

The Oklahoma Computer Equipment Recovery Act:

A Summary of the 2017 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

The Oklahoma Computer Equipment Recovery Act (“Act”), 27A O.S. § 2-11-601 *et seq.*, was signed into law May 12, 2008, and became effective January 1, 2009. The Act requires manufacturers, as defined in 27A O.S. § 2-11-603, to submit annual reports to the Oklahoma Department of Environmental Quality (“DEQ”) 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 electronic 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.¹

The Act requires DEQ to summarize the recovery program in a report for the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

Background

The Act was created as part of an ongoing, nationwide effort, embraced and supported by the computer industry, to establish convenient and environmentally sound collection, recycling, and reuse of electronics that have reached the end of their useful lives. There are currently 25 states with legislation relating to computer equipment recovery and eight bills and amendments under review across the nation. Under the Act, consumers, retailers, manufacturers, and DEQ share responsibilities. Calendar year 2017 marks the ninth year the program has been in place.

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 DEQ. Retailers also cannot offer for sale a manufacturer’s product if it is not properly affixed with the manufacturer’s brand label.

¹ Section 9 of the Oklahoma Computer Equipment Recovery Act states: All covered devices collected pursuant to the provisions of this Act shall be recovered in a manner that is in compliance with all applicable state, federal, and local laws.

Manufacturer Responsibilities

Manufacturers who produce, sell, import, or offer for sale 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. Sales, production, and importation include online vendors as well. Recovery plans must explain how collection and recovery is provided at no charge to the consumer. Manufacturers' recovery plans must also include a statement that they will not dispose of their devices in landfills, or contract with recycling companies who dispose of devices in landfills, other than incidental amounts. 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. In addition, manufacturers who maintain websites that provide product information regarding covered devices must include collection and recovery information for consumers and provide that information to DEQ. As previously described, no later than March 1 of each year, manufacturers must submit annual reports to DEQ.

Manufacturers are divided into two categories: major and minor. A major manufacturer is defined as a manufacturer that sells, produces, or imports 1,000 or more covered devices. A minor manufacturer is defined as a manufacturer that sells, produces, or imports between 51 and 999 covered devices. According to the fee structure in place, major manufacturers pay an annual fee of \$5,000 per year to DEQ, and minor manufacturers pay an annual fee of \$1,000 per year to DEQ. This fee structure is subject to annual inflation increases. The category differentiation was put in place to alleviate financial burden to small businesses. It was passed as a rule in April 2010 and became a responsibility of manufacturers beginning in 2011. Calendar year 2017 marks the seventh year that manufacturers have paid a fee in Oklahoma.

Oklahoma Department of Environmental Quality Responsibilities

DEQ must review and approve all manufacturer-submitted recovery plans and annual reports. If plans or reports do not meet the standards of the Act, DEQ must notify manufacturers within 30 days to ensure compliance. DEQ 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 to the Oklahoma Open Records Act.

DEQ may conduct audits and inspections, take enforcement action, and assess penalties against a manufacturer, retailer, or recycler. In the 2017 calendar year, DEQ conducted 32 site visits of retailers across several Oklahoma counties. DEQ staff also performed one compliance assistance visit at a recycling facility that accepts electronic to help the facility meet their certification requirements. Additional outreach was performed at several recycling events.

DEQ is also responsible for public education regarding collection and recovery of covered devices. DEQ maintains a website with links and information regarding recovery. DEQ

personnel are working to create an informational hand-out for businesses and local governments across the state to distribute to consumers.

Additional Provisions

Section 10 of the Act is administered by the Office of Management and Enterprise Services, previously known as the Office of State Finance and the Oklahoma Department of Central Services. Section 10 states that no state agency shall contract for the purchase of covered electronic devices made by any manufacturer that is not on DEQ's list of registered manufacturers or that has been otherwise determined non-compliant with the provisions of the Act.

Historical Reporting Under the Program

In the first summary to the Governor, July 2009, the DEQ reported that only 15 manufacturers had implemented recovery plans. Additional efforts were made to locate manufacturers in the state. By the end of 2009, there were 27 manufacturers within the state with approved recovery plans. That number continued to increase in subsequent years (*See Figure 2*). The number of manufacturers implementing recovery plans in Oklahoma reached 86 in 2015 and 2016 saw an increase of two new manufacturers with two leaving the program thus remaining static.

