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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, 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.

14 4. "CONSUMER" MEANS A PERSON LOCATED IN THE STATE WHO OWNS OR USES
15 COVERED ELECTRONIC EQUIPMENT, INCLUDING BUT NOT LIMITED TO AN INDIVID-
16 UAL, A BUSINESS, CORPORATION, LIMITED PARTNERSHIP, NOT-FOR-PROFIT ORGAN-
17 IZATION, OR GOVERNMENTAL ENTITY, BUT DOES NOT INCLUDE AN ENTITY INVOLVED
18 IN A WHOLESALE TRANSACTION BETWEEN A DISTRIBUTOR AND RETAILER.

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

37 6. "ELECTRONIC RECYCLER" MEANS A PERSON WHO ENGAGES IN THE RECYCLING
38 OF ELECTRONIC WASTE.

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

47 8. "ELECTRONIC WASTE COLLECTION SITE" MEANS A FACILITY AT A FIXED OR
48 TEMPORARY SITE AT WHICH ELECTRONIC WASTE IS ACCEPTED FROM CONSUMERS AND
49 TEMPORARILY STORED FOR NOT MORE THAN FIVE DAYS IN A CALENDAR YEAR BEFORE
50 SUCH WASTE IS TRANSPORTED TO AN ELECTRONIC WASTE CONSOLIDATION FACILITY
51 OR ELECTRONIC WASTE RECYCLING FACILITY. ELECTRONIC WASTE COLLECTION
52 SITES INCLUDE, BUT ARE NOT LIMITED TO, DEDICATED SITES AND FACILITIES
53 FOR THE ACCEPTANCE OF ELECTRONIC WASTE, AND RETAIL STORES AND OUTLETS,
54 MUNICIPAL OR PRIVATE ELECTRONIC WASTE COLLECTION SITES AND NOT-FOR-PRO-
55 FIT DONATION SITES THAT HAVE AGREED TO ACCEPT ELECTRONIC WASTE.

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

11 10. "ELECTRONIC WASTE RECYCLING FACILITY" MEANS A FACILITY AT WHICH
12 ELECTRONIC WASTE IS RECYCLED.

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

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

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

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

51 15. "PERSON" MEANS ANY INDIVIDUAL, BUSINESS ENTITY, PARTNERSHIP,
52 COMPANY, CORPORATION, NOT-FOR-PROFIT CORPORATION, ASSOCIATION, GOVERN-
53 MENTAL ENTITY, PUBLIC BENEFIT CORPORATION, PUBLIC AUTHORITY, FIRM,
54 ORGANIZATION, OR ANY OTHER GROUP OF INDIVIDUALS, OR ANY OFFICER OR
55 EMPLOYEE OR AGENT THEREOF.

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

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

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

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

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

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

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

43 1. BEGINNING JULY FIRST, TWO THOUSAND TEN, A MANUFACTURER OF COVERED
44 ELECTRONIC EQUIPMENT MUST ACCEPT FOR COLLECTION, HANDLING AND RECYCLING
45 OR REUSE ELECTRONIC WASTE FOR WHICH IT IS THE MANUFACTURER AND ONE PIECE
46 OF ELECTRONIC WASTE OF ANY MANUFACTURER'S BRAND, WITH THE PURCHASE OF
47 COVERED ELECTRONIC EQUIPMENT OF THE SAME TYPE BY A CONSUMER. SUCH WASTE
48 SHALL COUNT TOWARD THE AMOUNT OF ELECTRONIC WASTE REQUIRED TO BE
49 ACCEPTED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION.

50 2. BEGINNING JULY FIRST, TWO THOUSAND TEN, EACH MANUFACTURER MUST
51 ACCEPT FOR COLLECTION, HANDLING AND RECYCLING OR REUSE THE MANUFACTUR-
52 ER'S ACCEPTANCE STANDARD AS SPECIFIED IN SUBDIVISION FOUR OF THIS
53 SECTION.

54 3. STATEWIDE RECYCLING OR REUSE GOAL. (A) FOR THE PERIOD FROM JULY
55 FIRST, TWO THOUSAND TEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND TEN,
56 THE STATEWIDE RECYCLING OR REUSE GOAL FOR ELECTRONIC WASTE SHALL BE THE

PRODUCT OF THE LATEST POPULATION ESTIMATE FOR THE STATE, AS PUBLISHED BY THE U.S. CENSUS BUREAU ON JANUARY FIRST, TWO THOUSAND TEN MULTIPLIED BY THREE POUNDS MULTIPLIED BY ONE-HALF.

