

4100 REQUIREMENTS FOR ELECTRONIC MANUFACTURERS

4100.1 The rules in this chapter apply to manufacturers, partnerships, and representative organizations, as defined in § 4199.1.

4100.2 A manufacturer that sells less than one hundred (100) covered electronic equipment units in the District in the most recent calendar year shall:

- (a) Be exempt from labeling covered electronic equipment with a readily visible brand identifying the manufacturer;
- (b) Be exempt from submitting an application for registration, pursuant to D.C. Official Code § 8-1041.03(b);
- (c) By October 1 of each year, request a determination from the Department that the manufacturer qualifies for an exemption described in this subsection. The request shall be on a form prescribed by the Department, and include:
 - (1) Relevant manufacturer contact information;
 - (2) A list of brand names sold by the manufacturer in the District; and
 - (3) Any other information needed for the Department to determine whether the applicant qualifies for the exemption; and
- (d) Be exempt from paying an annual registration fee as specified in D.C. Official Code § 8-1041.04(a)(1) and from fulfilling the responsibilities listed in D.C. Official Code § 8-1041.05(a)-(f) as specified in D.C. Official Code § 8-1041.05(g).

4100.3 When submitting an annual exemption form the applicant shall calculate the units of covered electronic equipment sold in the District by:

- (a) Using District sales data; or
- (b) Multiplying the units of covered electronic equipment sold nationally with the quotient of the District's population divided by the national population. Populations shall be estimated by using the most recent estimates provided by the United States Census Bureau.

4100.4 When submitting an annual registration application or ensuring compliance with an applicant's minimum collection share, the applicant shall calculate the weight and units of covered electronic equipment sold in the District by:

- (a) Using District sales data; or

- (b) Multiplying the weight or units of covered electronic equipment sold nationally with the quotient of the District's population divided by the national population. Populations shall be estimated by using the most recent estimates provided by the United States Census Bureau.

4100.5 [REPEALED].

4100.6 Registration submitted in accordance with D.C. Official Code § 8-1041.03 shall be on a form prescribed by the Department.

4100.7 When a representative organization submits an implementation plan to the Department according to D.C. Official Code § 8-1041.03(b)(9), the applicant shall calculate the market share percentage of each manufacturer in the representative organization by:

- (a) Using District sales data; or
- (b) Multiplying the weight of covered electronic equipment sold nationally with the quotient of the District's population divided by the national population. Populations shall be estimated by using the most recent estimates provided by the United States Census Bureau.

4100.8 Registration applicants shall include data on covered electronic equipment sold in the District as follows:

- (a) Total number of units and weight, and
- (b) Number of units and weight by category of covered electronic equipment.

4100.9 An applicant that collected and recycled covered electronic equipment in the previous calendar year shall include the contact information of the electronic recyclers used.

4100.10 The Department may require a manufacturer submitting a registration application to include additional information or data needed to implement the Act or this chapter.

4100.11 [REPEALED].

4100.12 If more than one person is a manufacturer of a covered electronic equipment unit, any such person may assume the registration obligations of the Act or this chapter, however, if no such person assumes responsibility for the registration obligations, any and all such persons may be considered jointly and severally responsible for the registration obligations.

4100.13 In accordance with D.C. Official Code § 8-1041.07, the Department shall publish on its website a list of approved covered electronic equipment disposal methods.

SOURCE: Final Rulemaking published at 63 DCR 14119 (November 18, 2016); as amended by Final Rulemaking published at 70 DCR 015857 (December 15, 2023).

4101 ELECTRONIC MANUFACTURER RECORDKEEPING

- 4101.1 Manufacturers shall maintain records used to prepare annual applications for registration, pursuant to D.C. Official Code § 8-1041.03(b), or exemption, pursuant to § 4100.2, for three (3) years.
- 4101.2 The Department may inspect, request, and obtain from a manufacturer any record, including reports, electronic records, or any other document, that is subject to § 4101.1.

SOURCE: Final Rulemaking published at 63 DCR 14119 (November 18, 2016).

