



- (j) For any product exemption claimed pursuant to § 3901.2, notify the product producer if a battery producer that obtained the exemption is no longer a member of the BSO.

3900.2 If DOEE rejects an initial plan or proposed plan amendment or revision, the BSO shall submit an amended plan with the required corrections or revisions within forty-five (45) days of the date of the DOEE notice of rejection or required revision.

3900.3 For a battery collection site designated under an approved plan, the BSO shall:

- (a) Provide a safety tutorial on how to safely manage batteries and require that the collection site personnel responsible for the collection program complete the safety tutorial:
  - (1) Before the site begins to operate as a collection site under the approved plan; and
  - (2) When there is a change in responsible collection site personnel;
- (b) Ensure that the collection site prominently displays the availability of drop-off at its location; and
- (c) Ensure that the collection site provides for the acceptance of up to one hundred (100) batteries per visit and accepts all primary and rechargeable batteries regardless of type or brand.

3900.4 Any end-of-life handling used by a BSO shall be in accordance with practices set forth in an approved battery stewardship plan or amendment to the plan.

SOURCE: Final Rulemaking published at 69 DCR 015526 (December 30, 2022).

**3901 REQUIREMENTS FOR PRODUCERS**

3901.1 A producer of a covered battery or covered battery-containing product sold or offered for sale in the District of Columbia, including retail, wholesale, business-to-business, and online sales, shall:

- (a) Be a member of a BSO; and
- (b) As part of a BSO, implement a battery collection program as set forth in an approved battery stewardship plan.

3901.2 A product that contains or is packaged with a primary or rechargeable battery is not a battery-containing product under this chapter if each battery producer of any primary or rechargeable battery that is contained in the product or packaged with the product at the time of sale:

- (a) Is a member of a BSO that has an approved battery stewardship plan; and
- (b) Has provided a written certification containing the following information to the BSO of which the battery producer is a member:
  - (1) The name of the battery producer submitting the certification;
  - (2) The brand name, product name, and other identifying information for the product that contains or is packaged with the producer's battery;
  - (3) The name, mailing address, and email address of the product producer;
  - (4) The brand name, product name, and other identifying information for the primary or rechargeable battery or batteries in or packaged with the product; and
  - (5) Documentation that the battery producer provided a written certification of the battery producer's membership in the BSO to the product producer.

3901.3 A battery producer that provides its BSO with a certification meeting the requirements in § 3901.2 shall notify the BSO if it stops supplying primary or rechargeable batteries for the product that is the subject of the certification.

3901.4 If the product producer changes the batteries contained in or packaged with the product to primary or rechargeable batteries of a different producer, the product producer shall notify the BSO, and the product is not exempt under this section unless and until the new battery producer complies with § 3901.2.

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SOURCE: Final Rulemaking published at 69 DCR 015526 (December 30, 2022).

**3902 BATTERY STEWARDSHIP PLAN**

3902.1 A proposed battery stewardship plan shall include:

- (a) A list of producers and brands, including:
  - (1) The name of each BSO member and the name, mailing address, phone number, and email address of a contact for each BSO member;
  - (2) The brands of batteries and battery-containing products covered by the battery stewardship plan; and
  - (3) A description, including brand name, product name, producer name, and other identifying information, of products that will be exempt under § 3901.2 when the proposed battery stewardship plan is approved;
- (b) An anticipated annual budget for the plan's implementation that:
  - (1) Covers the first partial calendar year, if any, of battery stewardship plan implementation and the first full calendar year of implementation following any partial year;
  - (2) Lists separate line items for the following categories:
    - (A) Battery stewardship plan administration costs;
    - (B) Collection costs;
    - (C) Transportation costs;
    - (D) Disposition costs, including separate line items for the cost of recycling, other processing, and end-of-life handling; and
    - (E) Communication costs, which shall have the same meaning as public education program costs used in § 3900.1(d) and public education and outreach program costs used in § 3903.3(k)(1);
  - (3) Describes the financing method used to implement the battery stewardship plan, identifies funding for staff responsible for implementing the battery stewardship plan in the District, and includes DOEE administration fees established by § 3907; and