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

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

(D) FOR CALENDAR YEAR TWO THOUSAND THIRTEEN AND ANNUALLY THEREAFTER, THE STATEWIDE RECYCLING OR REUSE GOAL FOR ALL ELECTRONIC WASTE IS THE PRODUCT OF THE BASE WEIGHT MULTIPLIED BY THE GOAL ATTAINMENT PERCENTAGE. FOR THE PURPOSES OF THIS PARAGRAPH, "BASE WEIGHT" MEANS THE GREATER OF: (I) THE AVERAGE WEIGHT OF ALL ELECTRONIC WASTE COLLECTED FOR RECYCLING OR REUSE DURING THE PREVIOUS THREE CALENDAR YEARS AS REPORTED TO THE DEPARTMENT PURSUANT TO PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION 27-2617 OF THIS TITLE; OR (II) THE THREE YEAR AVERAGE OF THE SUM OF ALL ELECTRONIC WASTE COLLECTED FOR RECYCLING OR REUSE DURING THE PREVIOUS THREE CALENDAR YEARS AS REPORTED TO THE DEPARTMENT PURSUANT TO PARAGRAPH (B) OF SUBDIVISION ONE, PARAGRAPH (B) OF SUBDIVISION TWO AND PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION 27-2613 OF THIS TITLE.

(E) THE "GOAL ATTAINMENT PERCENTAGE" MEANS:

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

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

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

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

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

4. MANUFACTURER ACCEPTANCE STANDARD. (A) FOR CALENDAR YEAR TWO THOUSAND TEN, EACH MANUFACTURER'S ACCEPTANCE STANDARD IS THE PRODUCT OF THE STATEWIDE RECYCLING OR REUSE GOAL UNDER PARAGRAPH (A) OF SUBDIVISION THREE OF THIS SECTION MULTIPLIED BY THAT MANUFACTURER'S MARKET SHARE AS DETERMINED BY THE DEPARTMENT PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION.

(B) FOR CALENDAR YEAR TWO THOUSAND ELEVEN AND ANNUALLY THEREAFTER, EACH MANUFACTURER'S ACCEPTANCE STANDARD IS THE PRODUCT OF THE STATEWIDE RECYCLING OR REUSE GOAL UNDER PARAGRAPH (B), (C) OR (D) OF SUBDIVISION THREE OF THIS SECTION AS APPROPRIATE MULTIPLIED BY THAT MANUFACTURER'S MARKET SHARE PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION.

(C) EACH MANUFACTURER'S MARKET SHARE OF ELECTRONIC WASTE SHALL BE DETERMINED BY THE DEPARTMENT BASED ON THE MANUFACTURER'S PERCENTAGE SHARE OF THE TOTAL WEIGHT OF COVERED ELECTRONIC EQUIPMENT SOLD AS DETERMINED BY THE BEST AVAILABLE INFORMATION, INCLUDING, BUT NOT LIMITED TO, STATE SALES DATA REPORTED BY WEIGHT. BEGINNING JULY FIRST, TWO THOUSAND TEN, AND EVERY YEAR THEREAFTER, THE DEPARTMENT SHALL PROVIDE EACH MANUFACTURER WITH A DETERMINATION OF ITS MARKET SHARE OF ELECTRONIC

WASTE WHICH SHALL BE THE QUOTIENT OF THE TOTAL WEIGHT OF THE MANUFACTURER'S COVERED ELECTRONIC EQUIPMENT SOLD TO PERSONS IN THIS STATE BASED ON THE AVERAGE ANNUAL RETAIL SALES DURING THE PRECEDING THREE CALENDAR YEARS, AS REPORTED UNDER SECTION 27-2617 OF THIS TITLE DIVIDED BY THE TOTAL WEIGHT OF ALL MANUFACTURERS COVERED ELECTRONIC EQUIPMENT SOLD TO PERSONS IN THIS STATE BASED ON THE AVERAGE ANNUAL RETAIL SALES DURING THE PRECEDING THREE CALENDAR YEARS, AS REPORTED UNDER SECTION 27-2617 OF THIS TITLE.

5. IN THE ABSENCE OF A WAIVER BY THE DEPARTMENT PURSUANT TO SUBDIVISION THREE OF SECTION 27-2615 OF THIS TITLE, BEGINNING IN CALENDAR YEAR TWO THOUSAND TWELVE, A MANUFACTURER THAT FAILS TO MEET ITS MANUFACTURER'S ACCEPTANCE STANDARD AS REQUIRED BY SUBDIVISION FOUR OF THIS SECTION SHALL BE SUBJECT TO A RECYCLING SURCHARGE, DETERMINED AS FOLLOWS:

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

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

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

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

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

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

1. A MANUFACTURER SHALL SUBMIT A REGISTRATION TO THE DEPARTMENT BY JANUARY FIRST, TWO THOUSAND TEN, ALONG WITH A REGISTRATION FEE OF FIVE THOUSAND DOLLARS. SUCH REGISTRATION SHALL INCLUDE:

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

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

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

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

(E) SALES DATA REPORTED BY WEIGHT FOR THE MANUFACTURER'S COVERED ELECTRONIC EQUIPMENT SOLD IN THIS STATE FOR THE PREVIOUS THREE CALENDAR YEARS, CATEGORIZED BY TYPE TO THE EXTENT KNOWN. IF THE MANUFACTURER