From the inception of the program, Oklahoma increased recycling totals from 2009 to 2011. The 2009 collection total was 817,277 pounds. In 2010, manufacturers collected 2,554,632 pounds of electronics tripling the amount recovered in 2009 and boasting the largest increase in the nation. The success can be attributed to increased awareness across the state including DEQ's retailer visits, outreach to municipalities, and presentations at public events, schools, and universities. In 2011, a total of 3,150,583 pounds were collected. The majority of state programs across the United States saw similar totals, or a slight decline in totals, from year two to year three; however, Oklahoma remained one of the only states to see a continued increase in collection. This was likely due to growth in the program and additional participation from manufacturers.

In 2012, there was a slight decline in collection totals at 2,422,456 pounds for the State of Oklahoma. In 2013, collection went back up to 2,585,789 pounds. This increase was likely due to the nearly 20 new manufacturers participating in the program. In 2014, totals reached 2,672,595 pounds and remained similar in 2015 with the collection total at 2,693,022 pounds. In 2016, there was a large decrease in collection by almost every major manufacturer with a collection total of 1,616,133 pounds.

All current registered manufacturers have implemented mail back programs. As part of these programs, a consumer may print a pre-paid shipping label to send the item(s) back to the manufacturer, or the consumer 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. Several manufacturers contract with state and national recyclers that are certified. This provides more business, job, and collection opportunities for the State of Oklahoma. Another collection option for manufacturers is to host a community event. In 2010 and 2011 there were multiple statewide events hosted by national manufacturers across Oklahoma; however, 2012-2017 there were no manufacturer sponsored events and collection totals began to decline (*See Figure 1*). Several Oklahoma communities still collect electronic waste at their annual community collection events, which also supports consumers with convenient and free collection efforts.

Current Program Status

In 2017, there was an increase of two new manufacturers; however, some previously participating manufacturers are no longer in operation, changed the scope of their marketing, or merged with other entities demonstrating a decline in manufacturer participation. Manufacturers that leave the program still provide collection to consumers through their mail-back options, but no longer participate in the program. 2018 has already seen three large manufacturers leave the program. These changes happen frequently within the electronics industry.