4102 REGISTRATION AND SHORTFALL FEES

4102.1 Manufacturers, representative organizations, and partnership organizations shall include the following registration fee when submitting an annual registration application:

- (a) For an individual manufacturer that sold at least one hundred (100) units but less than two hundred and fifty (250) units of covered electronic equipment in the District in the previous calendar year, the individual manufacturer's application for registration under D.C. Official Code § 8-1041.03 shall be accompanied by a registration fee of seven hundred and fifty dollars (\$750);
- (b) For an individual manufacturer that sold two hundred and fifty (250) or more units of covered electronic equipment in the District in the previous calendar year, the individual manufacturer's application for registration under D.C. Official Code § 8-1041.03 shall be accompanied by a registration fee of two thousand six hundred and fifty dollars (\$2,650);
- (c) A representative organization's application for registration under D.C. Official Code § 8-1041.03 shall be accompanied by a base registration fee of fifteen thousand dollars (\$15,000) for the first registrant and an additional two thousand two hundred dollars (\$2,200) for each additional manufacturer in the representative organization.
- (d) A partnership's application for registration under D.C. Official Code § 8-1041.03 shall be accompanied by a registration fee of two thousand four hundred and fifty dollars (\$2,450) for every manufacturer that sold two hundred and fifty or more units of covered electronic equipment in the District in the previous calendar year and seven hundred dollars (\$700) for every manufacturer that sold at least one hundred (100) units but less than two hundred and fifty (250) units of covered electronic equipment in the District in the previous calendar year.

4102.2 (a) If a manufacturer or partnership that has properly submitted an application for registration did not comply with D.C. Official Code § 8-1041.05(a)(1) or (2) in the calendar year prior to the calendar year the registration is due, the application for registration under § 8-1041.03 shall be accompanied by a shortfall fee determined by the following:

$$(A / B) \times 100\% = C$$

where:

A = The weight of covered electronic equipment, in pounds, the manufacturer or partnership collected in the District and recycled

or reused in the calendar year prior to the calendar year the registration is due;

B = The minimum collection share, in pounds, for the manufacturer or partnership in the calendar year prior to the calendar year the registration is due; and

C = The percentage of the minimum collection share achieved.

- (b) If C is greater than or equal to 90% but less than 100%, the shortfall fee is $(B-A)*\$0.30$;
- (c) If C is greater than or equal to 50% but less than 90%, the shortfall fee is $(B-A)*\$0.40$; and
- (d) If C is less than 50%, the shortfall fee is $(B-A)*\$0.50$.

4102.3 The Department shall adjust the fees in this section for inflation annually, using the Urban Consumer Price Index published by the United States Bureau of Labor Statistics. To perform this adjustment, the Department shall increase each fee by the percentage, if any, by which the Urban Consumer Price Index for June of the calendar year exceeds the Urban Consumer Price Index for June of the previous calendar year. Each inflation adjustment shall be posted to the Department's website.

4102.4 If a manufacturer or partnership counts the collection of a single item of covered electronic equipment as twice its weight when that item is donated free of charge for reuse to the District's public or charter schools, to public or charter schools in counties adjoining the District, or to any nonprofit organization with a principal mission of assisting low-income children or families per D.C. Official Code § 8-1041.05(b)(2), the Department may request from the manufacturer or partnership:

- (a) Documentation of the donation, which shall include the recipient's written acceptance of the donation on a form stating that the covered electronic equipment is:
 - (1) No more than three (3) years old; and
 - (2) In full working condition;
- (b) The name and address of the recipient school or organization; and
- (c) Relevant contact information from the recipient school or organization.

4102.5 Representative organizations meeting the convenient collection service for District residents, small nonprofit organizations, and small businesses shall:

- (a) On a quarterly basis, submit collection data to the Department, including weight of covered electronic equipment collected and the numbers of individuals, small nonprofit organizations, and small businesses that brought covered electronic equipment to each permanent publicly accessible collection site and collection event.
- (b) Conduct public outreach and awareness activities, in keeping with each representative organization's implementation plan, to ensure that District residents, small nonprofit organizations, and small businesses, including those in underserved communities, are aware of the availability and location of collection sites and events.
- (c) Follow the Department's operating guidelines for permanent drop-off sites.

SOURCE: Final Rulemaking published at 63 DCR 14119 (November 18, 2016); as amended by Final Rulemaking published at 67 DCR 13127 (November 6, 2020); as amended by Final Rulemaking published at 69 DCR 006055 (May 27, 2022); as amended by Final Rulemaking published at 70 DCR 015857 (December 15, 2023).

4103 ENFORCEMENT

- 4103.1 Violation of any of the requirements of this chapter or the Act shall subject a person to the penalties set forth in Title 16 (Consumers, Commercial Practices, and Civil Infractions), Chapter 40 of the District of Columbia Municipal Regulations.
- 4103.2 The Department may enforce a violation of this chapter or the Act by issuing one or more of the following:
- (a) Notice of violation; or
 - (b) Notice of infraction.
- 4103.3 The Department may issue a notice of infraction without first issuing a notice of violation or threatened violation.
- 4103.3 Each instance or day of a violation of each provision of this chapter shall be a separate violation.

SOURCE: Final Rulemaking published at 63 DCR 14119 (November 18, 2016).