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

6 (F) A STATEMENT DISCLOSING WHETHER: (I) ANY COVERED ELECTRONIC DEVICE
7 SOLD IN THIS STATE EXCEEDS THE MAXIMUM CONCENTRATION VALUES ESTABLISHED
8 FOR LEAD, MERCURY, CADMIUM, HEXAVALENT CHROMIUM, POLYBROMINATED BIPHE-
9 NYLS (PBBS), AND POLYBROMINATED DIPHENYL ETHERS (PBDES) UNDER THE
10 RESTRICTION OF HAZARDOUS SUBSTANCES DIRECTIVE (ROHS) PURSUANT TO
11 2002/95/EC OF THE EUROPEAN PARLIAMENT AND COUNCIL AND ANY AMENDMENTS
12 THERETO AND IF SO, A LISTING OF ANY COVERED ELECTRONIC EQUIPMENT THAT IS
13 NOT IN COMPLIANCE WITH SUCH DIRECTIVE; OR (II) THE MANUFACTURER HAS
14 RECEIVED AN EXEMPTION FROM ONE OR MORE OF THOSE MAXIMUM CONCENTRATION
15 VALUES UNDER THE ROHS DIRECTIVE THAT HAS BEEN APPROVED AND PUBLISHED BY
16 THE EUROPEAN COMMISSION; AND

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

18 2. A MANUFACTURER'S REGISTRATION MUST BE UPDATED WITHIN THIRTY DAYS OF
19 ANY MATERIAL CHANGE TO THE INFORMATION REQUIRED BY THE REGISTRATION.

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

24 4. NO LATER THAN JULY FIRST, TWO THOUSAND TEN, A MANUFACTURER SHALL
25 NOT SELL OR OFFER FOR SALE ELECTRONIC EQUIPMENT IN THE STATE UNLESS THE
26 MANUFACTURER HAS REGISTERED WITH THE DEPARTMENT AND MAINTAINS AN ELEC-
27 TRONIC WASTE ACCEPTANCE PROGRAM THROUGH WHICH THE MANUFACTURER, EITHER
28 DIRECTLY OR THROUGH AN AGENT OR DESIGNEE, ACCEPTS ELECTRONIC WASTE FROM
29 CONSUMERS IN THE STATE FOR RECYCLING. THE MANUFACTURER SHALL ENSURE
30 THAT RETAILERS ARE NOTIFIED OF SUCH REGISTRATION. THE MANUFACTURER
31 SHALL NOT IMPOSE A FEE ON CONSUMERS FOR THE COLLECTION, HANDLING AND
32 RECYCLING OR REUSE OF ELECTRONIC WASTE.

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

35 (A) COLLECTION, HANDLING AND RECYCLING OR REUSE OF COVERED ELECTRONIC
36 EQUIPMENT PRODUCED BY THE MANUFACTURER AND OFFERED FOR RETURN BY ANY
37 CONSUMER IN THIS STATE, FREE OF COST AND IN A MANNER CONVENIENT TO
38 CONSUMERS. THE FOLLOWING ACCEPTANCE METHODS SHALL BE CONSIDERED REASON-
39 ABLY CONVENIENT: (I) MAIL OR SHIP BACK RETURN PROGRAMS; (II) COLLECTION
40 OR ACCEPTANCE EVENTS CONDUCTED BY THE MANUFACTURER OR THE MANUFACTURER'S
41 AGENT OR DESIGNEE, INCLUDING EVENTS CONDUCTED THROUGH LOCAL GOVERNMENTS
42 OR PRIVATE PARTIES; (III) FIXED ACCEPTANCE LOCATIONS SUCH AS DEDICATED
43 ACCEPTANCE SITES OPERATED BY THE MANUFACTURER OR ITS AGENT OR DESIGNEE;
44 (IV) AGREEMENTS WITH LOCAL GOVERNMENTS, RETAIL STORES, SALES OUTLETS AND
45 NOT-FOR-PROFIT ORGANIZATIONS WHICH HAVE AGREED TO PROVIDE FACILITIES FOR
46 THE COLLECTION OF ELECTRONIC WASTE; (V) COMMUNITY COLLECTION EVENTS; AND
47 (VI) ANY COMBINATION OF THESE OR OTHER ACCEPTANCE METHODS WHICH EFFEC-
48 TIVELY PROVIDE FOR THE ACCEPTANCE OF ELECTRONIC WASTE FOR RECYCLING OR
49 REUSE THROUGH MEANS THAT ARE AVAILABLE AND REASONABLY CONVENIENT TO
50 CONSUMERS IN THE STATE. AT A MINIMUM, THE MANUFACTURER SHALL ENSURE THAT
51 ALL COUNTIES OF THE STATE AND ALL MUNICIPALITIES WHICH HAVE A POPULATION
52 OF TEN THOUSAND OR GREATER HAVE AT LEAST ONE METHOD OF ACCEPTANCE THAT
53 IS AVAILABLE WITHIN THAT MUNICIPALITY. THE DEPARTMENT MAY ESTABLISH
54 ADDITIONAL REQUIREMENTS TO ENSURE CONVENIENT COLLECTION FROM CONSUMERS;

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

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

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

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

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

8. A MANUFACTURER SHALL BE RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THE ELECTRONIC WASTE ACCEPTANCE PROGRAM.

