

The Oklahoma Computer Equipment Recovery Act:

A Summary of the 2010 Manufacturer Annual Reports

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Oklahoma Department of Environmental Quality
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Submitted To:

The Governor, the President Pro Tempore of the Senate, and the
Speaker of the House of Representatives

Introduction

With electronic waste reported by the United States Environmental Protection Agency to be the fastest growing waste stream, Oklahoma's Governor signed Senate Bill 1631 into law on May 12, 2008. The Oklahoma Computer Equipment Recovery Act ("Act"), 27A O.S. § 2-11-601 *et seq.*, became effective on January 1, 2009. The Act requires manufacturers to submit annual reports to the Oklahoma Department of Environmental Quality (ODEQ) no later than March 1st of each year that include:

1. A summary of the recovery program implemented by the manufacturer during the previous calendar year, specifically describing the methods of recovery implemented by the manufacturer;
2. The weight of covered devices collected and recovered during the previous calendar year;
3. The location and dates of any electronics waste collection events during the previous calendar year, if any, and the location of collection sites if any; and
4. Certification that the collection and recovery of covered devices complies with the provisions of Section 9* of the Act.

Further, pursuant to 27A O.S. § 2-11-607(E), the ODEQ shall by July 1 of each year produce, and submit, to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives a summary of the recovery program annual reports filed by the manufacturers.

*Section 9 of the Oklahoma Computer Equipment Recovery Act states: All covered devices collected pursuant to the provision of this Act shall be recovered in a manner that is in compliance with all applicable state, federal, and local laws.

Background

The Act was created as part of an ongoing, nationwide effort to establish convenient and environmentally sound collection, recycling, and reuse of electronics that have reached the end of their useful lives. Under the Act, consumers, retailers, manufacturers, and the ODEQ share responsibilities. 2010 marks the second calendar year the program has been in place and the second year for annual reporting by manufacturers.

Consumer Responsibilities

Consumers are responsible for removing all personal data, or other information, that may be on a covered device that is collected or recovered.

Retailer Responsibilities

Retailers of equipment defined in the Act are not to sell, or offer for sale, a covered device in Oklahoma unless the manufacturer has an approved recovery plan submitted to ODEQ. Retailers also cannot offer for sale a manufacturer's product if it is not properly affixed with the manufacturer's brand label.

Manufacturer Responsibilities

Manufacturers who produce, sell, or import more than 50 covered devices per year in the state of Oklahoma must adopt, and implement, a recovery plan that provides reasonably convenient collection services for consumers. Recovery plans must explain how collection and recovery is provided at no charge to the consumer. Collection methods must also be available, and designed, to meet the needs of all Oklahoma consumers.

Covered devices must be labeled with the manufacturer's brand, which must be permanently affixed and visible.

Manufacturers' recovery plans must also include a statement that they will not dispose of their devices in landfills, or contract with recycling companies who do, other than incidental amounts.

In addition, manufacturers who maintain websites providing product information regarding covered devices must include collection and recovery information for consumers and provide that information to the ODEQ.

As previously described, no later than March 1 of each year, manufacturers must submit annual reports to the ODEQ.

2010 also brought about a change in rules with the addition of a tiered fee structure. Manufacturers are divided into two categories: major and minor. A major manufacturer is defined as a manufacturer that sells more than 1,000 covered devices. A minor manufacturer is defined as a manufacturer that sells between 51 and 999 covered devices. According to the fee

structure in place, major manufacturers pay an annual fee of \$5,000 per year and minor manufacturers pay an annual fee of \$1,000 per year to ODEQ. This differentiation was put in place to alleviate financial burden to small businesses. This fee structure was passed in April 2010 and became a responsibility of manufacturers beginning in the 2011 calendar year.