- (4) Does not include legal fees or costs related to legislative efforts;
- (c) Economically and technically feasible performance goals that:
  - (1) Include metrics to measure, on an annual basis, the performance of the plan, taking into consideration technical feasibility and economic practicality, in achieving continuous, meaningful progress to improve the rate of battery recycling in the District;
  - (2) Cover each of the first three (3) full calendar years of battery stewardship plan implementation;
  - (3) Discuss how the BSO will address performance goals during the first partial calendar year, if any, of battery stewardship plan implementation;
  - (4) Are in the form of target collection rates, target recycling efficiencies by battery recycling process, and measurable goals for public awareness, convenience, and accessibility;
  - (5) With respect to target collection rates, are based on the estimated total weight, calculated according to § 3904, of primary and rechargeable batteries, including batteries contained in or sold with battery-containing products, that are sold in the District in the previous three (3) calendar years by the BSO members;
  - (6) With respect to goals for recycling efficiencies by battery recycling process:
    - (A) Include a method for calculating recycling efficiency; and
    - (B) Provide target recycling efficiencies by battery recycling process;
  - (7) With respect to goals for public awareness:
    - (A) Increase the percentage of people in the District who know how to recycle primary and rechargeable batteries through stewardship plan collection sites; and
    - (B) Include measures to evaluate progress in increasing public awareness in the District, such as advertising and media impressions and social media engagement; and
  - (8) With respect to goals for convenience and accessibility, include metrics to evaluate:

- (A) The proximity of collection sites to residents in all eight (8) District wards;
  - (B) The extent to which collection sites across the District are open to the public, including the hours and days that collection sites are open and whether there are any limitations on public entry;
  - (C) Accommodations for people with limited or no English proficiency; and
  - (D) The availability and effectiveness of any mail-back or other program proposed under § 3902.3;
- (d) A description and explanation of the BSO's proposed battery collection program, including:
- (1) How the BSO will provide for the collection from consumers of all primary and rechargeable batteries, including batteries contained in or sold with battery-containing products, on a free, regular, convenient, and accessible basis;
  - (2) How the BSO will meet the following requirements:
    - (A) At least one (1) collection site per ten thousand (10,000) people in the District;
    - (B) A reasonable geographic spread of collection sites across all eight (8) District wards that takes into account accessibility to public transit and areas where people would seek to recycle batteries;
    - (C) Safe and legal collection, handling, and shipment of batteries by the collection sites, including ensuring that each collection site is aware of and adheres to applicable laws and regulations and safety practices for the collection, handling, and shipment of batteries; and
    - (D) How the BSO will ensure each collection site has the materials and equipment necessary to handle up to one hundred (100) batteries per visit and has established a regular pick-up schedule to prevent overflow issues at the site;

- (3) A reasonable timetable for achieving the requirements of § 3902.1(d)(2)(A) and (B), if these requirements will not be met within the first year of implementation;
  - (4) A process for decommissioning collection sites, so that if a site closes, any batteries collected until the closure will be shipped to the proper facilities for recycling as specified in § 3902.1(e), on-site signage about the availability of drop-off will be removed, and the site will be removed from the public list of collection sites as specified in § 3902.5; and
  - (5) How the battery stewardship organization will develop strategies, in consultation with DOEE and other relevant parties, for collecting primary and rechargeable batteries in areas and communities that face environmental justice challenges associated with waste management.
- (e) A description of how the BSO will arrange for components of the discarded batteries to be recycled to the maximum extent economically and technically feasible, in a manner that is environmentally sound and safe for waste management workers, including:
- (1) The recycling process to be used for each type of battery chemistry that the BSO anticipates collecting;
  - (2) The criteria for how the BSO will evaluate the economic and technical feasibility of recycling the components of discarded batteries, and the environmental and safety records of recycling facilities that will be used to implement the plan;
  - (3) How the BSO applied the criteria in § 3902.1(e)(2) to select the recycling facilities;
  - (4) How the BSO will conduct any end-of-life handling, including management and disposal of batteries or battery components that cannot be recycled, in accordance with applicable law; and
  - (5) A description of the periodic sorting that will be used to provide the estimate required by § 3903.3(e)(4);
- (f) A list of all key participants in the battery collection program, including:
- (1) For each collection site accepting batteries under the plan:
    - (A) Site name;



