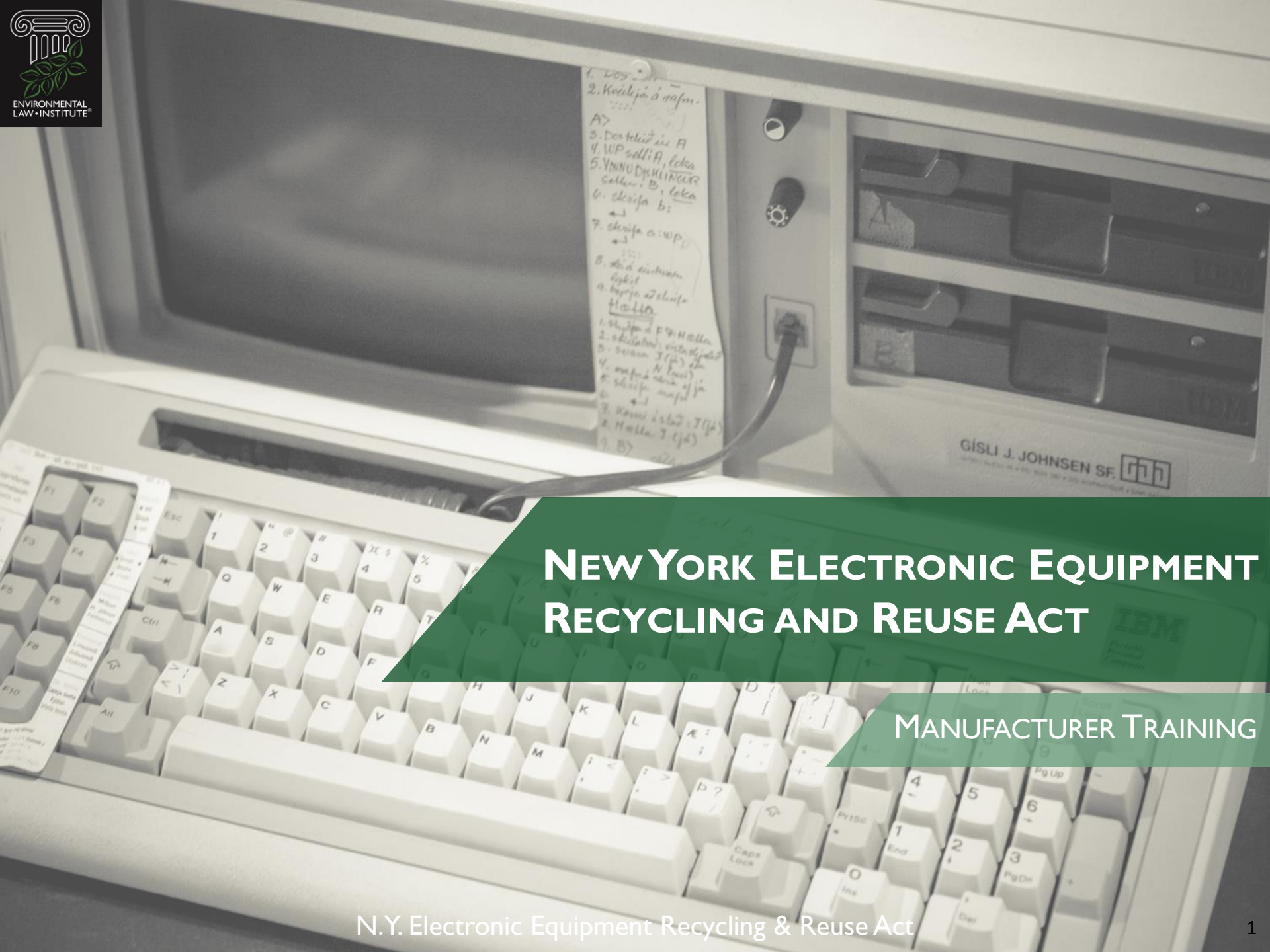




ENVIRONMENTAL
LAW INSTITUTE



NEW YORK ELECTRONIC EQUIPMENT RECYCLING AND REUSE ACT

MANUFACTURER TRAINING

TODAY'S TRAINING COVERS:

Overview of Law

Manufacturer Obligations

Enforcement & Implementation

Looking to the Future

Product Stewardship



I. OVERVIEW OF LAW

N.Y. Electronic Equipment Recycling & Reuse Act

PRODUCER-RESPONSIBLE APPROACH

Manufacturers responsible for collection

Universal ban on disposal of e-waste

Local laws preempted (state law overrides)

Approach resembles that taken by most other states with e-waste laws

REGULATED PARTIES

Consumers

Manufacturers

Retailers

Solid/Hazardous
waste management
facilities

**Manufacturers'
Collectives**

E-waste collection
sites,
consolidation facilities,
recycling facilities

YOU'RE A MANUFACTURER IF...



You assemble covered electronic equipment (CEE) for sale in NY



You manufacture CEE for sale in NY



You sell CEE in NY



You own a brand name, licensed to another, on CEE for sale in NY



You import CEE to NY



You manufacture under the same brand as another (you may have joint and several liability: any or all under the same brand may be liable)

YOU'RE NOT A MANUFACTURER IF...

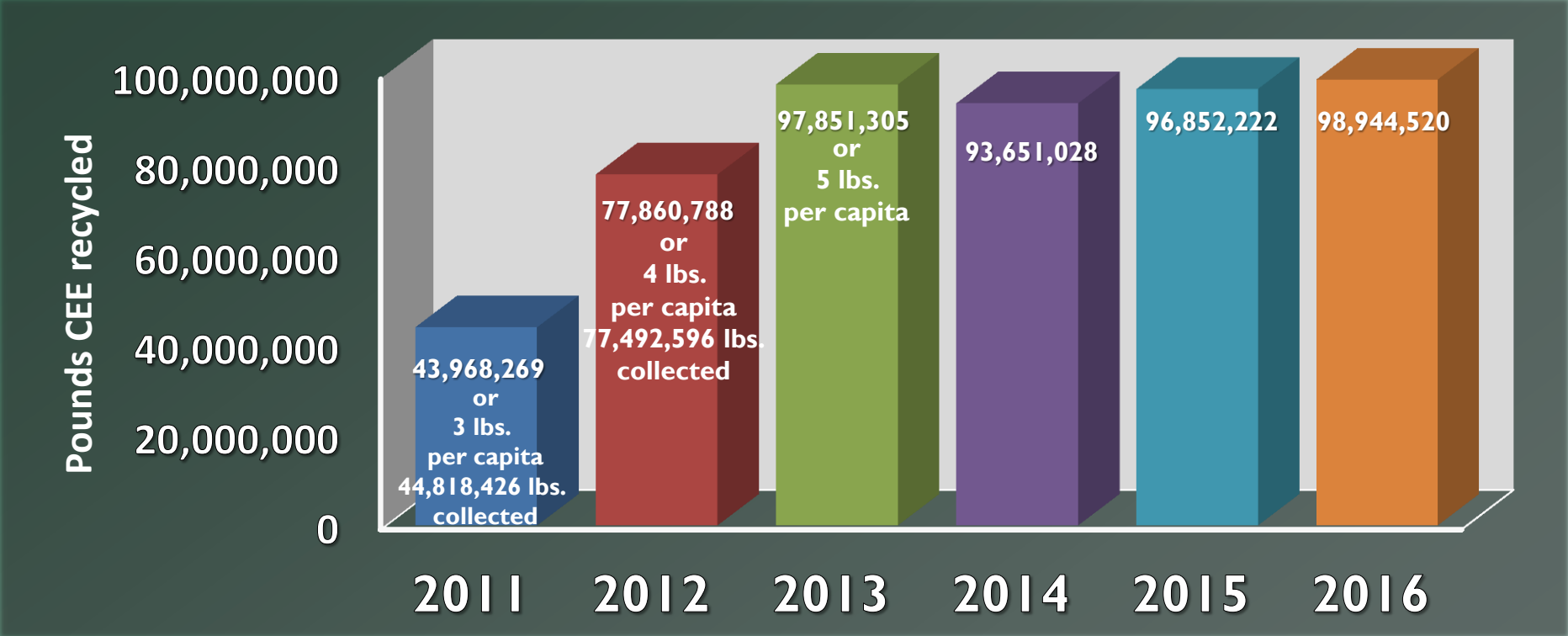


You assemble and sell fewer than 1,000 units of CEE in NY each year



You primarily sell used electronics

STATEWIDE RECYCLING GOALS



Beginning 2014, a formula adjusts the goal based on the weight of CEE collected the prior 3 years

SCOPE OF LAW

Requirements apply to
covered electronic equipment (CEE)

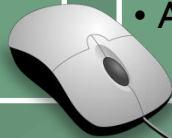
WHAT IS CEE?