4104 [REPEALED]

SOURCE: Final Rulemaking published at 63 DCR 14119 (November 18, 2016); as amended by Final Rulemaking published at 70 DCR 015857 (December 15, 2023).

4105 MODIFICATION OF REGISTRATION APPLICATIONS

- 4105.1 A manufacturer or its partnership or representative organization may request a modification in an approved application.
- 4105.2 A request to modify an approved application shall be submitted by mail or electronic mail.
- 4105.3 The Department shall approve or disapprove the application modification following the procedures and timeline set forth in D.C. Official Code § 8-1041.03(d)(1). In determining whether to approve or disapprove the application modification, the Department shall consider the factors listed in D.C. Official Code § 8-1041.03(d)(2).

SOURCE: Final Rulemaking published at 67 DCR 13127 (November 6, 2020).

4199 **DEFINITIONS**

4199.1 The following words or phrases shall have the meaning as described (some of the definitions were codified in the Act, indicated as [Statutory], and are reprinted below for regulatory efficiency):

Act - Title I, Subtitle B of the Sustainable Solid Waste Management Amendment Act of 2014, as amended (D.C. Law 20-154; D.C. Official Code §§ 8-1041.01 *et seq.*).

Brand - a manufacturer’s name, brand designation, make or model name or number, or other nomenclature by which covered electronic equipment is offered for sale by a manufacturer. [Statutory]

Computer - an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing a logical, arithmetic, or storage function, including a laptop computer or other portable computer, desktop computer, and includes any cable, cord, or wiring permanently affixed to or incorporated into such product, and may include a computer central processing unit; but such term shall not include an automated typewriter or typesetter, a portable hand-held calculator, server other than a small-scale server, or other similar device. Computer also means a small-scale server, portable digital music players that have memory capability and are battery-powered, or other similar devices.

Computer monitor and display devices - a separate visual display component that can be used with a computer, whether sold separately or together with a computer central processing unit, and includes a cathode ray tube, liquid crystal display, gas plasma, digital light processing or other image projection technology, or other similar device, with a display greater than six inches when measured diagonally, and its case, interior wires and circuitry, and any cable cord or wiring permanently affixed thereto or incorporated into such product.

Computer peripheral - any device that is sold primarily for external use with a computer and that provides input into or output from a computer, including: electronic keyboards; electronic mouse or other pointing device; printers; multi-function imaging equipment containing printers, which does not weigh more than one hundred (100) pounds; speakers sold with computers; computer monitors and display devices; or other similar devices; and any cable, cord, or wiring permanently affixed to or incorporated into any such product.

Covered electronic equipment –

- (a) The term “covered electronic equipment” means computers and computer peripherals, including keyboards, electronic pointing devices, printers, computer monitors and display devices, laptops or other portable computers, and portable digital music players that have memory capability and are battery-powered, televisions, and television peripherals.
- (b) The term “covered electronic equipment” does not include a motor vehicle, part of a motor vehicle, or a component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle; telephones of any type, including mobile telephones, a personal digital assistant, a global positioning system, or a hand-held gaming device, household appliances, or covered electronic equipment that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier, water heater, or exercise equipment, equipment that is functionally or physically part of a larger piece of equipment intended for use in an industrial, research and development, or commercial setting, security or anti-terrorism equipment, monitoring and control instrument or system, thermostat, hand-held transceiver, server other than a small-scale server, cash register or retail self-checkout system, stand-alone storage product intended for use in industrial, research and development, or commercial settings, medical equipment that contains a cathode ray tube, a flat panel display or similar video display device, and that is not separate from the larger piece of medical equipment, or other medical devices as defined under the Federal Food, Drug, and Cosmetic Act.
- (c) The term “covered electronic equipment” also does not include equipment that is sold to the District government or the federal government.

Covered electronic equipment stewardship program - a recycling effort for covered electronic equipment established by a manufacturer, partnership, or representative organization. [Statutory]

Department - the Department of Energy and Environment or its successor agency.

Household - an individual or two (2) or more persons who reside together in a housing unit.

Laptop computer or other portable computer - a computer and display greater

than six inches when measured diagonally that can be carried as one unit by an individual, including a laptop computer, tablet, e-reader, or other similar devices.

Manufacturer - a person who:

- (A) Manufactures, imports, assembles, or substantially assembles covered electronic equipment for sale in the District by means of retail, wholesale, or electronic commerce, under its own or another brand name or label, or without affixing a brand name or label;
- (B) Sells in the District by means of retail, wholesale, or electronic commerce, under its own brand name or label, covered electronic equipment produced by another person; or
- (C) Owns a brand name or label that it licenses to another person for use on covered electronic equipment sold in the District by means of retail, wholesale, or electronic commerce. [Statutory]

Market share - the total pounds of covered electronic equipment sold by a manufacturer to District residents and businesses in the previous year divided by the total pounds of all covered electronic equipment sold to District residents and businesses in the previous calendar year. [Statutory]

Minimum collection share - the amount, in pounds, to be met or exceeded, of covered electronic equipment, as calculated under D.C. Official Code § 8-1041.05(b)(1), that a manufacturer shall collect and recycle, or arrange to be collected and recycled or reused.