- (B) Physical address of the site;
  - (C) Phone number of the site; and
  - (D) If available, the name and email address of a contact person at the site and the website for the site or parent company;
- (2) For each transporter or contractor collecting batteries from the collection sites:
- (A) Company name;
  - (B) Name of a contact person;
  - (C) Physical address of the company;
  - (D) Email address and phone number for the contact person; and
  - (E) Company website, if available;
- (3) For any facility that processes the collected batteries or components of the collected batteries, including recycling facilities or any end-of-life handling facilities:
- (A) Company name;
  - (B) Physical address of the facility;
  - (C) Name of a contact person;
  - (D) Email address and phone number for the contact person;
  - (E) A summary of the facility's role in processing the collected batteries or components of the collected batteries;
  - (F) The environmental compliance summary specified in § 3902.2;
  - (G) Company website, if available; and
  - (H) A list of all solid or hazardous waste registrations or permits applicable to the facility that pertain to the processing of batteries or components of batteries at the facility's location; and

- (g) A description of the education and outreach the BSO will use to inform consumers about the battery collection program, including:
  - (1) At a minimum, how the education and outreach will notify the public:
    - (A) That there is a free collection program for primary and rechargeable batteries;
    - (B) About requirements and any guidelines for safe collection of batteries;
    - (C) About the location of the collection sites and any other collection opportunities according to § 3902.3; and
    - (D) How to access the battery collection program;
  - (2) How the BSO will:
    - (A) Identify target audiences and appropriate outreach for those audiences, including through television or radio, news media, public service announcements, mailings, emails, online listservs, social media, and District newsletters;
    - (B) Determine the frequency of education and outreach campaigns and activities to ensure the public is continually educated; and
    - (C) Conduct sufficient outreach to assess optimal collection site locations to enhance participation in the program;
  - (3) How the BSO will distribute educational materials to sellers of primary and rechargeable batteries and battery-containing products, government agencies and nonprofit organizations in the District, and all collection sites describing collection opportunities under the battery stewardship plan; and
  - (4) Examples of the type of outreach and education materials the BSO plans to provide to the public and to the entities listed in § 3902.1(g)(3).

3902.2 The summary referenced in §§ 3902.1(f)(3)(F) and 3903.3(j)(2)(F) shall list any environmental violation or alleged environmental violation in which:

- (a) The date of the violation or alleged violation was within the past three (3) years; and

- (b) There is a pending administrative or judicial enforcement action or claim, a fine was paid or a settlement reached, or there is a court order requiring payment of a fine or injunctive relief.

3902.3 The BSO may include in its proposed plan a description of a mail-back option or other option to supplement the collection sites in its battery collection program to increase convenience and accessibility.

3902.4 DOEE may require that a BSO submitting a battery stewardship plan include additional information or data needed to implement the Act or this chapter.

3902.5 The BSO may add or remove a collection site from the approved battery stewardship plan at any time by updating the public list of collection sites on its website, provided that the minimum number of collection sites and geographic spread required by § 3902.1(d)(2)(A) and (B) and the approved stewardship plan are maintained.

3902.6 The BSO shall notify DOEE within thirty (30) days of any change to identified participants in the battery collection program under § 3902.1(f)(2) and (3).

SOURCE: Final Rulemaking published at 69 DCR 015526 (December 30, 2022).

**3903 ANNUAL REPORTING**

- 3903.1 A BSO shall submit an annual report to DOEE on or before June 1 each year starting in 2024.
- 3903.2 The annual report shall cover the previous calendar year, except where § 3903.3 specifies a different time period.
- 3903.3 The annual report shall include the following:
- (a) Name, mailing address, phone number, and email address of the contact for the BSO as of the date of report submission;
  - (b) Names of the BSO members;
  - (c) Brands of batteries and battery-containing products for which the BSO is responsible;
  - (d) A description, including brand name, product name, producer name, and other identifying information, of products exempted under § 3901.2;
  - (e) Weight of the batteries collected by the BSO under the battery stewardship plan:
    - (1) In total;
    - (2) By collection site, to the extent feasible;
    - (3) By chemistry type of primary and rechargeable batteries, to the extent feasible; and
    - (4) As estimated from periodic sorting, the percentage of collected batteries that are from producers who are not BSO members;
  - (f) Estimated total sales, by weight calculated in accordance with § 3904, of primary and rechargeable batteries, including batteries contained in or sold with battery-containing products, that are sold in the District by BSO members, to the extent feasible for each of the previous three (3) calendar years;
  - (g) A description of the progress made toward meeting approved program performance goals, including:
    - (1) A summary of how program implementation compared to performance goals;