A Summary of 2017 Annual Reports

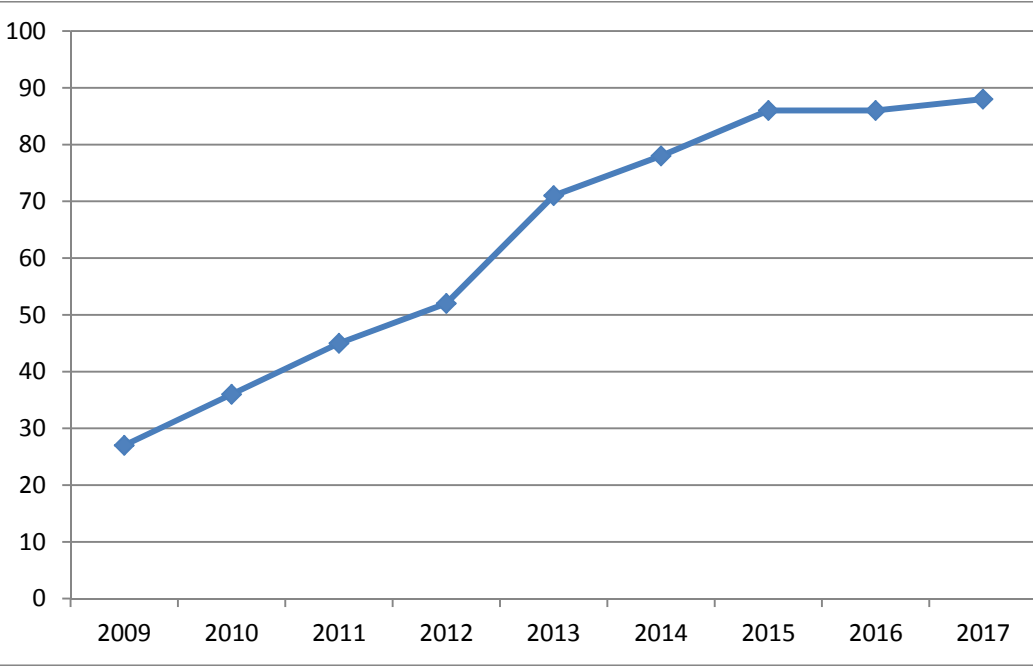
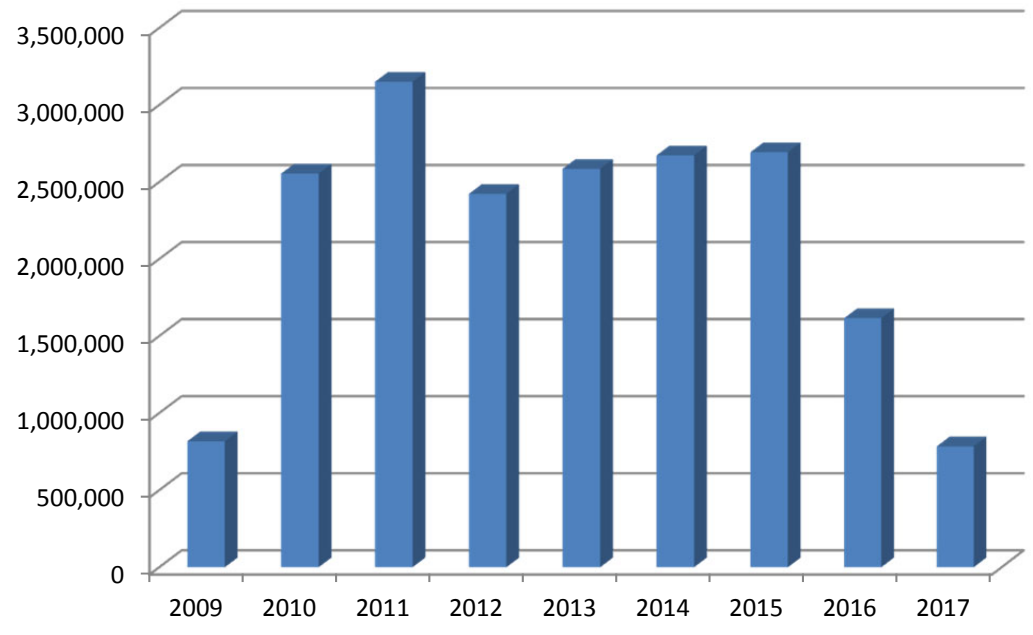
DEQ created an annual reporting guidance document in 2012 to assist manufacturers in the annual reporting process. With 25 states that have varying electronics laws, the guidance document provides concise and user-friendly requirements for Oklahoma. Most manufacturers who submitted reports used the guidance document and agreed it was helpful. A sample of the guidance is attached to the report (*See Figure 4*). DEQ has several registered manufacturers who are not required to register, by law, but chose to do so of their own accord and, therefore, were not required to submit annual reports or fees. For example, manufacturers who sell military devices, sell to businesses only, or manufacture equipment not covered in the Act, such as televisions, do not meet statutory requirements for reporting. In addition, manufacturers that do not sell, import, or offer for sale greater than 50 devices in the State of Oklahoma in a given year are not required to submit an annual report or annual fee in that particular year. Currently, there are 20 manufacturers delinquent on annual reporting and/or annual fees. DEQ is working within its resources to bring those manufacturers into compliance.

All 2017 annual reports were due by March 1, 2018. DEQ sent notifications through invoicing to registered manufacturers in advance of the deadline. 2017 saw a drastic decrease in collection to its lowest ever at 784,982 pounds. Small declines in collection totals can be seen as a national trend with varying reasons. The most obvious reason is that devices are becoming thinner and less bulky; therefore, the weight of collected devices is less even though more items may have been collected. The large discrepancies in collection totals, however, can be attributed to manufacturer and recycler collection programs declining. Larger manufacturers have found ways to leave the program or have stopped collecting additional devices beyond requirements due to arduous transportation costs. For example, the cost to transport

televisions and cathode ray tubes (CRTs) is more burdensome than what the device is worth to recycle so many recyclers have stopped collection completely or charge consumers a large sum to process these devices. Oklahoma currently has limited options for consumers, schools, and businesses that are searching for television and CRT disposal options. With electronic waste being the fastest growing waste stream in the world, many states have addressed these collection issues by expanding the scope of their electronic waste laws to include expanding technology. With the rate at which technology expands, and the decrease in the life expectancy of a covered device, electronics waste streams will continue to grow. As the program enters into its second decade, it would benefit Oklahoma to consider updating its current law to address collection of devices not covered under the law.

The subsequent reporting figures include graphs of collection and participation in Oklahoma from all years, a national law comparison map, and a sample of the annual reporting guidance document. Manufacturer participation remains steady as actual collection falls.