Computers
(including tablets)



Computer peripherals

- Monitors
- Keyboards/mice
- Scanners/printers < 100 lbs
- Associated cables and cords



Small electronic equipment

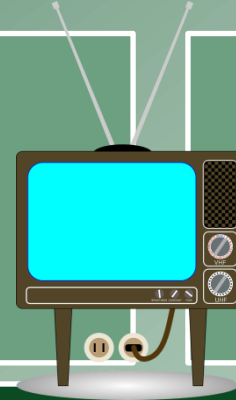
- Video recorders
- Cable boxes/satellite receivers
- Video game consoles



Small-scale servers



Televisions



Cathode ray tubes

See handout # 1 for complete list

WHAT IS NOT CEE?



GPS devices



Radios



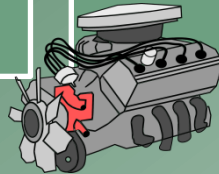
Cameras



**Household
appliances**



**LED picture
frames**



**Any motor
vehicle part**

**Phones or portable
digital assistants**
(separate law covers wireless phones:
New York State Wireless Recycling Act)



***See Handout # 1 for complete list
Contact DEC for any uncertain items***



II. MANUFACTURER OBLIGATIONS

MAIN MANUFACTURER OBLIGATIONS

Register

Maintain compliant e-waste acceptance program

Public education

Submit annual report



A. REGISTRATION

REGISTRATION REQUIREMENTS

Online Registration

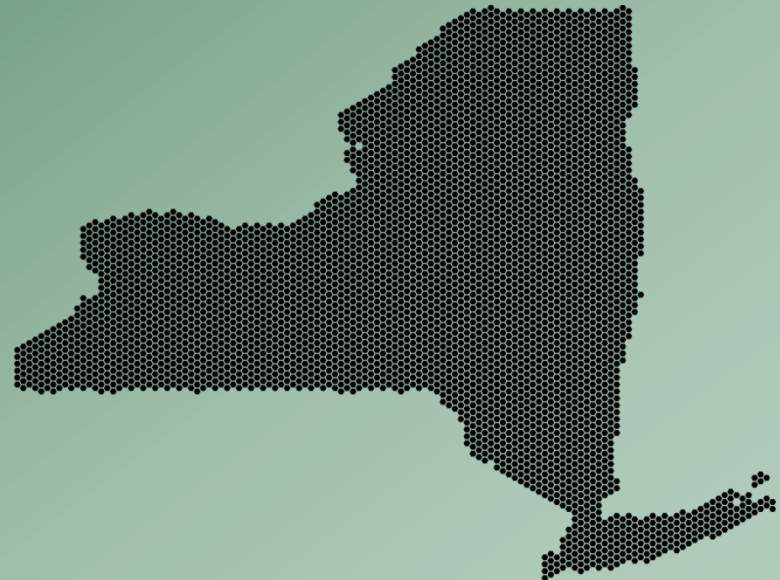
Submit Registration Fee

Duty to Update

Duty to Notify Retailers

ONLINE REGISTRATION

New manufacturers must register before selling in NY



NYSDEC's E-waste Online Registration & Fee Form

Overview of online registration process at:
<http://www.dec.ny.gov/chemical/66845.html>

Home » Chemical and Pollution Control » Recycling and Composting » Electronic Waste Recycling » Covered Electronic Equipment Manufacturer Requirements

Covered Electronic Equipment Manufacturer Requirements

New for 2016, the NYS Electronic Equipment Recycling and Reuse Act's regulated entities are now required to submit their registrations and annual reports through the NYSDEC E-waste Online Registration and Reporting System, which uses Re-TRAC Connect software. Please **first review the instructions below** for creating your Re-TRAC Connect account before accessing the

[NYSDEC E-waste Online Registration and Reporting System](#). (Link leaves DEC's website.)

Detailed Instructions and Guidance for the E-waste Online Registration and Reporting System:

- • [Step One: Instructions for Creating a Re-TRAC Connect Account and Joining NYSDEC's Program \(PDF\)](#) (589 KB)
- • [Step Two: Guidance for Completing and Submitting Registration Forms and Applicable Fee Payments \(PDF\)](#) (489 KB)
- [Step Three: Guidance for Completing and Submitting Annual Report Forms and Fee Payments \(PDF\)](#) (1.22 MB)
- [Re-TRAC Connect Training Webinar](#) - 45 min. partial recording from 2/17/2016 (Link leaves DEC's website, and opens WebEx Network Recording Player)

NYS Electronic Equipment Recycling and Reuse Act:

PDF Hel

For help w
this page,
518-402-8

Contact
Page

Product S
& Waste
Section
Division of
Managem
625 Broad
Albany, N
12233-724
518-402-8
Send us a

This Pag

NYSDEC's E-waste Online Registration & Fee Form

I. Create a Re-Trac Connect Account

Visit:
<https://connect.re-trac.com/registration/nys-dec-program>
Click on **“Create My Account”**

[Log In](#) if you already have a Re-TRAC Connect account.

Create Your Account

First Name *	Last Name *
<input type="text" value="Naomi"/>	<input type="text" value="Gomez"/>

Email * (Use this to Log In)

Confirm Email *

Password *	Confirm Password *
<input type="password" value="••••••••"/>	<input type="password" value="••••••••"/>

Fair Password

Stay connected!

Keep up-to-date with new software features, blog posts, upcoming conferences, user feedback surveys, and Re-TRAC social events.