- (2) An explanation of why performance goals were not met, if applicable; and
  - (3) An evaluation of the effectiveness of methods and processes used to achieve the performance goals and how methods and processes can be improved;
- (h) A description of the collection sites, including:
- (1) For each collection site, the site name, the physical address of the site, the phone number of the site, the website for the site or parent company, and, if available, the name and email address of a contact person at the site;
  - (2) A list of any collection sites added or removed from the program;
  - (3) A map indicating the location of all collection sites in the District;
  - (4) An assessment of collection convenience and accessibility; and
  - (5) A discussion of any challenges faced by collection sites and proposed solutions;
- (i) Information regarding education and outreach under the battery stewardship plan, including:
- (1) A description of the educational materials that support implementation of the battery stewardship plan, including examples of the materials;
  - (2) A description of the specific education and outreach conducted, including the specific activities described under § 3902.1(g), outreach for the program in general, and outreach for specific collection sites; and
  - (3) An evaluation of the success of the education and outreach effort and how it can be improved;
- (j) A description of how the batteries collected under the battery stewardship plan were sorted, consolidated, managed, and processed, including:
- (1) The manner in which the collected batteries were recycled, including weight and chemistry of material recycled;

- (2) For each facility that processed the collected batteries or components of the collected batteries, including recycling facilities or any end-of-life handling facilities:
  - (A) Company name;
  - (B) Physical address of the facility;
  - (C) Name of a contact person;
  - (D) Email address and phone number for the contact person;
  - (E) A summary of the facility's role in processing the collected batteries or components of the collected batteries;
  - (F) The environmental compliance summary specified in § 3902.2;
  - (G) Company website, if available; and
  - (H) A list of all solid or hazardous waste registrations or permits applicable to the facility that pertain to the processing of batteries or components of the batteries at the facility's location;
- (3) A discussion of recycling efficiency rates; and
- (4) Any end-of-life handling the BSO used;
- (k) The costs of implementation of the battery stewardship plan, including:
  - (1) Separate line items showing the costs of administration of the battery stewardship plan, public education and outreach programs about the plan, and battery collection, transportation, recycling, other processing, and end-of-life handling; and
  - (2) The BSO shall explain any significant differences between the actual amount spent and the budgeted amount listed in the battery stewardship plan or a previous annual report; and
- (l) An anticipated budget for the next calendar year.

3903.4 If an annual report indicates the BSO has not met a performance goal proposed and approved under § 3902.1(c) or § 3900.1(h), that annual report shall also include a proposed plan amendment for the BSO to conduct more outreach,

provide additional education materials, or improve collection accessibility as needed.

3903.5 The annual report submitted five (5) full calendar years after initial approval of the battery stewardship plan shall include:

- (a) The results of an independent third-party assessment of the battery stewardship plan and implementation of the plan that examines the effectiveness of the battery stewardship plan in collecting and recycling batteries and compares the cost-effectiveness of the plan to that of collection plans or programs for batteries in other jurisdictions; and
- (b) Recommendations to improve the plan.

SOURCE: Final Rulemaking published at 69 DCR 015526 (December 30, 2022).

**3904            CALCULATION OF WEIGHT**

3904.1            In estimating weight under §§ 3900.1(h), 3902.1(c)(5), and 3903.3(f), the BSO shall calculate weight by one (1) of the following methods:

- (a)            Using District sales data; or
- (b)            Multiplying the weight sold nationally by the quotient of the District's population divided by the national population.

3904.2            A BSO shall use the most recent data provided by the United States Census Bureau for the calculation in § 3904.1(b).

SOURCE: Final Rulemaking published at 69 DCR 015526 (December 30, 2022).



**3905 RECORDKEEPING**

3905.1 A BSO shall maintain, for three (3) years, records used to:

- (a) Document exemptions under § 3901.2;
- (b) Prepare battery stewardship plans pursuant to § 3902;
- (c) Prepare annual registration forms pursuant to § 3900.1(e); and
- (d) Prepare annual reports pursuant to § 3903.

3905.2 The BSO shall provide or make available to DOEE for inspection any record, including reports, electronic records, certifications, or any other document, that is required to be maintained by § 3905.1.

