOUR OF THIS
44 SECTION, THE SURCHARGE SHALL BE FIFTY CENTS MULTIPLIED BY THE NUMBER OF
45 ADDITIONAL POUNDS OF ELECTRONIC WASTE THAT SHOULD HAVE BEEN ACCEPTED BY
46 SUCH MANUFACTURER.

47 6. THE RECYCLING SURCHARGE SHALL BE PAID TO THE DEPARTMENT WITH THE
48 ANNUAL REPORT REQUIRED PURSUANT TO SECTION 27-2617 OF THIS TITLE.

49 7. BEGINNING WITH CALENDAR YEAR TWO THOUSAND FOURTEEN, IF A MANUFAC-
50 Turer ACCEPTS MORE THAN ITS MANUFACTURER'S ACCEPTANCE STANDARD AS
51 REQUIRED BY SUBDIVISION FOUR OF THIS SECTION, THE EXCESS WEIGHT MAY BE
52 USED AS ELECTRONIC WASTE ACCEPTANCE CREDITS AND MAY BE SOLD, TRADED, OR
53 BANKED FOR A PERIOD NO LONGER THAN THREE CALENDAR YEARS SUCCEEDING THE
54 YEAR IN WHICH THE CREDITS WERE EARNED; PROVIDED, HOWEVER, THAT NO MORE
55 THAN TWENTY-FIVE PERCENT OF A MANUFACTURER'S OBLIGATION FOR ANY CALENDAR

1 YEAR MAY BE MET WITH RECYCLING CREDITS GENERATED IN A PRIOR CALENDAR
2 YEAR.

3 S 27-2605. MANUFACTURER ELECTRONIC WASTE REGISTRATION AND RESPONSIBIL-
4 ITIES.

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

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

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

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

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

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

27 (F) A STATEMENT DISCLOSING WHETHER: (I) ANY COVERED ELECTRONIC DEVICE
28 SOLD IN THIS STATE EXCEEDS THE MAXIMUM CONCENTRATION VALUES ESTABLISHED
29 FOR LEAD, MERCURY, CADMIUM, HEXAVALENT CHROMIUM, POLYBROMINATED BIPHE-
30 NYLS (PBBS), AND POLYBROMINATED DIPHENYL ETHERS (PBDES) UNDER THE
31 RESTRICTION OF HAZARDOUS SUBSTANCES DIRECTIVE (ROHS) PURSUANT TO
32 2002/95/EC OF THE EUROPEAN PARLIAMENT AND COUNCIL AND ANY AMENDMENTS
33 THERETO AND IF SO, A LISTING OF ANY COVERED ELECTRONIC EQUIPMENT THAT IS
34 NOT IN COMPLIANCE WITH SUCH DIRECTIVE; OR (II) THE MANUFACTURER HAS
35 RECEIVED AN EXEMPTION FROM ONE OR MORE OF THOSE MAXIMUM CONCENTRATION
36 VALUES UNDER THE ROHS DIRECTIVE THAT HAS BEEN APPROVED AND PUBLISHED BY
37 THE EUROPEAN COMMISSION; AND

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

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

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

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

53 5. THE ELECTRONIC WASTE ACCEPTANCE PROGRAM SHALL INCLUDE, AT A MINI-
54 MUM:

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

1 CONSUMERS. THE FOLLOWING ACCEPTANCE METHODS SHALL BE CONSIDERED REASON-
2 ABLY CONVENIENT: (I) MAIL OR SHIP BACK RETURN PROGRAMS; (II) COLLECTION
3 OR ACCEPTANCE EVENTS CONDUCTED BY THE MANUFACTURER OR THE MANUFACTURER'S
4 AGENT OR DESIGNEE, INCLUDING EVENTS CONDUCTED THROUGH LOCAL GOVERNMENTS
5 OR PRIVATE PARTIES; (III) FIXED ACCEPTANCE LOCATIONS SUCH AS DEDICATED
6 ACCEPTANCE SITES OPERATED BY THE MANUFACTURER OR ITS AGENT OR DESIGNEE;
7 (IV) AGREEMENTS WITH LOCAL GOVERNMENTS, RETAIL STORES, SALES OUTLETS AND
8 NOT-FOR-PROFIT ORGANIZATIONS WHICH HAVE AGREED TO PROVIDE FACILITIES FOR
9 THE COLLECTION OF ELECTRONIC WASTE; (V) COMMUNITY COLLECTION EVENTS; AND
10 (VI) ANY COMBINATION OF THESE OR OTHER ACCEPTANCE METHODS WHICH EFFEC-
11 TIVELY PROVIDE FOR THE ACCEPTANCE OF ELECTRONIC WASTE FOR RECYCLING OR
12 REUSE THROUGH MEANS THAT ARE AVAILABLE AND REASONABLY CONVENIENT TO
13 CONSUMERS IN THE STATE. AT A MINIMUM, THE MANUFACTURER SHALL ENSURE THAT
14 ALL COUNTIES OF THE STATE, AND ALL MUNICIPALITIES WHICH HAVE A POPU-
15 LATION OF TEN THOUSAND OR GREATER, HAVE AT LEAST ONE METHOD OF ACCEPT-
16 ANCE THAT IS AVAILABLE WITHIN SUCH COUNTY OR MUNICIPALITY. THE DEPART-
17 MENT MAY ESTABLISH ADDITIONAL REQUIREMENTS TO ENSURE CONVENIENT
18 COLLECTION FROM CONSUMERS;

