

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FINAL RULEMAKING

Electronics Stewardship Regulation Amendments

The Director of the Department of Energy and Environment (DOEE or Department), pursuant to the authority set forth in the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code §§ 8-151.01 *et seq.* (2013 Repl. & 2019 Supp.)); the Sustainable Solid Waste Management Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-154; D.C. Official Code §§ 8-1041.01 *et seq.* (2019 Supp.)); and Mayor's Order 2015-250, dated December 8, 2015, hereby gives notice of the adoption of the amendments to Chapter 41 (Electronics Stewardship) of Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR).

A Notice of Proposed Rulemaking was published in the *D.C. Register* on September 11, 2020 (67 DCR 010966) for a thirty (30) day public notice and comment period. The Department received two (2) sets of comments on this rulemaking, from the Reverse Logistics Group Americas (RLGA), and ViewSonic Corporation.

Reverse Logistics Group Americas submitted four (4) comments on this rulemaking. The first comment asked if a form should accompany the registration fee. The Department will create a template to calculate a registration fee and accompany the registration. The second comment asked the Department to state the date when collection data for representative organizations meeting the convenient collection service needed to be provided. The Department asks that a representative organization provide a collection data update no later than 30 days after the end of each quarter as part of the implementation plan, and requires that the total collection data for representative organizations be provided as part of the registration application, which is due by December 31st of each year. The third comment asked if public outreach and awareness activities guidance for representative organizations will be different from the previous year. Recommendations for public education on events and sites may change from year to year based on lessons learned. The fourth comment questions whether operating guidelines for permanent drop-off sites are applicable to collection events. Operating guidelines for permanent drop-off sites are not the same guidelines that apply to collection events; the guidelines for collection events can be found in the manufacturer guide on DOEE's website doee.dc.gov/ecycle.

ViewSonic Corporation submitted two (2) comments on this rulemaking. The first comment compared the annual increase for an individual manufacturer between the 2018 and 2019 registration fee to the proposed increase of the individual manufacturer's base fee, stating that it seemed like a large increase and asking that DOEE provide more details. The changes proposed to the registration fees are an increase in the base fees whereas the increase in the registration fee between program years referenced by ViewSonic are based on the Consumer Price Index (CPI) adjustment, authorized by the rulemaking to occur on an annual basis. The second comment asked that DOEE reconsider the increase of registration fees. The Department notes the comments of ViewSonic but the increase is in line with other state electronics program registration fees and is necessary to cover the costs of administering and enforcing the program.

No changes were made to the rules as proposed in response to the comments received or otherwise. These rules were adopted as final on October 19, 2020, and will be effective upon publication of this notice in the *D.C. Register*.

Chapter 41, ELECTRONICS STEWARDSHIP, of Title 20, DCMR, ENVIRONMENT, is amended to read as follows:

Section 4102, REGISTRATION AND SHORTFALL FEES, is amended as follows:

By amending Subsection 4102.1 to read:

- 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.

By amending Subsection 4102.3 to read:

- 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 October of the calendar year exceeds the Urban Consumer Price Index for October of the previous calendar year. Each inflation adjustment shall be posted to the Department's website.

By adding Subsection 4102.5 to read:

- 4102.5 Representative organizations meeting the convenient collection service for District residents, small nonprofit organizations, and small businesses shall:
- (a) Submit collection data to the Department, including weight of covered electronic equipment collected and the number of participating residents in permanent publicly accessible collection sites and collection events.
 - (b) Conduct public outreach and awareness activities, in keeping with each representative organization's implementation plan, for District residents to ensure that District residents are aware of the availability and location of collection sites and events.
 - (c) Follow the Department's operating guidelines for permanent drop-off sites.

By adding Section 4105, MODIFICATIONS TO APPLICATIONS, to read:

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).

Section 4199, DEFINITIONS, is amended as follows:

By amending Subsection 4199.1 to read:

Minimum collection shares - the amount, in pounds, to be met or exceeded, of covered electronic equipment, as calculated under section 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.