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. 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.

S 27-2609. LABELING.

BEGINNING JULY FIRST, TWO THOUSAND TEN, 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 JULY FIRST, TWO THOUSAND TEN, 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 ELEVEN, NO PERSON EXCEPT FOR AN INDIVIDUAL OR HOUSEHOLD SHALL PLACE OR DISPOSE OF ANY ELECTRONIC

1 WASTE IN ANY SOLID WASTE MANAGEMENT FACILITY, OR PLACE ELECTRONIC WASTE
2 FOR COLLECTION WHICH IS INTENDED FOR DISPOSAL AT A SOLID WASTE MANAGE-
3 MENT FACILITY OR HAZARDOUS WASTE MANAGEMENT FACILITY IN THIS STATE.
4 PERSONS ENGAGED IN THE COLLECTION OF SOLID WASTE FOR DELIVERY TO A SOLID
5 WASTE MANAGEMENT FACILITY SHALL PROVIDE WRITTEN INFORMATION TO USERS OF
6 SUCH FACILITY ON THE PROPER METHODS FOR THE RECYCLING OF ELECTRONIC
7 WASTE.

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

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

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

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

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

22 1. ELECTRONIC WASTE COLLECTION SITES. NO LATER THAN JULY FIRST, TWO
23 THOUSAND TEN, EACH PERSON WHO OWNS OR OPERATES AN ELECTRONIC WASTE
24 COLLECTION SITE IN THE STATE SHALL:

25 (A) REGISTER WITH THE DEPARTMENT ON A FORM PRESCRIBED BY THE DEPART-
26 MENT. THE REGISTRATION SHALL INCLUDE: (I) THE NAME, ADDRESS, AND TELE-
27 PHONE NUMBER OF THE OWNERS AND THE OPERATORS OF THE ELECTRONIC WASTE
28 COLLECTION SITE; AND (II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
29 ELECTRONIC WASTE COLLECTION SITE. ANY PERSON WHO COMMENCES THE OPERATION
30 OF AN ELECTRONIC WASTE COLLECTION SITE ON OR AFTER JULY FIRST, TWO THOU-
31 SAND TEN SHALL REGISTER WITH THE DEPARTMENT AT LEAST THIRTY DAYS PRIOR
32 TO RECEIVING ANY ELECTRONIC WASTE AT SUCH COLLECTION SITE. A REGISTRA-
33 TION IS EFFECTIVE UPON ACCEPTANCE BY THE DEPARTMENT. IN THE CASE OF
34 COLLECTION SITES OPERATED BY A RETAILER, A SINGLE REGISTRATION LISTING
35 THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE INDIVIDUAL COLLECTION
36 SITES MAY BE SUBMITTED COVERING ALL THEIR COLLECTION SITES;

37 (B) BEGINNING MARCH FIRST, TWO THOUSAND ELEVEN, EACH PERSON OPERATING
38 AN ELECTRONIC WASTE COLLECTION SITE SHALL SUBMIT TO THE DEPARTMENT A
39 REPORT FOR THE PERIOD JULY FIRST, TWO THOUSAND TEN THROUGH DECEMBER
40 THIRTY-FIRST, TWO THOUSAND TEN, AND THEREAFTER, AN ANNUAL REPORT FOR THE
41 PREVIOUS CALENDAR YEAR, ON A FORM PRESCRIBED BY THE DEPARTMENT, INCLUD-
42 ING, BUT NOT LIMITED TO, THE FOLLOWING INFORMATION: (I) THE QUANTITY, BY
43 WEIGHT, OF ELECTRONIC WASTE RECEIVED FROM CONSUMERS IN THE STATE; (II)
44 THE NAME AND ADDRESS OF EACH PERSON TO WHOM THE ELECTRONIC WASTE
45 COLLECTION SITE SENT ELECTRONIC WASTE DURING THE PRECEDING YEAR, ALONG
46 WITH THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE THAT WAS SENT TO EACH
47 SUCH PERSON; AND (III) THE WEIGHT OF ELECTRONIC WASTE COLLECTED ON
48 BEHALF OF OR PURSUANT TO AN AGREEMENT WITH EACH MANUFACTURER DURING THE
49 PRECEDING CALENDAR YEAR. ALL QUANTITIES OF ELECTRONIC WASTE REPORTED BY
50 THE COLLECTION SITE MUST SEPARATELY INCLUDE ELECTRONIC WASTE GENERATED
51 BY NEW YORK STATE CONSUMERS AND ELECTRONIC WASTE RECEIVED FROM OR
52 SHIPPED OUTSIDE THE STATE;