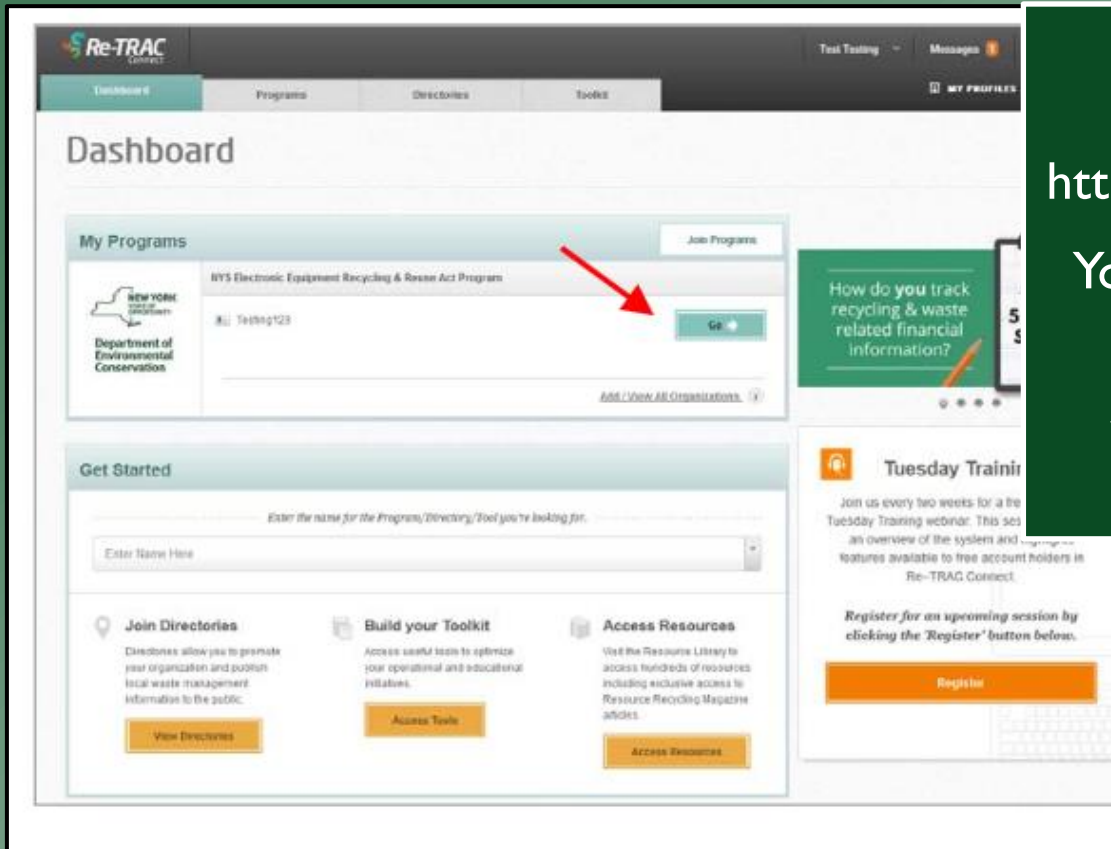
Yes, I want to receive emails from Re-TRAC Connect.

By clicking Create My Account, I agree to the [Terms of Use and Privacy Policy](#) (Updated June 29, 2015.)

If you require technical assistance, [Click Here](#)

NYSDEC's E-waste Online Registration & Fee Form

2. Access the registration form



The screenshot shows the Re-TRAC Connect dashboard. At the top, there are navigation tabs for 'Dashboard', 'Programs', 'Directories', and 'Tools', along with 'Test Testing' and 'Messages' links. The 'Dashboard' tab is active. Below the navigation, there's a 'My Programs' section. It features a 'Join Programs' button and a list of programs. The first program is 'NYS Electronic Equipment Recycling & Reuse Act Program' with the ID 'N1: 5684g123'. A red arrow points to a 'Go' button next to this program. Below the 'My Programs' section is a 'Get Started' section with a search bar and three main categories: 'Join Directories', 'Build your Toolkit', and 'Access Resources'. Each category has a brief description and a corresponding button. On the right side of the dashboard, there's a 'Tuesday Training' section with a 'Register' button.

Login:
<https://connect.re-trac.com/login>
You will see your **Dashboard**
Click **“Go”**
to access registration form

FEE AND FEE FORM

Required before selling or offering CEE

- \$10,000 for collective waste acceptance programs
- \$5,000 for individual manufacturers
 - No registration fee for manufacturers that join a collective
 - A manufacturer that leaves a collective, and implements an individual program, must pay the \$5,000 registration fee at that time

Fees go to general environmental protection fund

NYSDEC's E-waste Online Registration & Fee Form

3. Complete certification and fee form and submit registration fee

Manufacturer Certification

This online registration form shall be considered incomplete unless the manufacturer certifies to the Department at:

NYS Department of Environmental Conservation
Product Stewardship & Waste Reduction Section
Attention: E-waste Recycling Program
625 Broadway, 9th Floor, Albany, NY 12233-7253

Check this box to access the certification and fee form and to indicate you acknowledge the requirements of the

I acknowledge that the certification and fee form is required, regardless of whether or not I am a manufacturer.

[NYS Electronic Equipment Recycling & Reuse Act Certification & Fee Form, click to download](#)

Check off
acknowledgement box
(bottom of registration form)

Print out
certification and fee form

Submit
registration fee
with Certification & Fee Form

NYSDEC's E-waste Online Registration & Fee Form

4. Complete registration

Click
“Submit to Program”
button

Certification

This online registration shall be considered incomplete unless the registrant prints out and mails a hard copy of the form to the Department at:

NYS Department of Environmental Conservation
Product Stewardship & Waste Reduction Section
Attention: E-waste Recycling Program
625 Broadway, 9th Floor, Albany, NY 12233-7253

[NYS Electronic Equipment Recycling & Reuse Act Certification & Fee Form, click to download \(130 kb PDF\)](#)

Check this box to indicate you acknowledge that the certification and fee form is required, regardless of whether or not a registration fee is due. *

I acknowledge that the certification and fee form is required, regardless of whether or not a registration fee is due.

Save

Submit to Program

Delete Response



NYSDEC's E-waste Online Registration & Fee Form

Assistance & Resources

Step-by-step instructions & webinar:
<http://www.dec.ny.gov/chemical/66845.html>

Technical support:
support@re-trac.com
or (888) 600-3907

Registration/reporting form support:
ReTRAC.Ewaste@dec.ny.gov
or (518) 402-8706

Duty to Update

Update required within **30 days** of
“material change” in information

“Material changes”

- Updates to information provided in the registration form or annual report
- Includes new contact information, brand listings, types of CEE sold, electronic waste acceptance program details, program partners

Manufacturers may need to submit a revised registration form

- Contact NYSDEC by phone or e-mail
- The Department will help unlock your registration form so you can make changes directly online
- *Failure to update is a violation of the Electronic Equipment Recycling and Reuse Act*

Duty to Notify Retailers

Manufacturers must:

- Notify retailers of registration
- Inform retailers how CEE purchasers can learn about opportunities for recycling unwanted CEE



B. ELECTRONIC WASTE ACCEPTANCE PROGRAM

OVERVIEW: E-WASTE ACCEPTANCE PROGRAM

Manufacturers must
maintain an

**electronic
waste
acceptance
program**

- **Accept electronic waste continuously from NYS consumers for recycling or reuse**
- **Operated directly or through an agreement with an agent/designee**
 - i.e. recycler, consolidator, collector
- **Is “reasonably convenient”**
- **At no cost to consumers**
 - Exceptions apply
- **Educate the public**
- **Collect required weight, at minimum, each program year**
 - “Manufacturer’s acceptance standard”

BRAND ACCEPTANCE

**Manufacturers
of CEE
must always
accept...**

- **Electronic waste for which it is the manufacturer**
- **One piece of electronic waste of any manufacturer's brand, if offered by a consumer with the purchase of CEE of the same type**

CHOICE OF PROGRAM TYPE

Can be individual or collective (grouped with other manufacturers)

Both types subject to same general requirements

Different registration obligations for collectives:

- \$10,000 registration fee
- Participating manufacturers need not each pay the \$5,000 registration fee, but still must register and submit annual reports
- Must list all participating manufacturers