19 (B) INFORMATION ON HOW CONSUMERS CAN DESTROY ALL DATA ON ANY ELECTRON-
20 IC WASTE, EITHER THROUGH PHYSICAL DESTRUCTION OF THE HARD DRIVE OR
21 THROUGH DATA WIPING;

22 (C) A PUBLIC EDUCATION PROGRAM TO INFORM CONSUMERS ABOUT THE MANUFAC-
23 Turer's ELECTRONIC WASTE ACCEPTANCE PROGRAM, INCLUDING AT A MINIMUM: (I)
24 AN INTERNET WEBSITE AND A TOLL-FREE TELEPHONE NUMBER AND WRITTEN INFOR-
25 MATION INCLUDED IN THE PRODUCT MANUAL FOR, OR AT THE TIME OF SALE OF,
26 COVERED ELECTRONIC EQUIPMENT THAT PROVIDES SUFFICIENT INFORMATION TO
27 ALLOW A CONSUMER OF COVERED ELECTRONIC EQUIPMENT TO LEARN HOW TO RETURN
28 THE COVERED EQUIPMENT FOR RECYCLING OR REUSE, AND IN THE CASE OF
29 MANUFACTURERS OF COMPUTERS, HARD DRIVES AND OTHER COVERED ELECTRONIC
30 EQUIPMENT THAT HAVE INTERNAL MEMORY ON WHICH PERSONAL OR OTHER CONFIDEN-
31 TIAL DATA CAN BE STORED, SUCH WEBSITE SHALL PROVIDE INSTRUCTIONS FOR HOW
32 CONSUMERS CAN DESTROY SUCH DATA BEFORE SURRENDERING THE PRODUCTS FOR
33 RECYCLING OR REUSE; (II) ADVERTISEMENTS AND PRESS RELEASES IF ANY; AND

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

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

39 7. A MANUFACTURER MAY SATISFY THE ELECTRONIC WASTE COLLECTION REQUIRE-
40 MENTS OF THIS SECTION BY AGREEING TO PARTICIPATE IN A COLLECTIVE ELEC-
41 TRONIC WASTE ACCEPTANCE PROGRAM WITH OTHER MANUFACTURERS. ANY SUCH
42 COLLECTIVE ELECTRONIC WASTE ACCEPTANCE PROGRAM MUST MEET THE SAME
43 REQUIREMENTS AS AN INDIVIDUAL MANUFACTURER. ANY COLLECTIVE ELECTRONIC
44 WASTE ACCEPTANCE PROGRAM MUST INCLUDE A LIST OF MANUFACTURERS THAT ARE
45 PARTICIPATING IN SUCH PROGRAM ALONG WITH OTHER IDENTIFYING INFORMATION
46 AS MAY BE REQUIRED BY THE DEPARTMENT. SUCH PROGRAM SHALL SUBMIT A REGIS-
47 TRATION TO THE DEPARTMENT ALONG WITH A REGISTRATION FEE OF TEN THOUSAND
48 DOLLARS.