53 (C) MANAGE ELECTRONIC WASTE IN A MANNER THAT COMPLIES WITH ALL APPLI-
54 CABLE LAWS, RULES AND REGULATIONS;

55 (D) STORE ELECTRONIC WASTE (I) IN A FULLY ENCLOSED BUILDING WITH A
56 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 JULY FIRST, TWO THOUSAND TEN, 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 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 JULY FIRST, TWO THOUSAND TEN 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 ELEVEN, EACH PERSON OPERATING AN ELECTRONIC WASTE CONSOLIDATION FACILITY SHALL SUBMIT TO THE DEPARTMENT A REPORT FOR THE PERIOD JULY FIRST, TWO THOUSAND TEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND TEN, AND THEREAFTER, AN ANNUAL REPORT FOR THE PREVIOUS CALENDAR YEAR, ON A FORM PRESCRIBED BY THE DEPARTMENT, INCLUDING, BUT NOT 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 PRECEDING YEAR, 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 PRECEDING YEAR, 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 PRECEDING CALENDAR YEAR; 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;

1 (V) REMOVE ELECTRONIC WASTE FROM THE SITE WITHIN ONE YEAR OF THE
2 WASTE'S RECEIPT AT THE SITE, AND MAINTAIN RECORDS DEMONSTRATING COMPLI-
3 ANCE WITH THIS REQUIREMENT; AND

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

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

13 (E) A PERSON OPERATING AN ELECTRONIC WASTE CONSOLIDATION FACILITY MAY
14 ACCEPT ELECTRONIC WASTE IN THE SAME MANNER AS AN ELECTRONIC WASTE
15 COLLECTION SITE PROVIDED THAT SUCH PERSON COMPLIES WITH THE REQUIREMENTS
16 OF THIS SECTION THAT ARE APPLICABLE TO ELECTRONIC WASTE COLLECTION
17 FACILITIES.

18 3. ELECTRONIC WASTE RECYCLING FACILITIES. (A) NO LATER THAN JULY
19 FIRST, TWO THOUSAND TEN, EACH PERSON OPERATING AN ELECTRONIC WASTE RECY-
20 CLING FACILITY IN THE STATE SHALL REGISTER WITH THE DEPARTMENT ON A FORM
21 PRESCRIBED BY THE DEPARTMENT. THE REGISTRATION SHALL INCLUDE: (I) THE
22 NAME, ADDRESS AND TELEPHONE NUMBER OF THE OWNER AND THE OPERATOR OF THE
23 FACILITY; AND (II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE ELEC-
24 TRONIC WASTE RECYCLING FACILITY. ANY PERSON WHO COMMENCES THE OPERATION
25 OF AN ELECTRONIC WASTE RECYCLING FACILITY ON OR AFTER JULY FIRST, TWO
26 THOUSAND TEN SHALL REGISTER WITH THE DEPARTMENT AT LEAST THIRTY DAYS
27 PRIOR TO RECEIVING ANY ELECTRONIC WASTE. A REGISTRATION IS EFFECTIVE
28 UPON ACCEPTANCE BY THE DEPARTMENT. ANY REGISTRATION REQUIRED BY THIS
29 PARAGRAPH SHALL BE ACCOMPANIED BY A REGISTRATION FEE OF TWO HUNDRED
30 FIFTY DOLLARS.

31 (B) BEGINNING MARCH FIRST, TWO THOUSAND ELEVEN, EACH PERSON OPERATING
32 AN ELECTRONIC WASTE RECYCLING FACILITY SHALL SUBMIT TO THE DEPARTMENT A
33 REPORT FOR THE PERIOD JULY FIRST, TWO THOUSAND TEN THROUGH DECEMBER
34 THIRTY-FIRST, TWO THOUSAND TEN, AND THEREAFTER, AN ANNUAL REPORT FOR THE
35 PREVIOUS CALENDAR YEAR, ON A FORM PRESCRIBED BY THE DEPARTMENT, INCLUD-
36 ING, BUT NOT LIMITED TO, THE FOLLOWING INFORMATION: (I) THE QUANTITY, BY
37 WEIGHT, OF ELECTRONIC WASTE RECEIVED FROM CONSUMERS IN THE STATE; (II)
38 THE NAME AND ADDRESS OF EACH ELECTRONIC WASTE COLLECTION SITE AND ELEC-
39 TRONIC WASTE CONSOLIDATION FACILITY FROM WHICH ELECTRONIC WASTE WAS
40 RECEIVED DURING THE PRECEDING CALENDAR YEAR, ALONG WITH THE QUANTITY, BY
41 WEIGHT, OF ELECTRONIC WASTE RECEIVED FROM EACH PERSON; (III) THE NAME
42 AND ADDRESS OF EACH PERSON TO WHOM THE FACILITY SENT ELECTRONIC WASTE OR
43 COMPONENT MATERIALS DURING THE PRECEDING YEAR, ALONG WITH THE QUANTITY,
44 BY WEIGHT, OF ELECTRONIC WASTE OR COMPONENT MATERIALS THEREOF SENT TO
45 EACH SUCH PERSON; (IV) THE WEIGHT OF ELECTRONIC WASTE COLLECTED ON
46 BEHALF OF OR PURSUANT TO AN AGREEMENT WITH EACH MANUFACTURER DURING THE
47 PRECEDING CALENDAR YEAR; AND (V) A CERTIFICATION BY THE OWNER OR OPERA-
48 TOR OF THE FACILITY THAT SUCH FACILITY HAS COMPLIED WITH THE REQUIRE-
49 MENTS OF THIS TITLE AND ALL OTHER APPLICABLE LAWS, RULES, AND REGU-
50 LATIONS. ALL QUANTITIES OF ELECTRONIC WASTE REPORTED BY THE RECYCLING
51 FACILITY MUST SEPARATELY INCLUDE ELECTRONIC WASTE GENERATED BY NEW YORK
52 STATE CONSUMERS AND ELECTRONIC WASTE RECEIVED FROM OR SHIPPED OUTSIDE
53 THE STATE.