Mobile telephone - a telephone that converts sound into multiple-access packets, including, but not limited to, Code-Division Multiple Access (CDMA), Global System for Mobile Communications (GSM), and fourth generation long term evolution (4G LTE or VoLTE), for transmission through a cellular network, which may be marketed as a phone, cellphone, mobile phone, or smartphone. A computer, including portable computer or tablet, that is capable of making calls through Voice over IP or VoIP is not a mobile phone.

Partnership - an organization of manufacturers created to work together to meet the total minimum collection shares of its member manufacturers under D.C. Official Code § 8-1041.05(a)(2). [Statutory]

Printer - a device using laser and LED (electrographic), ink jet, dot matrix, thermal, digital sublimation, or other print technologies that is designed to be placed on a desk or other work surface. This includes a multifunction or "all-in-one" device that, in addition to printing, performs one or more

other operations such as copying, scanning, or faxing. Printer does not include a floor-standing printer, a printer with an optional floor stand, a point of sale (POS) receipt printer, a household calculator with printing capabilities or a label maker, a non-stand-alone printer that is embedded into a product other than a covered electronic equipment, or a device that weighs more than 100 pounds.

Representative organization - an organization created to provide convenient collection service to District residents under D.C. Official Code § 8-1041.05(a)(3) and to develop and oversee implementation of a District plan consisting of one or more covered electronic equipment stewardship programs in the District. A representative organization may also oversee plans in other jurisdictions. [Statutory]

Retailer - a person engaged in retail sales. [Statutory]

Reuse - a process by which covered electronic equipment or a component of covered electronic equipment is used for the same purpose for which it was originally purchased. [Statutory]

Sale or sold - any transfer of the absolute title to property for a certain agreed price, from a manufacturer or retailer, including transactions conducted through retail sales outlets, catalogs, mail, the telephone, the internet, or any electronic means; this includes the transfer of title of new products or used products that may have been refurbished by the manufacturer or a manufacturer-approved party, but does not include consumer-to-consumer second-hand transfer, the transfer of used covered electronic equipment, or a lease of covered electronic equipment.

Small business - a corporation, partnership, sole proprietorship, or other legal entity that:

- (A) Is formed to make a profit;
- (B) Is independently owned and operated;
- (C) Employs fewer than one-hundred (100) full-time employees; and
- (D) Procures covered electronic equipment through retail channels.

Small nonprofit organization - an organization or institution that:

- (A) Is exempt from federal income tax under the provisions of 26 U.S.C. § 501(c)(3) and that meets the requirements of Chapter 4 of Title 29 of the D.C. Official Code;

- (B) Is independently owned and operated;
- (C) Employs fewer than one-hundred (100) full-time employees; and
- (D) Procures covered electronic equipment through retail channels.

Small-scale server - a computer that typically uses desktop components in a desktop form factor, but is designed primarily to be a storage host for other computers and for an industry accepted operating system for home or low-end server applications. To be considered a small-scale server, a computer must have the following characteristics: designed in a pedestal, tower, or other form factor similar to those of desktop computers such that all data processing, storage, and network interfacing is contained within one box or product; intended to be operational twenty four hours per day and seven days a week, and unscheduled downtime is extremely low, such as on the order of hours per year; and is capable of operating in a simultaneous multi-user environment serving several users through networked client units.

Telephone - a commercially available electronic product whose primary purpose is to transmit and receive sound over a distance using a voice or data network.

Television - a display system containing a cathode ray tube, flat panel, or any other type of display primarily intended to receive video programming via broadcast, cable, or satellite transmission, and which has a display greater than six inches when measured diagonally.

Television peripheral - devices attached to and used in conjunction with televisions, including video cassette recorders (VCR), digital video recorders (DVR), digital video disc players (DVD), electronic or video game systems, signal converter boxes, cable receivers, satellite receivers, digital media receivers or set top boxes, or other similar devices, and includes any cable, cord, or wiring permanently affixed to or incorporated into any such product.

SOURCE: Final Rulemaking published at 63 DCR 14119 (November 18, 2016); as amended by Final Rulemaking published at 67 DCR 13127 (November 6, 2020); as amended by Final Rulemaking published at 70 DCR 015857 (December 15, 2023).