49 8. A MANUFACTURER SHALL BE RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH
50 THE IMPLEMENTATION OF THE ELECTRONIC WASTE ACCEPTANCE PROGRAM. THE
51 MANUFACTURER SHALL NOT CHARGE CONSUMERS FOR THE COLLECTION, HANDLING AND
52 RECYCLING AND REUSE OF ELECTRONIC WASTE, PROVIDED THAT SUCH PROHIBITION
53 SHALL NOT APPLY TO A CHARGE ON BUSINESS CONSUMERS OR TO CHARGES FOR
54 PREMIUM SERVICES. THIS PROHIBITION SHALL NOT APPLY TO A MANUFACTURER'S
55 CONTRACT WITH A CONSUMER FOR THE COLLECTION, HANDLING, RECYCLING OR
56 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

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

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

17 (B) BEGINNING MARCH FIRST, TWO THOUSAND TWELVE, EACH PERSON OPERATING
18 AN ELECTRONIC WASTE RECYCLING FACILITY SHALL SUBMIT TO THE DEPARTMENT AN
19 ANNUAL REPORT FOR THE PERIOD OF APRIL FIRST, TWO THOUSAND ELEVEN THROUGH
20 DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN AND EACH CALENDAR YEAR THERE-
21 AFTER, ON A FORM PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT MAY
22 REQUIRE ANNUAL REPORTS TO BE FILED ELECTRONICALLY. ANNUAL REPORTS SHALL
23 INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING INFORMATION: (I) THE QUAN-
24 TITY, BY WEIGHT, OF ELECTRONIC WASTE RECEIVED FROM CONSUMERS IN THE
25 STATE; (II) THE NAME AND ADDRESS OF EACH ELECTRONIC WASTE COLLECTION
26 SITE AND ELECTRONIC WASTE CONSOLIDATION FACILITY FROM WHICH ELECTRONIC
27 WASTE WAS RECEIVED DURING THE REPORTING PERIOD, ALONG WITH THE QUANTITY,
28 BY WEIGHT, OF ELECTRONIC WASTE RECEIVED FROM EACH PERSON; (III) THE NAME
29 AND ADDRESS OF EACH PERSON TO WHOM THE FACILITY SENT ELECTRONIC WASTE OR
30 COMPONENT MATERIALS DURING THE REPORTING PERIOD, ALONG WITH THE QUANTI-
31 TY, BY WEIGHT, OF ELECTRONIC WASTE OR COMPONENT MATERIALS THEREOF SENT
32 TO EACH SUCH PERSON; (IV) THE WEIGHT OF ELECTRONIC WASTE COLLECTED ON
33 BEHALF OF OR PURSUANT TO AN AGREEMENT WITH EACH MANUFACTURER DURING THE
34 REPORTING PERIOD; AND (V) A CERTIFICATION BY THE OWNER OR OPERATOR OF
35 THE FACILITY THAT SUCH FACILITY HAS COMPLIED WITH THE REQUIREMENTS OF
36 THIS TITLE AND ALL OTHER APPLICABLE LAWS, RULES, AND REGULATIONS. ALL
37 QUANTITIES OF ELECTRONIC WASTE REPORTED BY THE RECYCLING FACILITY MUST
38 SEPARATELY INCLUDE ELECTRONIC WASTE GENERATED BY NEW YORK STATE CONSUM-
39 ERS AND ELECTRONIC WASTE RECEIVED FROM OR SHIPPED OUTSIDE THE STATE.

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

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

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

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

51 (IV) INFORM ALL EMPLOYEES WHO HANDLE OR HAVE RESPONSIBILITY FOR MANAG-
52 ING ELECTRONIC WASTE ABOUT PROPER HANDLING AND EMERGENCY PROCEDURES
53 APPROPRIATE TO THE TYPE OR TYPES OF ELECTRONIC WASTE HANDLED AT THE
54 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

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

7 (B) THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE COLLECTED FOR RECYCL-
8 ING OR REUSE IN THIS STATE, CATEGORIZED BY THE TYPE OF COVERED ELECTRON-
9 IC EQUIPMENT COLLECTED DURING THE REPORTING PERIOD, THE METHODS USED TO
10 ACCEPT THE ELECTRONIC WASTE, AND THE APPROXIMATE WEIGHT OF ELECTRONIC
11 WASTE ACCEPTED BY EACH METHOD USED TO THE EXTENT KNOWN;

