

VERMONT AGENCY OF NATURAL RESOURCES

Guidance on a Primary Battery Stewardship Program

Fulfilling the Requirements of 10 V.S.A. Chapter 168

Registration Requirements

March 1, 2015 –beginning March 1, 2015, and annually thereafter, a primary battery stewardship organization **shall file a registration form** with the Agency of Natural Resources Secretary (Agency).

A primary battery stewardship organization is an organization appointed by one or more producers to act as an agent on behalf of a producer or producers to design, submit, implement and administer a Primary Battery Stewardship Plan(Plan). To qualify as a primary battery stewardship organization, an organization shall:

- Commit to assume the responsibilities, obligations, and liabilities of all producers participating in the primary battery stewardship organization;
- Not create unreasonable barriers for participation by producers in the primary battery stewardship organization; and
- Maintain a public website that lists all producers and producers’ brands covered by the primary battery stewardship organization’s approved collection plan.

Registration of Primary Battery Stewardship Organizations

The Agency will provide the registration form on its website for primary battery stewardship organizations.

The registration form shall require the following information:

- A list of the participating producers;
- The name, address and contact information of a person responsible for ensuring a producer’s compliance with 10 V.S.A. Chapter 168;
- A description of how the stewardship organization proposes to meet requirements of participation in a stewardship organization; and
- Name, address and contact information of a person for a nonmember manufacturer to contact on how to participate in the primary battery stewardship organization in order to satisfy the requirements of 10 V.S.A. Chapter 168.

A renewal of a registration without changes may be accomplished by notifying the Agency on a form provided by the Agency.

Registration of Rechargeable Battery Stewardship Organizations

The Agency will also provide a registration form on its website for rechargeable battery stewardship organizations.

A rechargeable battery steward, or rechargeable battery stewardship organization shall register with the Agency in order to seek reimbursement as defined in Subchapter 4 of Chapter 168.

The registration form shall require the following information:

- The name of a rechargeable battery steward implementing an individual program, or a list of the producers participating in a rechargeable battery stewardship organization and;
- The name, address, and contact information of a person responsible for implementing the rechargeable battery stewardship program.

The Agency will determine that rechargeable battery steward, or rechargeable battery stewardship organization(s) offer to municipalities, certified solid waste management facilities, and retailers a year-round free collection and recycling program.

Primary Stewardship Plan required. On or before **June 1, 2015**, each producer selling, or offering a primary battery for sale in the state shall, individually or as part of a primary battery stewardship organization, submit a Plan that includes all of the following minimum requirements:

- List of producers and brands covered by the Plan and contact information for each.
- Free Collection. Each Plan shall provide for the collection of primary batteries from consumers at no cost to consumers at the time of collection.
- A producer shall not refuse the collection of a primary battery based on the brand or producer of the primary battery.
- Collection and convenience:
 - Allow all retailers, municipalities and certified solid waste management facilities to opt to be a collection facility.

The producer shall meet with current collection locations in the state of Vermont to offer them the opportunity to continue collection under the new stewardship plan. The producer shall make collection cost effective for these sites by supplying materials and equipment to aid in collection efforts.

- Provide at a minimum no fewer than two collection facilities in each county that provide year round collection.

Again, the producer shall work with any existing collection locations and also work to increase the number of collection sites available to the consumer thereby increasing convenience. The producer will explain how the collection program will be organized, how collection facilities/locations will be chosen and added, what type of collection containers will be utilized and what training will be provided to ensure the safe collection of primary batteries. Also, if the program will collect rechargeable batteries, how will they be safely collected, what type of collection containers will be utilized. Explain if there are separate collection containers or one mixed collection container for primary and rechargeable batteries. Describe how mixed containers will be sorted and segregated for proper recycling. Describe how convenience and safety for the collection site and the consumer will be maximized. Highlight safety practices with lithium batteries.

Producer shall describe the process for adding new collection locations and a response to those wishing to join the collection program.

- Provide for the acceptance from a consumer of up to 100 batteries per visit. A collection facility can use their own discretion to accept more than 100 per visit.

The producer shall ensure that the collection location has required materials and equipment to handle up to 100 batteries per visit and a regular pick up schedule to prevent overflow issues at the facility.

- Each Plan shall describe disposition methods that responsibly manage discarded batteries to ensure that when technically and economically feasible are recycled.

A description of disposition methods for each type of battery collected shall be described in the Plan with a priority given to recycling. The plan should include the percentages for each type of battery and its disposition. Include disposition of all batteries based on chemistry including mercury button cells.

All key participants in the collection chain shall be listed (collection facilities, contractors, transporters, and recycling facilities).

(A) the number and name of the collection facilities accepting primary batteries under the Plan, including the address and contact information for each facility;

(B) the name and contact information of a transporter or contractor collecting primary batteries from collection facilities; and

(C) the name, address, and contact information of the recycling facilities that process the collected primary batteries. *Producer should be willing to provide detailed information on all aspects of the collection chain and disposition.*

Producer shall also describe process for periodic sorting of primary batteries for annual report requirement.

- Education and Outreach Program must notify businesses, municipalities, solid waste facilities, retailers, wholesalers, and haulers. At a minimum, the education and outreach program must notify the public of the following:

- Free collection program for primary batteries

Outreach on the program shall include PSAs, news media, radio, television, municipal newsletters, retailer mailings, online list serves, website and social media.

