

Primary Battery Stewardship Law (Act 139)

Summary Sheet

Why Battery Stewardship?

On May 22, 2014, Governor Shumlin signed into Vermont law the nation's first primary battery stewardship bill.

Batteries are composed of valuable materials that can be recycled. Recycling the contents reduces the need to expensively mine for virgin materials, and lessens environmental impacts from mining. Some batteries also contain harmful materials that need to be managed properly as opposed to being landfilled. Vermonters buy over 10 million batteries a year and the majority of those batteries are currently being landfilled. This law will ensure the proper management of primary batteries and provide Vermonters with convenient options for recycling.

This law requires manufacturers of primary batteries sold in VT to register with Vermont Agency of Natural Resources (ANR) by March 1, 2015 and provide a Stewardship Plan to manage the proper recycling and/or disposal of all primary batteries sold in Vermont. Stewardship Plan(s) are due June 1, 2015. The Stewardship Plan(s) must establish a collection program supported by manufacturers for all primary batteries, and provide a minimum of 2 collection facilities in each county in VT that operate year round. The Plan must also allow any retailer that sells batteries and any municipality to serve as a collector for the program. Packaging, transportation, and recycling will be paid for by the manufacturer. Consumers will be able to recycle their primary batteries at no cost under this program effective January 1, 2016.

What is a Primary Battery?

A Primary Battery is a non-rechargeable battery weighing two kilograms or less, including alkaline, carbon-zinc, and lithium metal batteries.

Are Rechargeable Batteries included in this law?

No, this program is specifically for non-rechargeable batteries. However, rechargeable batteries are currently collected and recycled under a voluntary stewardship program operated by [Call2Recycle](#).

Rechargeable batteries covered under Call2Recycle's program are: Nickel Cadmium (Ni-CD), Nickel Metal Hydride (Ni-MH), Lithium Ion (Li-Ion), Nickel Zinc (Ni-Zn), and Small Sealed Lead (SSLA/Pb).

Under this new law, a rechargeable battery steward or rechargeable battery stewardship organization shall register with ANR in order to seek reimbursement for collected primary batteries from the producer or stewardship organization representing the collected primary battery.

Are Products that contain Primary Batteries required to Register or Submit Plans?

No. The law does not require manufacturers of products that contain or are sold with primary batteries to register, collect batteries, or to submit a stewardship plan. The law requires the Agency to evaluate and report to the legislature, the impact that products containing primary batteries have on the collection program. The Agency is required to submit a report in 2019 on whether the law should be changed to include additional manufacturers of batteries or products containing batteries.

Summary of Act

Manufacturer Responsibility

March 1, 2015 –beginning March 1 and annually thereafter, a primary battery stewardship organization shall file a registration form with ANR. 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. ANR 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 this chapter;
- 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 to satisfy the requirements of this chapter.

June 1, 2015: Primary Stewardship Plan required. 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.
- 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.
 - Provide at a minimum no fewer than two collection facilities in each county that provide year round collection.
 - 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.
- Each plan shall describe disposition methods that responsibly manage discarded batteries to ensure that when technically and economically feasible are recycled.
- All key participants in the collection chain shall be listed (collection facilities, contractors, transporters, and recycling facilities).
- 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
 - The location of collection points and how to access
- The Plan must include a producer to producer reimbursement procedure consistent with the law.
- A Plan must include a collection rate performance goal for primary batteries.
- Plan Term shall not exceed five years provided the producer or stewardship organization remains in compliance.
- 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. 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.

January 1, 2016:

Sale Prohibited, A producer of a primary battery shall not sell, offer for sale, or deliver to a retailer for subsequent sale unless they are registered under an approved stewardship plan, have paid the administrative fee of \$15,000 to ANR, and are designated on ANR's website as covered by an approved stewardship plan.

Collection Program Begins: Consumers will be able to recycle their primary batteries at no cost at convenient locations.

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

- The weight of primary batteries collected in the prior calendar year;
- The estimated percentage, by weight, of rechargeable batteries 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;
- 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.

Plan Audit- After five years of implementation:

After five years of Plan implementation the producer or stewardship organization shall hire a 3rd party auditor to examine cost effectiveness and compare it with collection programs in other regions.

Reimbursement and Private Right of Action

The law includes provisions for producer to producer reimbursement and private right of action. The Agency is not involved with either of these provisions. See full text of legislation for further description and detail. <http://www.leg.state.vt.us/docs/2014/Acts/ACT139.pdf>

Retailer Responsibility

No retailer shall sell or offer for sale a primary battery on or after January 1, 2016 unless the producer is implementing an approved plan or is exempt.

The retailer will let consumers know about collection options through educational materials that are supplied by the stewardship organization.

ANR Responsibility

- Oversight for effective implementation, review, and reporting of the program.
- Review and approve Plans. Within 90 days after receipt of a proposed Plan, ANR shall determine whether the Plan complies with the requirements.
- ANR, at its discretion or at the request of the producer, may require an amendment to an approved Plan.
- ANR shall post all proposed stewardship plans on the ANR website for 30 days from date the application or plan amendment is complete and provide a process for public input on proposed plan.
- ANR shall accept, review, approve or deny primary battery stewardship organization registrations.
- ANR will maintain a website listing approved plans, names of participating producers and update as needed.
- On or before January 15, 2019, ANR shall submit a report on the progress of the primary battery stewardship program to the House and Senate Committees on Natural Resources and Energy. The report shall include:
 - The amount, by weight, of primary batteries and rechargeable batteries collected under the approved primary battery stewardship plans;
 - The percentage of collected batteries not covered by or attributable to a primary battery producer with an approved plan or participating in an approved primary battery stewardship organization; and
 - Recommendation for any amendments to the requirements of the law (10 V.S.A. chapter 168), including whether additional manufacturers of batteries or battery containing products should be required to implement primary battery stewardship plans.

Questions?

Contact Mia Roethlein, VT DEC, Waste Management & Prevention Division, Solid Waste Program
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Full Legislation: <http://www.leg.state.vt.us/docs/2014/Acts/ACT139.pdf>