Oklahoma Department of Environmental Quality Responsibilities

The ODEQ must review, and approve, all manufacturer-submitted recovery plans and annual reports. If plans, or reports, do not meet the standards of the Act, the ODEQ must notify manufacturers within 20 days to ensure compliance. The ODEQ must maintain, and make available, a list of registered manufacturers who have implemented approved recovery plans including a separate list of manufacturers who collect additional brands other than their own. Recovery plans and annual reports must be filed and made available to the public pursuant the Oklahoma Open Records Act.

The ODEQ may conduct audits and inspections, take enforcement action, and assess penalties against a manufacturer, retailer, or recycler. In the 2010 calendar year, the ODEQ conducted 35 inspections of retailers in nine Oklahoma counties. The ODEQ has also performed inspections at three recycling facilities in the state that accept electronic waste. In addition, ODEQ personnel have visited transfer stations, and landfills, to determine whether, or not, they would be willing to separate electronics for various collection events. With additional staff members assisting with inspections in the 2011 calendar year, additional counties within the state will be reached which will, in turn, cause retailer and consumer awareness to be increased.

The ODEQ is also responsible for public education regarding collection and recovery of covered devices. To comply with this requirement, the ODEQ maintains a website with all requirements including additional links and information regarding recovery. ODEQ personnel also created an informational hand-out for local governments across the state to distribute to consumers. These efforts have been assisted by the Product Stewardship Institute (PSI). The ODEQ and PSI work closely together to address various electronics recycling issues within Oklahoma and across the nation.

Additional Responsibilities

The Act provides for those state agencies contracting for purchase of covered electronic devices along with persons submitting bids for contracts. This section of the Act is administered by the Oklahoma Department of Central Services. No state agency shall contract for the purchase of covered electronic devices made by any manufacturer that is not on the ODEQ's list of registered manufacturers or that has been otherwise determined non-compliant with the provisions of the Act.

Current Program Status

In the first summary to the Governor, July 2009, the ODEQ reported only 15 manufacturers who had implemented recovery plans. Additional efforts were made to locate manufacturers in the state. By the end of 2009, the ODEQ had 27 manufacturers within the State with approved recovery plans. For the 2010 reporting period participation increased to 36 manufacturers. At the date of this report, there are now 45 manufacturers registered with the ODEQ. The number of manufacturers implementing recovery plans in Oklahoma is likely to increase with continuous public education efforts and progression of technology.

All current registered manufacturers implement mail back programs. As part of the program a consumer may print a pre-paid shipping label to send the item(s) back to the manufacturer, or they may call a toll free number to request a shipping label. In addition to the mail back program, a few manufacturers offer drop-off locations within the state as an alternative recovery option. Another collection option for manufacturers is to host a community event. There were multiple electronics take back events held in the 2010 calendar year throughout several Oklahoma communities, including one large statewide event partnered by LG Electronics and Waste Management. This statewide event was so successful that the same partnership has offered to host the event again in the state of Oklahoma for the 2011 calendar year.

A Summary of 2010 Annual Reports

All 2010 annual reports were to be submitted to the ODEQ by March 1, 2011. Reminder letters were sent to all manufacturers in advance of the deadline on February 7, 2011. With 25 states having various statutory requirements, not all manufacturers' reports were submitted by the due date. Of the 36 manufacturers registered at the end of 2010, all annual reports were received, and approved, by May 1, 2010.

Oklahoma's second year of annual reporting proved to be far more successful than the first year. In the calendar year of 2010, manufacturers reported collecting 2,554,632 pounds of electronics. Annual report trends show that larger manufacturers were able to recover more devices in Oklahoma; this was expected as they also sold more products. The 2009 calendar year total for collected devices was 817,277 pounds. Therefore, 2010 tripled the amount recovered in 2009. This success is mainly due to increased awareness efforts made across the state that included retailer visits, communication with multiple municipalities, presentations at public events, universities, and schools as well as hosting informational booths at various conferences. In addition, success can also be attributed to increased manufacturer involvement through community events.

Below is a chart with individual manufacturer annual reporting data along with a line graph on the following page displaying a comparison between recycling totals.