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

1 (I) MANAGE AND RECYCLE ELECTRONIC WASTE IN A MANNER THAT COMPLIES WITH
2 ALL APPLICABLE LAWS, RULES AND REGULATIONS;
3 (II) STORE ELECTRONIC WASTE (A) IN A FULLY ENCLOSED BUILDING WITH A
4 ROOF, FLOOR AND WALLS, OR (B) IN A SECURE CONTAINER (E.G., PACKAGE OR
5 VEHICLE), THAT IS CONSTRUCTED AND MAINTAINED TO MINIMIZE BREAKAGE OF
6 ELECTRONIC WASTE AND TO PREVENT RELEASES OF HAZARDOUS MATERIALS TO THE
7 ENVIRONMENT;
8 (III) HAVE A MEANS TO CONTROL ENTRY, AT ALL TIMES, THROUGH GATES OR
9 OTHER ENTRANCES TO THE ACTIVE PORTION OF THE FACILITY;
10 (IV) INFORM ALL EMPLOYEES WHO HANDLE OR HAVE RESPONSIBILITY FOR MANAG-
11 ING ELECTRONIC WASTE ABOUT PROPER HANDLING AND EMERGENCY PROCEDURES
12 APPROPRIATE TO THE TYPE OR TYPES OF ELECTRONIC WASTE HANDLED AT THE
13 FACILITY;
14 (V) REMOVE ELECTRONIC WASTE FROM THE SITE WITHIN ONE YEAR OF THE
15 WASTE'S RECEIPT AT THE SITE, AND MAINTAIN RECORDS DEMONSTRATING COMPLI-
16 ANCE WITH THIS REQUIREMENT; AND
17 (VI) MAINTAIN THE RECORDS REQUIRED BY PARAGRAPHS (A) AND (B) OF THIS
18 SUBDIVISION AND BY SUBPARAGRAPH (V) OF THIS PARAGRAPH ON SITE AND MAKE
19 THEM AVAILABLE FOR AUDIT AND INSPECTION BY THE DEPARTMENT FOR A PERIOD
20 OF THREE YEARS.
21 (D) A PERSON OPERATING AN ELECTRONIC WASTE RECYCLING FACILITY MAY ALSO
22 OPERATE SUCH FACILITY AS AN ELECTRONIC WASTE CONSOLIDATION FACILITY
23 PROVIDED THAT SUCH PERSON COMPLIES WITH THE REQUIREMENTS OF THIS SECTION
24 THAT ARE APPLICABLE TO EACH TYPE OF FACILITY. WHERE A FACILITY IS OPER-
25 ATED FOR BOTH PURPOSES, ONLY ONE REGISTRATION FEE MUST BE PAID.
26 (E) A PERSON OPERATING AN ELECTRONIC WASTE RECYCLING FACILITY MAY
27 ACCEPT ELECTRONIC WASTE IN THE SAME MANNER AS AN ELECTRONIC WASTE
28 COLLECTION SITE PROVIDED THAT SUCH PERSON COMPLIES WITH THE REQUIREMENTS
29 OF THIS SECTION THAT ARE APPLICABLE TO ELECTRONIC WASTE COLLECTION
30 FACILITIES.
31 4. EXCEPT TO THE EXTENT OTHERWISE REQUIRED BY LAW, NO MANUFACTURER OR
32 PERSON OPERATING AN ELECTRONIC WASTE COLLECTION SITE, ELECTRONIC WASTE
33 CONSOLIDATION FACILITY OR ELECTRONIC WASTE RECYCLING FACILITY SHALL HAVE
34 ANY RESPONSIBILITY OR LIABILITY FOR ANY DATA IN ANY FORM STORED ON ELEC-
35 TRONIC WASTE SURRENDERED FOR RECYCLING OR REUSE, UNLESS SUCH PERSON
36 MISUSES OR KNOWINGLY AND INTENTIONALLY, OR WITH GROSS NEGLIGENCE,
37 DISCLOSES THE DATA. THIS PROVISION SHALL NOT PROHIBIT ANY SUCH PERSON
38 FROM ENTERING INTO AGREEMENTS THAT PROVIDE FOR THE DESTRUCTION OF DATA
39 ON COVERED ELECTRONIC EQUIPMENT.
40 S 27-2615. DEPARTMENT RESPONSIBILITIES.
41 1. THE DEPARTMENT IS AUTHORIZED TO PROMULGATE RULES AND REGULATIONS
42 NECESSARY TO IMPLEMENT AND ADMINISTER THIS TITLE. AT A MINIMUM, THE
43 DEPARTMENT SHALL PROMULGATE RULES AND REGULATIONS ON: STANDARDS FOR
44 REUSE; ELECTRONIC WASTE ACCEPTANCE CREDITS; WAIVERS OF THE RECYCLING
45 SURCHARGE; AND ACCEPTABLE ALTERNATIVE METHODS FOR THE DETERMINATION OF
46 STATE SALES DATA.
47 2. THE DEPARTMENT SHALL (A) MAINTAIN A LIST OF MANUFACTURERS WHO ARE
48 REGISTERED PURSUANT TO SECTION 27-2605 OF THIS TITLE, (B) MAINTAIN A
49 LIST OF EACH SUCH MANUFACTURER'S BRANDS, AND (C) POST SUCH LISTS ON THE
50 DEPARTMENT'S WEBSITE.
51 3. THE DEPARTMENT MAY WAIVE THE RECYCLING SURCHARGE PAYABLE BY A
52 MANUFACTURER UNDER THIS TITLE WHEN THE MANUFACTURER DEMONSTRATES IN AN
53 APPLICATION TO THE DEPARTMENT IT WAS UNABLE TO ACCEPT THE WEIGHT OF
54 ELECTRONIC WASTE REQUIRED BY SECTION 27-2603 OF THIS TITLE DESPITE THE
55 MANUFACTURER'S BEST EFFORTS. THE APPLICATION SHALL BE MADE WITH THE
56 ANNUAL REPORT REQUIRED BY SECTION 27-2617 OF THIS TITLE. THE APPLICATION