12 (C) ALL QUANTITIES OF ELECTRONIC WASTE REPORTED BY THE MANUFACTURER
13 MUST SEPARATELY INCLUDE ELECTRONIC WASTE GENERATED BY NEW YORK STATE
14 CONSUMERS AND ELECTRONIC WASTE RECEIVED FROM OR SHIPPED OUTSIDE THE
15 STATE: (I) THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE RECEIVED DIRECT-
16 LY FROM CONSUMERS IN THE STATE THROUGH A MAIL BACK PROGRAM; (II) THE
17 NAME AND ADDRESS OF EACH ELECTRONIC WASTE COLLECTION SITE, ELECTRONIC
18 WASTE CONSOLIDATION FACILITY, AND ELECTRONIC WASTE RECYCLING FACILITY AT
19 WHICH ELECTRONIC WASTE FROM CONSUMERS WAS RECEIVED ON BEHALF OF THE
20 MANUFACTURER DURING THE REPORTING PERIOD, ALONG WITH THE QUANTITY, BY
21 WEIGHT, OF ELECTRONIC WASTE RECEIVED; AND (III) THE NAME AND ADDRESS OF
22 EACH PERSON TO WHOM THE MANUFACTURER SENT ELECTRONIC WASTE OR COMPONENT
23 MATERIALS DURING THE REPORTING PERIOD, ALONG WITH THE QUANTITY, BY
24 WEIGHT, OF ELECTRONIC WASTE OR COMPONENT MATERIALS THEREOF SENT TO EACH
25 SUCH PERSON;

26 (D) THE NUMBER OF ELECTRONIC WASTE ACCEPTANCE CREDITS PURCHASED, SOLD,
27 BANKED AND TRADED DURING THE REPORTING PERIOD, THE NUMBER OF ELECTRONIC
28 WASTE ACCEPTANCE CREDITS USED TO MEET THE REQUIREMENTS OF SECTION
29 27-2603 OF THIS TITLE, AND FROM WHOM THEY WERE PURCHASED AND TO WHOM
30 THEY WERE SOLD OR TRADED, AND THE NUMBER OF ELECTRONIC WASTE ACCEPTANCE
31 CREDITS RETAINED AS OF THE DATE OF THE REPORT;

32 (E) THE AMOUNT OF ANY RECYCLING SURCHARGE OWED FOR THE REPORTING PERI-
33 OD, WITH SUFFICIENT INFORMATION TO DEMONSTRATE THE BASIS FOR THE CALCU-
34 LATION OF THE SURCHARGE;

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

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

45 (H) A BRIEF DESCRIPTION OF ITS PUBLIC EDUCATION PROGRAM INCLUDING THE
46 NUMBER OF VISITS TO THE INTERNET WEBSITE AND CALLS TO THE TOLL-FREE
47 TELEPHONE NUMBER PROVIDED BY THE MANUFACTURER AS REQUIRED BY SECTION
48 27-2605 OF THIS TITLE;

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

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

52 2. THE DEPARTMENT MAY REQUIRE ANNUAL REPORTS TO BE FILED ELECTRON-
53 ICALLY.

54 3. THE REPORT SHALL BE ACCOMPANIED BY AN ANNUAL REPORTING FEE OF THREE
55 THOUSAND DOLLARS, AND ANY RECYCLING SURCHARGE DUE PURSUANT TO SECTION
56 27-2603 OF THIS TITLE.

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

5 (A) THE ELECTRONIC WASTE STREAM IN THE STATE;

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

8 (C) A DISCUSSION OF COMPLIANCE AND ENFORCEMENT RELATED TO THE REQUIRE-
9 MENTS OF THIS TITLE;

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

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

14 S 27-2619. PREEMPTION.

15 JURISDICTION IN ALL MATTERS PERTAINING TO ELECTRONIC WASTE RECYCLING,
16 INCLUDING BUT NOT LIMITED TO THE OBLIGATIONS OF MANUFACTURERS, RETAIL-
17 ERS, ELECTRONIC WASTE COLLECTION SITES, ELECTRONIC WASTE CONSOLIDATION
18 FACILITIES AND ELECTRONIC WASTE RECYCLING FACILITIES WITH RESPECT TO
19 ELECTRONIC WASTE RECYCLING, IS, BY THIS TITLE, VESTED EXCLUSIVELY IN THE
20 STATE. ANY PROVISION OF ANY LOCAL LAW OR ORDINANCE, OR ANY RULE OR REGU-
21 LATION PROMULGATED THERETO, GOVERNING COVERED ELECTRONIC EQUIPMENT AND
22 THE COLLECTION, REUSE, OR RECYCLING OF ELECTRONIC WASTE SHALL UPON THE
23 EFFECTIVE DATE OF THIS TITLE BE PREEMPTED.

24 S 27-2621. DISPOSITION OF FEES.

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

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

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

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

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

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

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

52 II. VIOLATES ANY OTHER PROVISION OF TITLE TWENTY-SIX OF ARTICLE TWEN-
53 TY-SEVEN OF THIS CHAPTER OR FAILS TO PERFORM ANY DUTY IMPOSED BY SUCH
54 TITLE, EXCEPT FOR SUBDIVISION FOUR OF SECTION 27-2603 OF THIS CHAPTER,
55 SHALL BE LIABLE FOR A CIVIL PENALTY FOR EACH VIOLATION NOT TO EXCEED ONE
56 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

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

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

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

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

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

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

24 (vii) under an environmental restoration project state assistance
25 contract with the department pursuant to section 56-0503 of this chap-
26 ter.

