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New York Governor Signs E-Waste Take-Back Law

January 1, 0001

On May 28, 2010, Governor Paterson signed the Electronic Equipment Recycling and Reuse Act, which requires manufacturers of certain electronic products to accept electronic waste for recycling or reuse beginning in April 2011. Under the law, manufacturers of covered electronic equipment must accept for recycling or reuse products that they manufactured. In addition, they must accept one piece of electronic waste of any manufacturer's brand if offered by a consumer in connection with the purchase of the same type of product made by the manufacturer.

Manufacturers' take-back obligations are limited to their market share multiplied by the statewide recycling or reuse goal for a given year, which is established by the new law. The electronic equipment covered by the law includes computers, portable digital music players, digital video recorders, electronic or video game consoles, and televisions. It does not include household appliances or telephones of any type.

Under the law, manufacturers that accept less than their required share of waste are subject to a surcharge of US\$.40 to \$.50 per pound of shortfall, and those that accept more than their share can accumulate credits that can be sold, traded, or banked. Acceptable take-back measures include (i) mail- or ship-back return programs; (ii) collection events; and (iii) fixed collection locations, including through agreements with retail stores. Manufacturers can fulfill their obligations through collective waste acceptance programs with other manufacturers. The law expressly preempts New York City's 2008 e-waste law, which has been challenged

by industry groups. O'Melveny & Myers will continue to follow the development of New York State's e-waste program. For more information, contact the author of this alert.

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