1 SHALL INCLUDE SUCH INFORMATION AS THE DEPARTMENT REQUIRES. A WAIVER
2 PROVIDED PURSUANT TO THIS SUBDIVISION SHALL NOT RELIEVE A MANUFACTURER
3 FROM THE OBLIGATION TO COMPLY WITH THE PROVISIONS OF THIS TITLE NOT
4 SPECIFICALLY ADDRESSED IN SUCH WAIVER.

5 S 27-2617. REPORTING REQUIREMENTS.

6 1. BEGINNING MARCH FIRST, TWO THOUSAND ELEVEN, FOR THE PREVIOUS CALEN-
7 DAR YEAR AND ANNUALLY THEREAFTER, A MANUFACTURER THAT OFFERS COVERED
8 ELECTRONIC EQUIPMENT FOR SALE IN THIS STATE SHALL SUBMIT A REPORT TO THE
9 DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT THAT INCLUDES THE
10 FOLLOWING:

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

19 (B) THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE COLLECTED FOR RECYCL-
20 ING OR REUSE IN THIS STATE, CATEGORIZED BY THE TYPE OF COVERED ELECTRON-
21 IC EQUIPMENT COLLECTED DURING THE PRECEDING CALENDAR YEAR, THE METHODS
22 USED TO ACCEPT THE ELECTRONIC WASTE, AND THE APPROXIMATE WEIGHT OF ELEC-
23 TRONIC WASTE ACCEPTED BY EACH METHOD USED TO THE EXTENT KNOWN;

24 (C) ALL QUANTITIES OF ELECTRONIC WASTE REPORTED BY THE MANUFACTURER
25 MUST SEPARATELY INCLUDE ELECTRONIC WASTE GENERATED BY NEW YORK STATE
26 CONSUMERS AND ELECTRONIC WASTE RECEIVED FROM OR SHIPPED OUTSIDE THE
27 STATE: (I) THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE RECEIVED DIRECT-
28 LY FROM CONSUMERS IN THE STATE THROUGH A MAIL BACK PROGRAM; (II) THE
29 NAME AND ADDRESS OF EACH ELECTRONIC WASTE COLLECTION SITE, ELECTRONIC
30 WASTE CONSOLIDATION FACILITY, AND ELECTRONIC WASTE RECYCLING FACILITY AT
31 WHICH ELECTRONIC WASTE FROM CONSUMERS WAS RECEIVED ON BEHALF OF THE
32 PRODUCER DURING THE PRECEDING CALENDAR YEAR, ALONG WITH THE QUANTITY, BY
33 WEIGHT, OF ELECTRONIC WASTE RECEIVED; AND (III) THE NAME AND ADDRESS OF
34 EACH PERSON TO WHOM THE PRODUCER SENT ELECTRONIC WASTE OR COMPONENT
35 MATERIALS DURING THE PRECEDING YEAR, ALONG WITH THE QUANTITY, BY WEIGHT,
36 OF ELECTRONIC WASTE OR COMPONENT MATERIALS THEREOF SENT TO EACH SUCH
37 PERSON;