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

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

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

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

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

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

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

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

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

8 b. Notwithstanding any general or special law to the contrary, one-
9 half of all monies collected by the department pursuant to section
10 [72-0402 and section] 72-0502 of this article shall be deposited in the
11 hazardous waste remedial fund, created pursuant to section ninety-sev-
12 en-b of the state finance law.

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

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

24 S 11. Subdivisions 1, 3 and 5 of section 71-1307 of the environmental
25 conservation law, subdivision 1 as amended by chapter 166 of the laws of
26 1991, subdivision 3 as added by chapter 846 of the laws of 1981, and
27 subdivision 5 as added by chapter 169 of the laws of 1994, are amended
28 to read as follows:

29 1. Administrative sanctions. Any person who violates any provision of
30 article 23 of this chapter or commits any offense described in section
31 71-1305 of this title shall be liable to the people of the state for a
32 civil penalty not to exceed [five] EIGHT thousand dollars and an addi-
33 tional penalty of [one] TWO thousand dollars for each day during which
34 such violation continues, to be assessed by the commissioner after a
35 hearing or opportunity to be heard. The commissioner, acting by the
36 attorney general, may bring suit for collection of such assessed civil
37 penalty in any court of competent jurisdiction. Such civil penalty may
38 be released or compromised by the commissioner before the matter has
39 been referred to the attorney general; and where such matter has been
40 referred to the attorney general, any such penalty may be released or
41 compromised and any action commenced to recover the same may be settled
42 and discontinued by the attorney general with the consent of the commis-
43 sioner. In addition, the commissioner shall have the power, following a
44 hearing conducted pursuant to rules and regulations adopted by the
45 department, to direct the violator to cease the violation and reclaim
46 and repair the affected site to a condition acceptable to the commis-
47 sioner, to the extent possible within a reasonable time and under the
48 direction and supervision of the commissioner. Any such order of the
49 commissioner shall be enforceable in any action brought by the commis-
50 sioner in any court of competent jurisdiction. Any civil penalty or
51 order issued by the commissioner under this subdivision shall be review-
52 able in a proceeding under article seventy-eight of the civil practice
53 law and rules.

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

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

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

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

18 S 71-2303. Violation; penalties.

19 1. Administrative sanctions. Any person who violates, disobeys or
20 disregards any provision of article twenty-four, including title five
21 and section 24-0507 thereof or any rule or regulation, local law or
22 ordinance, permit or order issued pursuant thereto, shall be liable to
23 the people of the state for a civil penalty of not to exceed [three]
24 ELEVEN thousand dollars for every such violation, to be assessed, after
25 a hearing or opportunity to be heard upon due notice and with the rights
26 to specification of the charges and representation by counsel at such
27 hearing, by the commissioner or local government. Such penalty may be
28 recovered in an action brought by the attorney general at the request
29 and in the name of the commissioner or local government in any court of
30 competent jurisdiction. Such civil penalty may be released or compro-
31 mised by the commissioner or local government before the matter has been
32 referred to the attorney general; and where such matter has been
33 referred to the attorney general, any such penalty may be released or
34 compromised and any action commenced to recover the same may be settled
35 and discontinued by the attorney general with the consent of the commis-
36 sioner or local government. In addition, the commissioner or local
37 government shall have power, following a hearing held in conformance
38 with the procedures set forth in section 71-1709 of this [chapter] ARTI-
39 CLE, to direct the violator to cease his violation of the act and to
40 restore the affected freshwater wetland to its condition prior to the
41 violation, insofar as that is possible within a reasonable time and
42 under the supervision of the commissioner or local government. Any such
43 order of the commissioner or local government shall be enforceable in an
44 action brought by the attorney general at the request and in the name of
45 the commissioner or local government in any court of competent jurisdic-
46 tion. Any civil penalty or order issued by the commissioner or local
47 government pursuant to this subdivision shall be reviewable in a
48 proceeding pursuant to article seventy-eight of the civil practice law
49 and rules.

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

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

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

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

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

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

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

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

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

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

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

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

7 S 71-4001. General criminal penalty.

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

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

21 S 71-4003. General civil penalty.

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

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

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