“REASONABLY CONVENIENT” DEFINITION

**At least one method of collection per county
and per municipality with at least 10,000 people**

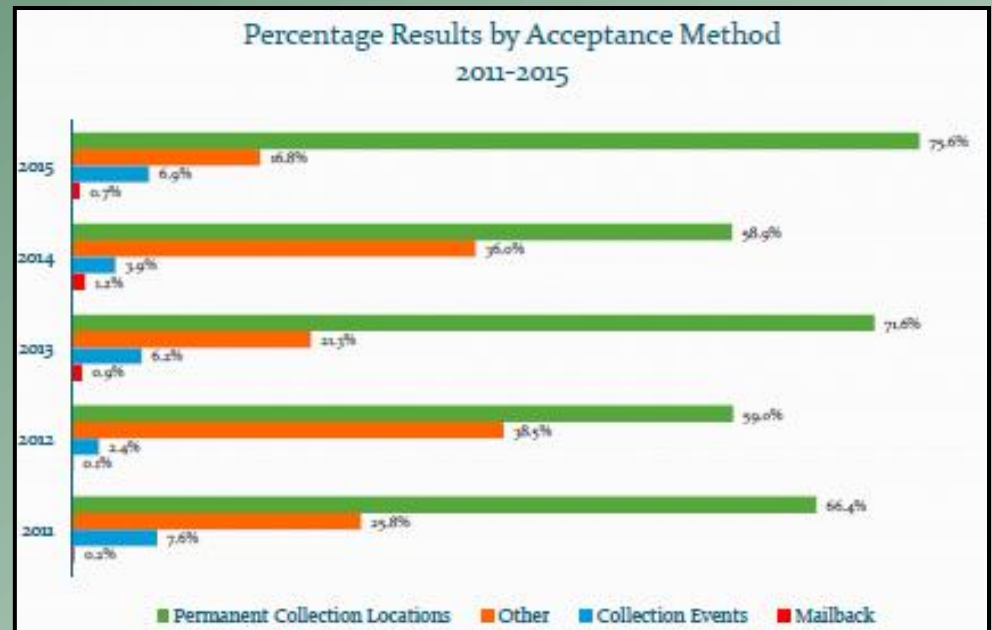
See Handout #2 for list of counties and municipalities:
http://www.dec.ny.gov/docs/materials_minerals_pdf/munipop10k.pdf



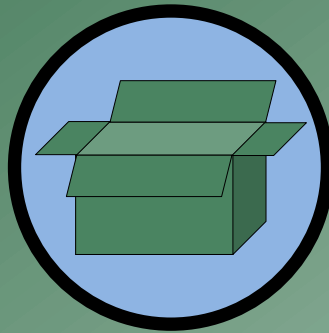
“REASONABLY CONVENIENT” METHODS

- Community collection events (community- or government-sponsored)
- Fixed location acceptance sites
- Agreements with other parties to provide collection facilities
- Mail-back program
- Door-to-door pick up *may* be required (i.e. mail-back not possible and there is no permanent collection site)

- Methods offered should be appropriate for the type of CEE to be collected
- Permanent collection sites are more successful
- Mail-back programs are generally ineffective



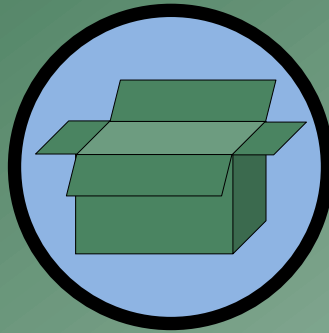
MAIL-BACK PROGRAM: AVOIDING COMMON ISSUES (I)



Your mail-back program must:

- Ensure your webpage for creating shipping labels functions properly
- Explain how to obtain free packaging
- Ensure consumers receive prompt responses to any e-mail inquiries initiating the CEE recycling process
- Accept all CEE types sold if there is no other reasonably convenient method of acceptance

MAIL-BACK PROGRAM: AVOIDING COMMON ISSUES (2)



Your mail-back program must also:

- Provide/pay for packaging and shipping of unwanted CEE
- Not be used only for product trade-ins
- Not limit by weight or size unless alternative, reasonably convenient acceptance method(s) provided
- Accept other CEE brands in one-for-one exchange (see next slide)

DATA DESTRUCTION

No manufacturer liability for data left on consumer CEE



BUT

E-waste acceptance programs must include information on how consumers can destroy data on CEE

MANUFACTURER RESPONSIBLE FOR COSTS

May not charge consumers for e-waste collection except:

“Business consumers”

- *For-profit* entity with *more than 50* full-time employees
- *Non-profit* corporation with *more than 75* full-time employees, unless 501(c)(3)

“Premium services”

- Equipment/data security
- Reverse distribution/pick-ups of obsolete equipment at businesses, schools and government locations
- Refurbishment for reuse by the consumer
- Other services as DEC defines in regulations

Existing contracts as of January 1, 2011, grandfathered in

HOW TO SELECT A RECYCLER

Collection sites, consolidators, and recyclers must be registered and meet state requirements, if located in New York State

3rd party certification not required at this time

RECYCLER SELECTION TIPS

Check third-party certification

- R2
- E-Stewards

Exercise due diligence

Use the questions in next slide

Visit site if possible

*Source: Minnesota Pollution Control Agency
E-Waste Updates and Collector Due Diligence (2015)*

RECYCLER SELECTION: QUESTIONS TO ASK

- Ownership and site history
- Knowledge of local, state and federal laws, agency contacts
- Compliance history
- Environmental, health, and safety management systems
- Description of process
- Whether they export and legality of export
- Whether/how they landfill or incinerate
- Insurance
- References

Source: Federal Electronics Challenge,
Checklist for the Selection of an Electronics Recycler (2012)
<http://www2.epa.gov/fec/checklist-selection-electronics-recycler-722012>

REQUIRED COLLECTION AMOUNT

“Manufacturer acceptance standard”

- Based on market share by weight after agency determines statewide recycling goal
- Amounts adjusted annually, taking previous years into account

Program must continue to collect throughout the year, even after standard is met

Program should not buy weight (“purchase pounds”) from recyclers to meet standard

MANUFACTURER ACCEPTANCE STANDARD CALCULATION

Amount = statewide recycling goal \times manufacturer market share

3-year
average
manufacturer
CEE N.Y. sales
weight



3-year
average *total*
CEE N.Y. sales
weight of all
manufacturers



**Market
share**

EXAMPLE: Company Y

Statewide recycling goal = 32 million lbs.