Outreach plan shall describe target audiences and number of proposed ads, television or radio spots, mailings, etc. Describe frequency of ad campaigns and how outreach will be ongoing to ensure public is continually educated. It shall also include samples of outreach materials such as posters and brochures to be provided to retailers and collection facilities for display describing program and guidelines for collection in order to assist retailers with the requirement to make educational materials available to consumers. Retailers and collection facilities must not be charged a fee for any of these educational materials.

- The location of collection points and how to access

Collection points should be made available on an online mapping tool via website. Information regarding collection sites should be made available to municipalities so they can inform residents of what exists in their region. A strong effort shall be made to target specific regions that have low accessibility and convenience to battery recycling.

- The Plan must include a producer to producer reimbursement procedure consistent with the law. The following is an excerpt from the law:

§ 7590. REIMBURSEMENT PROCESS

- Reimbursement request.
 - A primary battery producer, primary battery stewardship organization, or rechargeable battery stewardship organization that incurs reimbursable costs under § 7589 of this title shall submit a request to the producer of the collected primary battery or the primary battery stewardship organization in which the producer is participating or the rechargeable battery stewardship organization responsible for the collected rechargeable battery.
 - A producer or primary battery stewardship organization or rechargeable battery stewardship organization that receives a request for reimbursement may, prior

- to payment and within 30 days of receipt of the request for reimbursement, request an independent audit of submitted reimbursement costs.
- The independent auditor shall be responsible for verifying the reasonableness of the reimbursement request, including the costs sought for reimbursement, the amount of reimbursement, and the reimbursable costs assessed by each of the two programs.
 - If the independent audit confirms the reasonableness of the reimbursement request, the producer, primary battery stewardship organization, or rechargeable battery stewardship organization requesting the audit shall pay the cost of the audit and the amount of the reimbursement calculated by the independent auditor. If the independent audit indicates the reimbursement request was not reasonable, the producer or primary battery stewardship organization that initiated the reimbursement request shall pay the cost of the audit and the amount of the reimbursement calculated by the independent auditor.
 - Role of Agency. The Agency shall not be required to provide assistance or otherwise participate in a reimbursement request, audit, or other action under this section, unless subject to subpoena before a court of jurisdiction.
- A Plan must include a collection rate performance goal for primary batteries.
 - A primary battery stewardship plan shall include a collection rate performance goal for the primary batteries subject to the plan. The collection rate includes the estimated total weight of primary batteries that will be sold or offered for sale in the State by the producer or the producers participating in the primary battery stewardship plan.
 - Collection Rate means a percentage by weight that each producer or primary battery stewardship organization collects by an established date. The collection rate shall be calculated by dividing the total weight of the primary batteries that are collected during a calendar year by the average annual weight of primary batteries that were estimated to have been sold in the state of Vermont by participating producers during the previous three calendar years. Estimates of primary batteries sold in Vermont may be based on a reasonable pro rata calculation based on national sales.
 - A Producer shall include provisions in the plan for implementation in conjunction with retailers, municipalities, or certified solid waste management facilities acting as collection facilities under the program. No transportation or recycling cost shall be imposed on retailers, municipalities, or certified solid waste management facilities acting as collection facilities under a program. The producer must provide equipment or products for setting up a collection point and must also provide for the pickup and management of those collected primary batteries.

- An Approved Plan Term shall not exceed five years provided the producer or stewardship organization remains in compliance with the requirements of 10 V.S.A. Chapter 168 and the terms of the approved Plan.

Exemption: A producer who annually sells, offers for sale, distributes, or imports in or into the State primary batteries with a total retail value of less than \$2000.00 shall be exempt from the requirements of 10 V.S.A. Chapter 168-Battery Stewardship Law.

It is up to the producer to prove that their total retail value of primary batteries is less than \$2000.00 annually. This proof must be provided to the Agency in order to certify the exemption.

Other Requirements:

March 1, 2017 and annually thereafter: The producer or stewardship organization shall submit a report to include:

- The weight of primary batteries listed by chemistry collected in the prior calendar year;
- The estimated percentage, by weight, of rechargeable batteries listed by chemistry collected in prior calendar year;
- The percentage of primary batteries collected from producers who are not participating in an approved stewardship plan based on periodic sorting by reporting producer;
The periodic sorting process must be described in the Plan.
- Collection rate achieved in the prior calendar year including a report of the estimate total sales data for primary batteries sold in the State for the previous three calendar years;
- The locations and contact information for all collection points set up by the primary battery producers;
- Examples and description of educational materials used to increase collection;
- Description of management practices of collected primary batteries;
- Any material change to the primary battery stewardship plan;
- The cost of implementation of plan including: collection, recycling, education, and outreach.

Administrative Fee:

A primary battery producer or primary battery stewardship organization shall pay a fee of \$15,000 annually for operation under a Primary Battery Stewardship Plan approved by the Secretary.

Plan Audit- After five years of implementation:

After five years of Plan implementation the producer or stewardship organization shall hire a third party auditor to conduct a one-time audit of the primary battery stewardship plan and plan operation. The auditor shall examine: the effectiveness of the Plan in collecting and recycling primary batteries, the cost-effectiveness of the Plan and compare it with collection programs in other jurisdictions.