SOURCE: Final Rulemaking published at 69 DCR 015526 (December 30, 2022).

**3906 ENFORCEMENT**

3906.1 DOEE may enforce the requirements of the Act or this chapter by issuing one or more of the following:

- (a) Notice of violation; or
- (b) Notice of infraction.

3906.2 DOEE may issue a notice of infraction without first issuing a notice of violation.

3906.3 A person issued a notice of infraction may request a hearing or adjudication pursuant to the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.01 *et seq.*) and the Office of Administrative Hearings rules (1 DCMR § 2800 *et seq.*).

SOURCE: Final Rulemaking published at 69 DCR 015526 (December 30, 2022).

**3907 ADMINISTRATIVE FEE**

3907.1 On or before May 1, 2023, and annually thereafter, a BSO implementing an approved battery stewardship plan shall pay a fee of forty thousand dollars (\$40,000).

3907.2 After May 1, 2023, DOEE shall annually adjust the fee in § 3907.1 for inflation, using the Consumer Price Index for All Urban Consumers (CPI-U) published by the United States Bureau of Labor Statistics. To perform this adjustment, DOEE shall increase each fee by the percentage, if any, by which the CPI-U for February of the calendar year exceeds the CPI-U for February of the previous calendar year. Each inflation adjustment shall be posted to DOEE's website.

SOURCE: Final Rulemaking published at 69 DCR 015526 (December 30, 2022).

**3999**            **DEFINITIONS**

3999.1            When used in this chapter, the following words or phrases shall have the meaning described below (some of the definitions were codified in the Act, indicated as [Statutory], and are reprinted below for regulatory efficiency):

**Act** – Section 2(q) of the Zero Waste Omnibus Amendment Act of 2020, effective March 16, 2021 (D.C. Law 23-211; D.C. Official Code § 8-771.01 *et seq.*).

**Battery** – a device that consists of one (1) or more electrically connected electrochemical cells and is designed to store and deliver electric energy. [Statutory]

**Battery Stewardship Organization or BSO** – an organization registered under § 3900.1(e).

**Brand** – a trademark, including both a registered and an unregistered trademark, a logo, a name, a symbol, a word, an identifier, or a traceable mark that identifies a covered battery or covered battery-containing product, and identifies the owner or licensee of the brand. [Statutory]

**Collection rate** – a percentage, by weight, that a BSO collects that is calculated by dividing the total weight of primary and rechargeable batteries collected during a calendar year by the average annual weight of primary and rechargeable batteries that were estimated to have been sold in the District by all producers participating in an approved battery stewardship plan during the previous three (3) calendar years.

**Covered battery-containing product** – a new or unused battery-containing product. [Statutory]

**DOEE** – Department of Energy and Environment.

**District** – District of Columbia.

**Member** – an entity that participates in a BSO.

**Person** – an individual, firm, partnership, company, corporation, nonprofit corporation, trust, association, organization, or any other private or governmental entity.

**Performance goal** – a metric proposed in a battery stewardship plan to measure, on an annual basis, the performance of that plan, taking into consideration technical feasibility and economic practicality, in achieving continuous, meaningful progress to improve the rate of battery recycling in the

District. The term "performance goal" includes target collection rates, target recycling efficiencies by battery recycling process, and goals for public awareness, convenience, and accessibility. [Statutory]

**Primary battery** – a non-rechargeable battery that weighs 4.4 pounds (2 kilograms) or less, including alkaline, carbon-zinc, and lithium metal batteries. [Statutory]

**Rechargeable battery** – a battery that contains one or more voltaic or galvanic cells, electrically connected to produce electric energy, designed to be recharged, that weighs less than 11 pounds (5 kilograms) and has a Watt-hour rating of no more than 300 watt-hours. The term "rechargeable battery" does not include:

- (A) A battery that contains electrolyte as a free liquid, or
- (B) A battery that employs lead-acid technology, unless that battery is sealed and contains no free liquid electrolyte. [Statutory]

**Recycling** – the series of activities, including separation, collection, and processing, through which materials are recovered or otherwise diverted from the solid waste stream for use as raw materials or in the manufacture of products other than fuel. [Statutory]

**Regular** – available for battery collection on a recurring basis at fixed days and times unless the entity serving as a collection site is not open for operations.

SOURCE: Final Rulemaking published at 69 DCR 015526 (December 30, 2022).