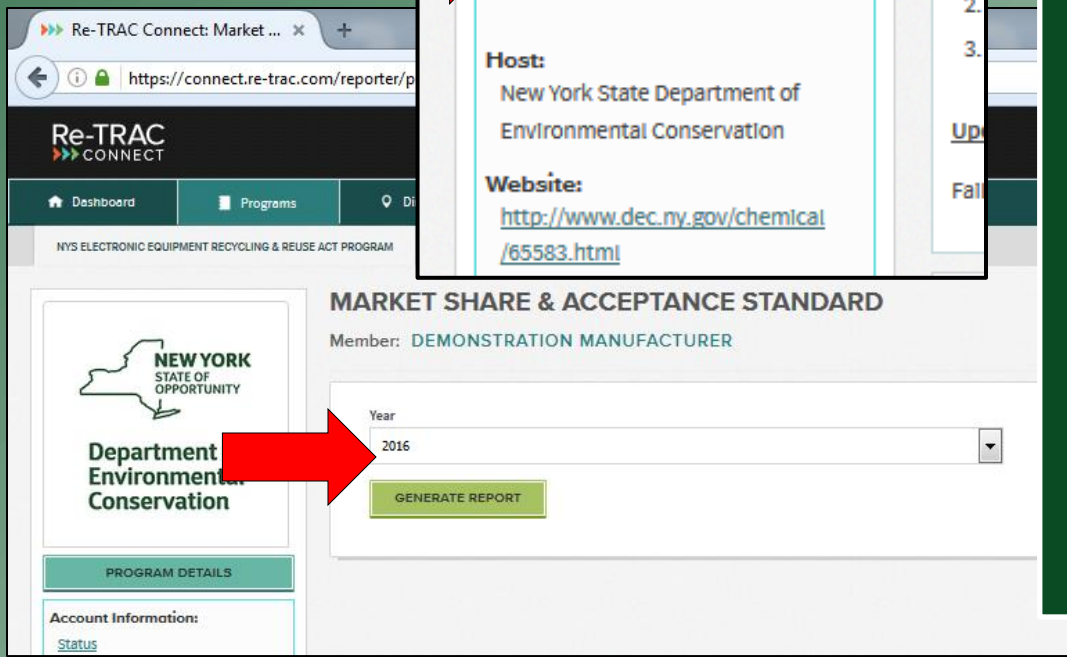
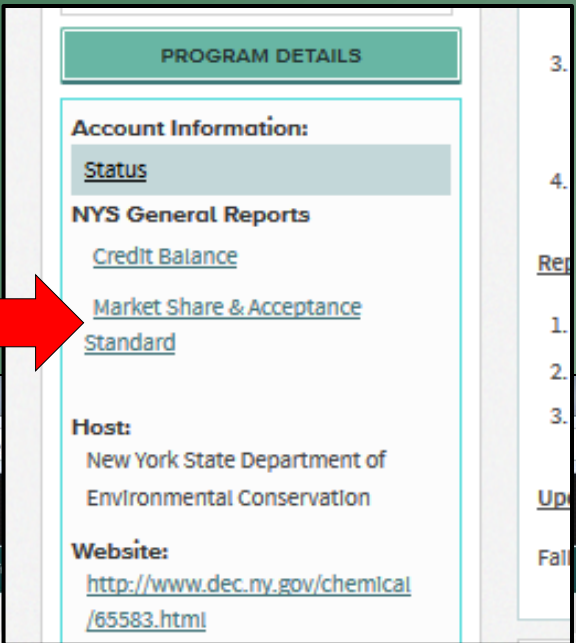
Company Y 3-year sales: 5 million lbs.

All N.Y. 3-year sales: 20 million lbs.

Company Y **market share** = $5\text{m}/20\text{m} = .25$

Company Y **acceptance standard** = $32\text{m} \times .25 = 8$ million lbs.

MANUFACTURER ACCEPTANCE STANDARD ACCESS ONLINE



Login:
<https://connect.re-trac.com/login>

Access your
Program Status page

Look under
NYS General Reports

Click
Market Share & Acceptance Standard

View acceptance standard
for the program year

SURCHARGES

Charged if manufacturer acceptance standard not met

Surcharge amount varies based on shortfall in collection

If manufacturer collected:

- >90%, surcharge = 30 cents x lbs. shortfall
- 50-90%, surcharge = 40 cents x lbs. shortfall
- <50%, surcharge = 50 cents x lbs. shortfall

DEC can waive surcharge

SURCHARGE EXAMPLE

Company Y acceptance standard: 8 million lbs.

Company Y actual collection: 6 million lbs.

- $6\text{m} \div 8\text{m} = 75\%$, 2 million lbs. shortfall
- **Surcharge** = $.40 \times 2 \text{ million} = \$800,000$

Company Y actual collection: 7.5 million lbs.

- $7.5\text{m} \div 8\text{m} = 94\%$, .5 million lbs. shortfall
- **Surcharge** = $.30 \times 500,000 = \$150,000$

WAIVER REGULATIONS

Manufacturer must demonstrate its inability to accept the required collection amount *despite* best efforts

Waiver request must also include:

- Details of the current acceptance program
- How the acceptance program meets the continuity, convenience and effective requirements
- Actions taken by the manufacturer to track and forecast collections
- Corrective steps the manufacturer is taking to improve, such as collection methods and/or physical locations

Waiver form available on request

Surcharge will be due immediately upon the Department's determination

E-WASTE ACCEPTANCE CREDITS

Credits received for exceeding manufacturer's acceptance standard

- *As of 2016, 30 manufacturers had approximately 9.4 million credits available*

Credits may be purchased, sold, traded or banked

Manufacturers must report transactions in annual report, including:

- Number purchased, sold, banked and traded
- Number retained
- Number used to meet acceptance standard
- From whom credits were purchased and to whom they were sold or traded

ACCEPTANCE CREDITS

GUIDANCE & RESTRICTIONS

No more than 25% of a manufacturer's acceptance standard for any program year may be met with credits generated in a prior program year

Credits expire 3 years after the program year in which they were generated

Credits should be applied to surcharge and sold in a first-in, first-out order

ACCEPTANCE CREDITS

GUIDANCE & RESTRICTIONS, CONT.

Credits purchased by a manufacturer in a program year must be applied to that year's acceptance standard, and may not be used to meet subsequent years' obligations

Manufacturers cannot sell purchased credits

If anticipating a surcharge, a manufacturer must use any available credits to cover it



C. PUBLIC EDUCATION

PUBLIC EDUCATION


Minimum requirements to inform consumers about the e-waste acceptance program:



Website



Toll-free phone number



Written information provided in manuals or at point of sale

Additional outreach efforts:



Advertisements



Press releases

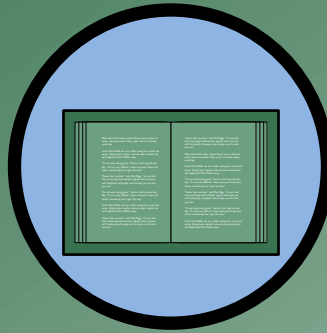
PUBLIC EDUCATION SUBSTANCE

Must be sufficient to inform consumer how to return CEE for recycling/reuse

Data destruction instructions required for computers, hard drives, etc.

Website must include “a listing of each location within the state where consumers may return electronic waste as part of the manufacturer’s electronic waste acceptance program” (DEC website)

PUBLIC EDUCATION: AVOIDING COMMON ISSUES (I)



Website exists and link works

Website provides data destruction instructions

Sales websites explain one-for-one brand acceptance

The phone number provided on the website works

PUBLIC EDUCATION: AVOIDING COMMON ISSUES (2)



Collection site/event search function works

Website lists locations/dates of any collection sites/events

Website has New York state-specific information

Manufacturers link to collective program public education website from their own websites, if participating in collective

LABELING

Must have visible, permanent
manufacturer label on all CEE



D. REPORTING

NYSDEC's E-waste Online Reporting Form

Overview of online reporting process at:
<http://www.dec.ny.gov/chemical/66845.html>

Manufacturer Requirements

Registered Covered Electronic Equipment (CEE) Manufacturers and their Brand(s)

Covered Electronic Equipment Manufacturer Requirements

New for 2016, the NYS Electronic Equipment Recycling and Reuse Act's regulated entities are now required to submit their registrations and annual reports through the NYSDEC E-waste Online Registration and Reporting System, which uses Re-TRAC Connect software. Please **first review the instructions below** for creating your Re-TRAC Connect account before accessing the [NYSDEC E-waste Online Registration and Reporting System](#). (Link leaves DEC's website.)

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- [Re-TRAC Connect Training Webinar](#) - 45 min. partial recording from 2/17/2016 (Link leaves DEC's website, and opens WebEx Network Recording Player)

NYS Electronic Equipment Recycling and Reuse Act:

The NYS Electronic Equipment Recycling and Reuse Act (Act), which is based on the concept of product stewardship or extended producer responsibility, places responsibility for managing end-of-life covered electronic equipment (CEE) primarily

PDF Help

For help with this page, call 518-402-8...