Figures 1 & 2: Oklahoma Program Comparison for All Years Showing Pounds Collected and Manufacturer Participation



Conclusion

All states report their annual recycling statistics to the National Center for Electronics Recycling so that program effectiveness can be evaluated nationally. These evaluations are critical on state, regional, and national levels to assess recycling trends and determine where improvements can be made on each level. Below is a map depicting states that have state laws related to electronics. What were once 12 states collecting electronics in 2009, when Oklahoma initiated the Act, has grown to 25. As previously mentioned there are a handful of new bills currently addressing Electronic Waste collection across the nation as consumer use accelerates.

Oklahoma's program continues to serve our citizens; however, declining manufacturer participation and the expansion of new technology should be addressed or collection totals may continue to decline. DEQ will continue to evaluate how to improve recycling options under the current statutory framework. We are also willing to work with legislative leaders to identify areas where improvements could be made to further increase recycling options for our citizens.

Figure 3: State Electronics Law Comparison

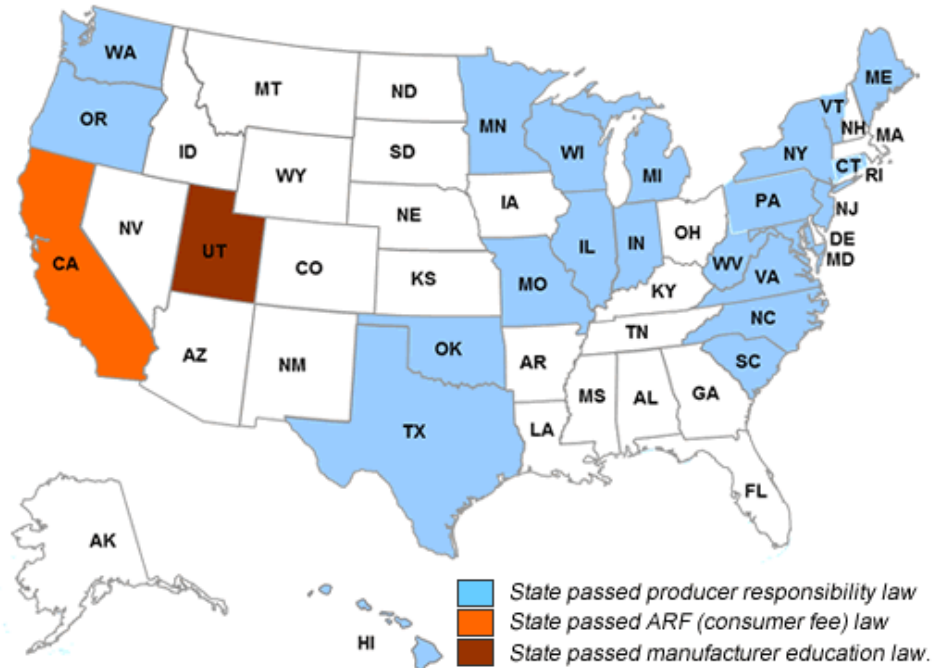


Figure 4: Sample of the Annual Reporting Guidance Document

OKLAHOMA ANNUAL REPORTING GUIDANCE DOCUMENT

The Oklahoma Computer Equipment Recovery Act (Act) became effective on January 1, 2009. Pursuant to O.S. § 27A 2-11-605(H) no later than March 1 of each year, each manufacturer shall submit a report to the Department of Environmental Quality (DEQ). As new technology is created, manufacturers should be mindful of additional devices that may fall under the Act. The Act may be found on DEQ's website at the following URL: <http://www.deq.state.ok.us/lpdnew/EWaste/1631.pdf>.

Portion Below to be filled out by the Manufacturer and Submitted to ODEQ by March 1.

Manufacturer Represented: Printed Contact Name:

Reporting Year (January 1 – December 31):

1. Describe a brief summary of your current implemented recovery program listing any notable program, or contact, changes. You may include an attachment to this report.



2. List the total weight, in pounds, of covered devices collected:
3. Fill out the following table for location and dates of all collection events held during the reporting year. If no events were held, please state this: _____

Location	Date	Amount Collected

4. I hereby certify that collection and recovery of all covered devices complies with the provisions of Section 9 of the Oklahoma Computer Equipment Recovery Act. Section 9 states all covered devices collected shall be recovered in a manner that is in compliance with all applicable federal, state, and local laws.
Signature Required: _____ Date: _____
Contact Email or Telephone Number: _____