38 (D) THE NUMBER OF ELECTRONIC WASTE ACCEPTANCE CREDITS PURCHASED, SOLD,
39 BANKED AND TRADED DURING THE PRECEDING CALENDAR YEAR, THE NUMBER OF
40 ELECTRONIC WASTE ACCEPTANCE CREDITS USED TO MEET THE REQUIREMENTS OF
41 SECTION 27-2603 OF THIS TITLE, AND FROM WHOM THEY WERE PURCHASED AND TO
42 WHOM THEY WERE SOLD OR TRADED, AND THE NUMBER OF ELECTRONIC WASTE
43 ACCEPTANCE CREDITS RETAINED AS OF THE DATE OF THE REPORT;

44 (E) THE AMOUNT OF ANY RECYCLING SURCHARGE OWED FOR THE PRECEDING
45 CALENDAR YEAR, WITH SUFFICIENT INFORMATION TO DEMONSTRATE THE BASIS FOR
46 THE CALCULATION OF THE SURCHARGE;

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

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

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

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

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

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

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

(A) THE ELECTRONIC WASTE STREAM IN THE STATE;

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

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

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

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

S 27-2619. PREEMPTION.

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

S 27-2621. DISPOSITION OF FEES.

ALL FEES AND CHARGES COLLECTED PURSUANT TO THIS TITLE SHALL BE DEPOSITED INTO THE ENVIRONMENTAL CONSERVATION SPECIAL REVENUE FUND TO THE CREDIT OF THE ENVIRONMENTAL REGULATORY ACCOUNT; PROVIDED, HOWEVER, THAT ANY RECYCLING SURCHARGES COLLECTED PURSUANT TO SUBDIVISION FIVE OF SECTION 27-2603 OF THIS TITLE SHALL BE DEPOSITED IN THE ENVIRONMENTAL PROTECTION FUND ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE STATE FINANCE LAW TO THE CREDIT OF THE SOLID WASTE ACCOUNT, TO BE USED SOLELY FOR MUNICIPAL RECYCLING PROGRAMS.

S 3. The environmental conservation law is amended by adding a new section 71-2729 to read as follows:

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

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

B. ANY PERSON, EXCEPT A CONSUMER, MANUFACTURER, OR AN OWNER OR OPERATOR OF AN ELECTRONIC WASTE COLLECTION SITE, ELECTRONIC WASTE CONSOLIDATION FACILITY, OR ELECTRONIC WASTE RECYCLING FACILITY AS THESE TERMS ARE DEFINED IN TITLE TWENTY-SIX OF ARTICLE TWENTY-SEVEN OF THIS CHAPTER, WHO VIOLATES ANY PROVISION, OR FAILS TO PERFORM ANY DUTY IMPOSED BY

1 SECTION 27-2611 OF THIS CHAPTER, SHALL BE LIABLE FOR A CIVIL PENALTY NOT
2 TO EXCEED TWO HUNDRED FIFTY DOLLARS FOR EACH VIOLATION.

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

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

12 II. VIOLATES ANY OTHER PROVISION OF TITLE TWENTY-SIX OF ARTICLE TWEN-
13 TY-SEVEN OF THIS CHAPTER OR FAILS TO PERFORM ANY DUTY IMPOSED BY SUCH
14 TITLE, EXCEPT FOR SUBDIVISION FOUR OF SECTION 27-2603 OF THIS CHAPTER,
15 SHALL BE LIABLE FOR A CIVIL PENALTY FOR EACH VIOLATION NOT TO EXCEED ONE
16 THOUSAND DOLLARS FOR THE FIRST VIOLATION, TWO THOUSAND FIVE HUNDRED
17 DOLLARS FOR THE SECOND VIOLATION AND FIVE THOUSAND DOLLARS FOR THE THIRD
18 AND SUBSEQUENT VIOLATIONS OF THIS TITLE WITHIN A TWELVE-MONTH PERIOD.

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

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

32 2. ALL PENALTIES COLLECTED PURSUANT TO THIS SECTION SHALL BE PAID OVER
33 TO THE COMMISSIONER FOR DEPOSIT TO THE CREDIT OF THE SOLID WASTE ACCOUNT
34 OF THE ENVIRONMENTAL PROTECTION FUND ESTABLISHED PURSUANT TO SECTION
35 NINETY-TWO-S OF THE STATE FINANCE LAW.

36 S 4. Severability. The provisions of this title shall be severable,
37 and if any provision of this title is declared to be void or invalid by
38 a court of competent jurisdiction, the remaining provisions shall not be
39 affected, but shall remain in full force and effect.

40 S 5. This act shall take effect immediately.