Contact Page

Product S & Waste Section
Division of Management
625 Broad
Albany, NY
12233-72
518-402-8
Send us a

This Page



All of New York

NYSDEC's E-waste Online Reporting Form

I. Complete the Annual Report

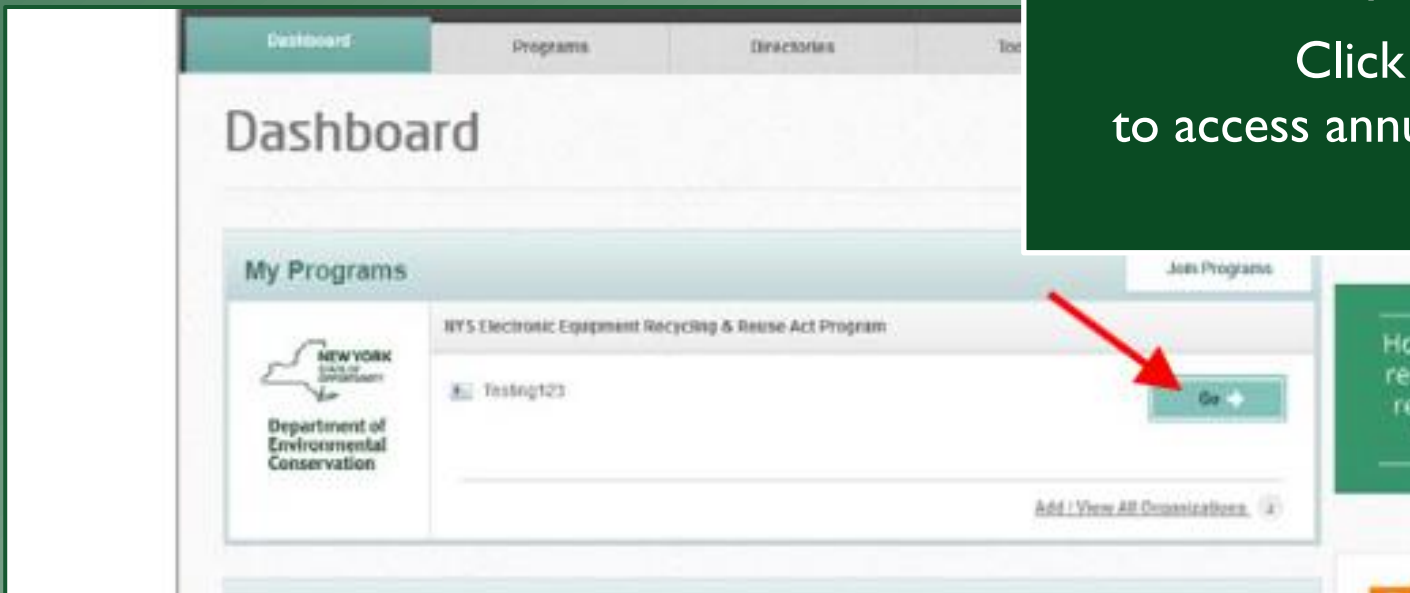
Login:

<https://connect.re-trac.com/login>

You will see your **Dashboard**

Click **“Go”**

to access annual report form





NYSDEC's E-waste Online Reporting Form

On the **Program Status** page
on the lower screen
click the “+” icon next to either
Annual Report for Manufacturers
of Covered Electronic Equipment
Or
Annual Report for Collective
Electronic Waste Acceptance Programs

3. **Electronic Waste Collection Sites:** No fee required. Retail collection sites which have registered under one registration number may submit one combined information collectively and upload a list of retail site names and addresses for each location represented.
Updates – Regulated entities must notify the Department of any material change to information previously provided to the Department within thirty (30) days.
Failure to submit a complete and timely registration, annual report, notifications of material changes, and/or applicable fee payments, will subject the regulated entity to enforcement action.

Registration for Manufacturers of Covered Electronic Equipment

Annual Report for Manufacturers of Covered Electronic Equipment

Manufacturer's Acceptance Results by Program Partner

[Unsubscribe from this reporting.](#)



itself is fairly self-explanatory, with instructional and hover-over text to assist you along the way. If you have any questions regarding the content of the form, please contact the NYSDEC E-waste



NYSDEC's E-waste Online Reporting Form

ANNUAL REPORT CONTENTS

Sales data

Weight accepted, including credits/surcharges

How CEE was collected

Where CEE was collected: each individual facility, site or event

Manufacturer's current brands

Report all discontinued, sold, licensed, new or otherwise acquired brands

Details about manufacturer's program

REPORTING SALES DATA

By weight for CEE sold in the state for the previous calendar year

Categorize by type

If manufacturer cannot provide accurate sales data, then:

- Explain why data cannot be provided
- Estimate sales data:
 - Divide national sales data, by weight, by the national population (use most recent census)
 - Multiply result by New York's population

NYSDEC's E-waste Online Reporting Form

2. Complete the “Manufacturer’s Acceptance Results by Program Partner” report

But only manufacturers managing individual programs (not those participating in collectives) need to complete it

The collective will complete a similar form covering all of the collective’s manufacturers

▼ Show ▼

	2015	2014	2013	2012
Registration for Manufacturers of Covered Electronic Equipment	✓			
Annual Report for Manufacturers of Covered Electronic Equipment	+	+	+	+
Manufacturer’s Acceptance Results by Program Partner	+			

[Unsubscribe from this reporting.](#)

Manufacturer's Acceptance Results by Program Partner Records

Member: TESTING123

New Filter/Options Sort Transaction Date Descending Search

No transactions have been added for the selected period.
Add a transaction using the "New" button.

On the **Program Status** page
on the lower screen
click the “+” icon next to either

Manufacturer’s
Acceptance Results by Program Partner
Or
Collective’s
Acceptance Results by Program Partner

Click the **New** button

NYSDEC's E-waste Online Reporting Form

3. Acceptance Results by Program Partner Contents

may not be considered complete by the Program manager(s) of NYS Electronic Equipment Recycling & Reuse Act Program until you click on the 'Submit to Program' button. The status of this form and the associated data may be edited at any time by the Program Manager(s) of NYS Electronic Equipment Recycling & Reuse Act Program.

MANUFACTURER'S ACCEPTANCE RESULTS BY PROGRAM PARTNER

Member: DEMONSTRATION MANUFACTURER (Demonstration Account Manufacturer) | Year: 2016 | Cycle: ANNUAL

Electronic Waste Accepted on Behalf of Manufacturer

(Manufacturers who participated solely in a collective do not need to complete this page.)

New for 2017

You now have the option of either entering acceptance results one entry at a time using the table below, or by uploading the information to this page using the Excel spreadsheet template provided below.

If you choose to **UPLOAD YOUR ACCEPTANCE RESULTS:**

1. Download the Excel template [HERE](#)
2. Complete the template exactly as directed in the spreadsheet heading. Do not edit the 'Entity Type' choices in Column B; use only those choices in the drop down menu. Any variations from these directions will require you to resubmit your acceptance data.
3. Please note that two categories of covered electronic equipment have been split. Computer peripherals and televisions have been separated into computer peripherals (CRTs) and computer peripherals (non-CRTs) while televisions have been separated into televisions (CRTs) and televisions (non-CRTs). For program year 2016 only, if you do not have the breakdown these categories (CRT vs non-CRT) report all weight under the CRT designation.
4. After you upload your completed Excel file you must click on the 'Submit to Program' button to submit your Excel spreadsheet for review.

Upload your completed Excel file here.

No file selected.

To enter acceptance results one entry at a time, click yes.

Yes

No

Create a new response after saving/submitted.

SAVE

SUBMIT TO PROGRAM

Source information by:

- Type of source
- Name
- Address
- Weight received by *type of CEE*

Upload acceptance results

- New option starting 2017
- Download Excel template
- Complete template
- Upload file

NYSDEC's E-waste Online Reporting Form

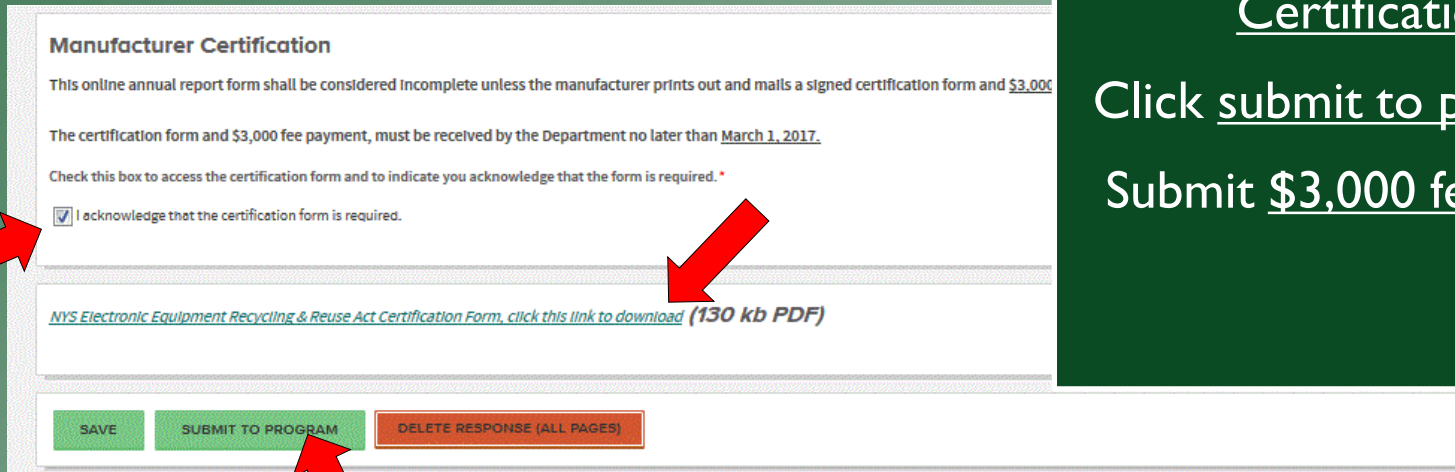
4. Certification, Submission & Fee Payment

Check certification box

Print out, sign and mail
Certification Form

Click submit to program button

Submit \$3,000 fee with invoice



Manufacturer Certification

This online annual report form shall be considered incomplete unless the manufacturer prints out and mails a signed certification form and \$3,000 fee payment.

The certification form and \$3,000 fee payment, must be received by the Department no later than March 1, 2017.

Check this box to access the certification form and to indicate you acknowledge that the form is required.*

I acknowledge that the certification form is required.

[NYS Electronic Equipment Recycling & Reuse Act Certification Form, click this link to download \(130 kb PDF\)](#)

SAVE SUBMIT TO PROGRAM DELETE RESPONSE (ALL PAGES)

REPORTING & SURCHARGE FEES

Reporting Fees

- Manufacturers receive invoices early January
- Two payment options
 - By check
 - Online (additional fee). More information at:
<http://www.dec.ny.gov/about/61016.html#On-Line>

Surcharge Fees

- Department contacts manufacturers
 - Informs whether they owe a surcharge
 - Provides payment date
 - Issues invoice

RECORDKEEPING

Retain records for three years

Make records available for audit and inspection





III. ENFORCEMENT & IMPLEMENTATION

ENFORCEMENT

Penalties can be assessed by:

- Commissioner of Department of Environmental Conservation
- Court

Can enjoin (order) manufacturer to cease violating law

Opportunity for hearing

Penalties deposited into N.Y. environmental protection fund

ENFORCEMENT PENALTIES

Penalties can be imposed for:

Failure to submit registration, report, fees or surcharge

- Not to exceed \$1,000 for each day not submitted

Violation of any other provision of the Electronic Equipment Recycling and Reuse Act

(except failure to meet manufacturer's share, which is addressed through surcharges)

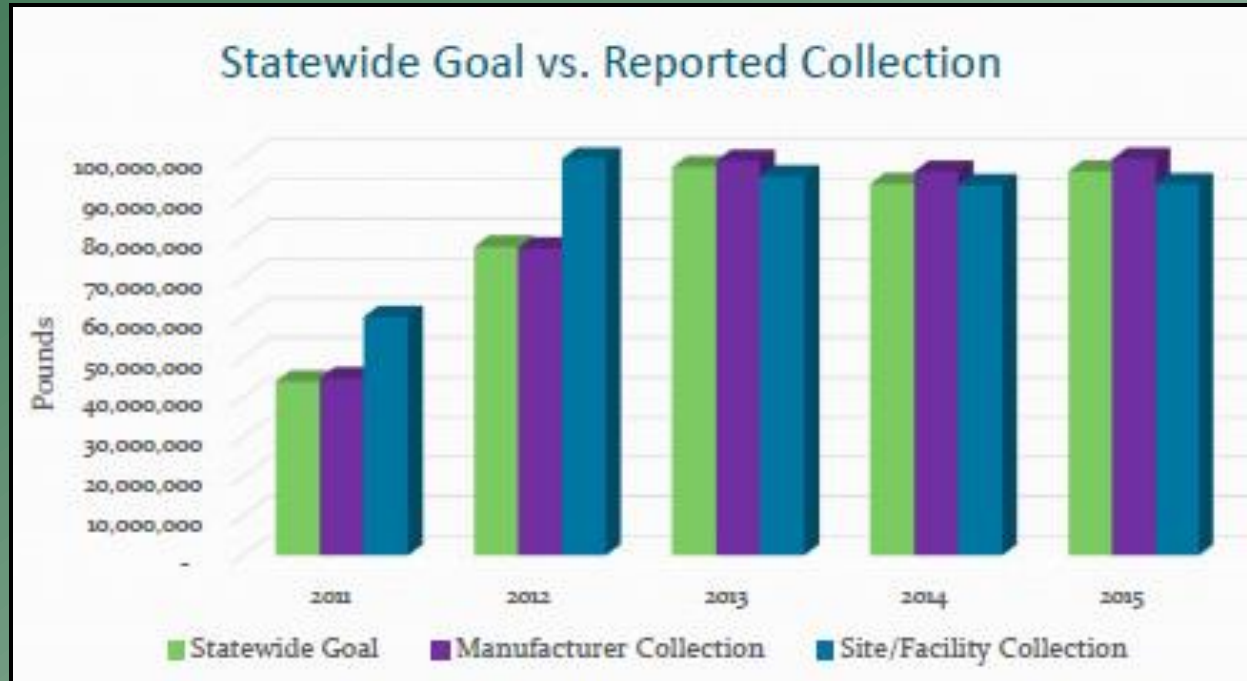
- Not to exceed:
 - \$1,000 for first violation
 - \$2,500 for second violation
 - \$5,000 for the third and subsequent violations within a 12-month period

ENFORCEMENT & VIOLATIONS

In 2014 and 2015, 19 manufacturers were issued Notices of Violation (NOV's) for:

- Non-reporting
- Providing incorrect sales information
- Program shortfalls

IMPLEMENTATION



Total reported collected for years 2011-15 was approximately 420 million pounds



IV. LOOKING TO THE FUTURE

NEW REGULATIONS

NYSDEC is in the process of promulgating new e-waste rules in order to:

- **Provide clarity**
- **Strengthen the law**
- **Improve program performance**

NEW REGULATIONS

The new e-waste rules will cover ...

- **Standards for reuse**
- **E-waste acceptance credits**
- **Recycling surcharge waivers**
- **Alternative methods for determining state sales data**
- **New and revised definitions**
- **Improvements to waste acceptance programs (collection and program costs)**
- **Public education programs**
- **And more ...**

NEW REGULATIONS

Status of the Rulemaking Process

- **Preliminary workshops were held late 2016**
- **NYSDEC is finalizing draft regulations**
- **Draft regulations will be released to the public for comment**
- **Latest information available at:**
<http://www.dec.ny.gov/chemical/65583.html>



V. PRODUCT STEWARDSHIP

BENEFITS OF PRODUCT STEWARDSHIP

Reduce the amount of this rapidly growing category of solid waste entering landfills

Reduce greenhouse gases, pollution and energy demand
How?

- Recycling recovers valuable materials, such as precious metals and engineered plastics
- So, recycling reduces the demand for extracting more natural resources and the considerable energy needed to process and manufacture them

Source: U. Minnesota, Design for the Environment: A Competitive Edge for the Future

LOOKING FORWARD: DESIGN FOR THE ENVIRONMENT

“a systematic way of incorporating environmental attributes into the design of a product”

Considers complete product lifecycle



Source: U. Minnesota, *Design for the Environment: A Competitive Edge for the Future*

DESIGN FOR THE ENVIRONMENT: TIPS

Reduce or eliminate toxics/heavy metals

Minimize paints and coloring

Design for a long life

Use alternative joining methods, not adhesives

Enable easy repair/recycling through accessible, modular design and labeled materials

For guidance, visit ISO 14000: <http://www.iso.org/iso/iso14000>

Sources: Conrad Luttropp, *10 Golden Rules in EcoDesign*;
U. Minnesota, *Design for the Environment: A Competitive Edge for the Future*

DESIGN FOR THE ENVIRONMENT: EXAMPLE

Samsung Electronics (received ISRI Design for Recycling Award 2016):

Easy disassembly

Minimal chemical content

Replaced conventional plastic with novel material

Source: <http://www.isri.org/about-isri/awards/design-for-recycling#.WFq8-X2kxIN>

FURTHER GUIDANCE:

Visit: <http://www.dec.ny.gov/chemical/65583.html>

FAQs for manufacturers

Updates on new regulations

Links to Online Registration & Reporting System, tutorials and webinars

Links to Registry of CEE manufacturers & their brands

MANAGING RISK ASSOCIATED WITH ELECTRONIC WASTE

Responsible recycling standards and litigation risks

Maggie Macdonald, Associate
Sive, Paget & Riesel P.C.

Recycling Standards



- Sustainable Electronics Recycling International (SERI) owns the program
- Requires compliance with ISO 14001 and OHSAS 18001
- Allows export of electronic waste for recycling to some non-OECD countries with appropriate documentation
- \$1500 per site licensing fee



- The Basel Action Network (BAN) owns the program
- Requires compliance with ISO 14001
- Does not allow export of electronic waste for recycling in non-OECD countries
- Fee is based on revenues

What does Certification Mean?


Steps to Certification - Preparation

Application to standard owner



Select a certifying body (e.g., NSAI, NSF, NQA, Orion Registrar, Perry Johnson Registrars, SAI, SGS, TUV)

Certifying body must be approved by standard owner and must, at a minimum, be accredited by an International Accreditation Forum signatory accreditation body



Conduct gap analysis, internal audit and prepare documentation demonstrating compliance with the standard and any other required standards

- Internal audit report, environmental health and safety manual, procedures, forms, work instructions
- Train employees on the requirements of the standards and the purpose of the standards

What does Certification Mean?

Steps to Certification – Certification & Maintenance

Audits & Certification

Stage 1 Audit by the certifying body:
Facility & Document Review

Stage 2 Audit by the certifying body:
Implementation

- Corrective actions needed to address any nonconformities
- If recycler passes both audits and corrects all nonconformities, the recycler will be certified

Ongoing Requirements

Annual surveillance audits by the certifying body

Recertification every three years

Recordkeeping

- All documentation demonstrating compliance – volume in/volume out, contracts with downstream vendors, downstream vendor diligence information, etc.

Risks Associated with Electronic Waste Recycling/Disposal

Data security

Enforcement

- State electronic recycling laws
- State hazardous waste disposal laws
- Federal environmental statutes
 - Comprehensive Environmental Response, Compensation, & Liability Act
 - Resource Conservation & Recovery Act

Enforcement of State Hazardous Waste Laws CA Case Studies

Civil penalties

- Up to \$25,000/day under CA Hazardous Waste Control Law
- Up to \$2,500 per violation under CA Unfair Competition Law
- Up to \$2,000 per violation under CA Hazardous Materials Release Response Plans & Inventory

Notable Settlements

- Target Corp. Settlement for \$22.5 Million (2011)
- CVS Settlement for \$13.75 Million (2012)

New York State Enforcement Initiative Announced in 2015

Federal Enforcement

CERCLA

- Joint and several liability for owners, operators, **arrangers**, and transporters of hazardous waste
 - *Burlington Northern Santa Fe Railway Co. v. United States*, 129 S. Ct. 1870 (2009)
- 2017 - *Garrison Southfield Park LLC v. Closed Loop Refining & Recovery, Inc. et al.*

RCRA

- Criminal penalties, imprisonment and/or fines of up to \$50,000/day or civil penalties up to \$32,500/day
- 2013 – Executive Recycling, Inc.
 - Be wary of violations of mail/wire fraud statutes

Thank You

Maggie Macdonald, Associate

Sive, Paget & Riesel P.C.

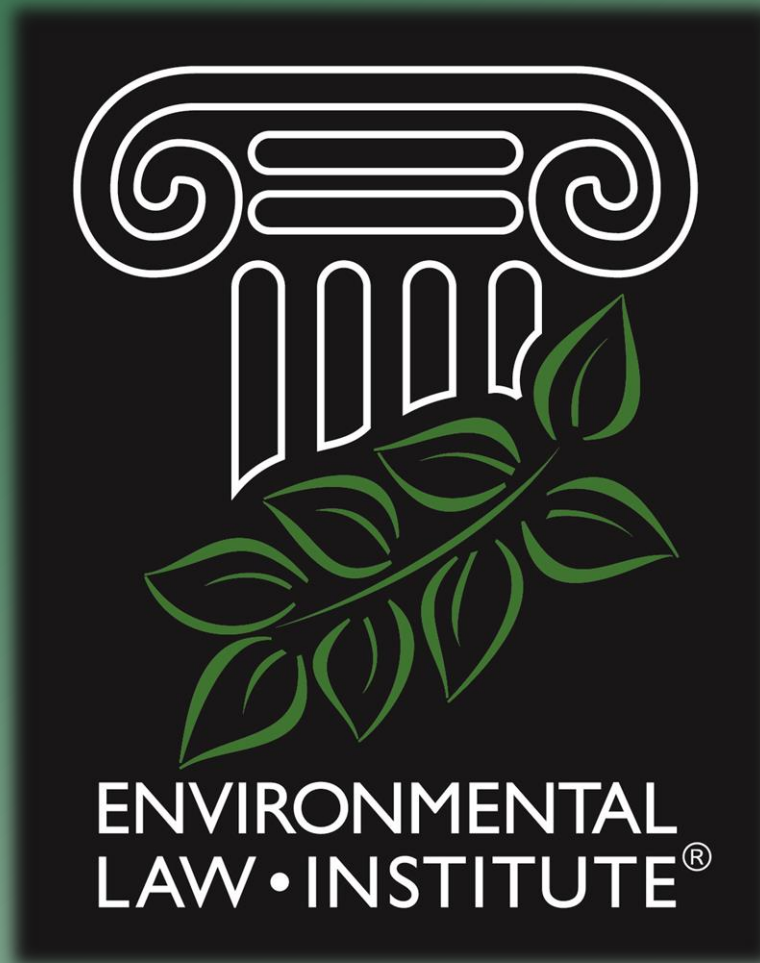
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Thank you