

Frequently Asked Questions (FAQs) about Washington, DC's Battery Stewardship Program

This document is intended to assist entities in complying with DC's battery stewardship law and regulations. For more information, please see <https://doee.dc.gov/node/1567851>.

How do I know if DC's battery stewardship law applies to my company?

1. Who is required to comply with DC's battery stewardship law?

The law applies to producers of covered batteries and covered battery-containing products sold or offered for sale in the District of Columbia, including retail, wholesale, business-to-business, and online sales.

“Producer,” “covered battery,” and “covered battery-containing product” are defined in [DC Code § 8-771.01\(6\), \(7\), and \(11\)](#).

2. Is “covered electronic equipment,” as defined in DC's electronic stewardship law, also subject to DC's battery stewardship law?

No. If a product is “covered electronic equipment” (CEE) as defined under the District's electronic stewardship [law](#) and [regulations](#), it is exempted from the definition of “battery-containing product” in the District's [battery stewardship law](#). ([DC Code § 8-771.01\(2\)\(A\)](#)). It is important to be familiar with the definition of CEE under the electronic stewardship law and regulations. For example, a portable computer with a screen six inches or less, measured diagonally, is not CEE and *would* be subject to DC's battery stewardship law.

See question three below for an explanation of how the law addresses replacement batteries associated with CEE.

3. How are replacement batteries, including those meant for use in “covered electronic equipment” as defined in DC's electronic stewardship law, addressed under DC's battery stewardship law?

A primary or rechargeable battery that is not contained in or packaged with a battery-containing product or CEE is subject to the District's battery stewardship law. An example of this is a replacement battery sold separately. Producers of these new or unused replacement batteries that are sold or offered for sale in the District must be a member of a battery stewardship organization (BSO), and as part of the BSO, implement a battery collection program.

4. My company imports covered batteries or covered battery-containing products into the U.S. for sale or distribution for sale in the District. Considering the categories in the definition of “producer,” do we need to comply with the District’s battery stewardship law?

A company in this situation would only be considered a producer if there is no one to which (A) or (B), in the definition of “producer,” applies, or if contact information for any person to which (A) or (B) applies is not available.

- Section (A) applies to manufacturers who sell or offer for sale in the District under their own brand.
- Section (B) applies to manufacturers and others who sell, offer for sale, or distribute for sale in the District under a brand they own or license, whether or not the trademark is registered.
 - This section does not apply if Section (A) applies or if no contact information is available for any person to which (A) applies.

Section (C) applies only if

- There is no one meeting the definition of Section (A) or (B) or if no contact information is available for any person to which (A) or (B) applies, and
- A person imports into the US for sale or distribution for sale in the District.

5. My company is a producer of a covered battery-containing product, as defined in DC’s battery stewardship law. However, the producer of the battery in my company’s product is a member of a battery stewardship organization (BSO). Does my company also need to join a BSO?

Yes, until the BSO has an approved battery stewardship plan and other conditions are met. There is a BSO, but a battery stewardship plan has not yet been approved. When a plan is approved, there may be an exemption for your company.

The definition of battery-containing product, as stated in the law, excludes battery-containing products if the only primary or rechargeable batteries used in the product, at the time of sale, are supplied by a battery producer that:

- Is a member of a BSO that has an approved battery stewardship plan and is registered with DOEE; and
- Has provided written certification of that membership to both the producer of the covered battery-containing product and the BSO of which the battery producer is a member.

DC’s battery stewardship regulations at [20 DCMR § 3901.2](#) require the battery producer’s written certification to the BSO to include:

- The name of the battery producer submitting the certification;
- The brand name, product name, and other identifying information for the product that contains or is packaged with the producer’s battery;

- The name, mailing address, and email address of the product producer;
- The brand name, product name, and other identifying information for the primary or rechargeable battery or batteries in or packaged with the product; and
- Documentation that the battery producer provided a written certification of the battery producer's membership in the BSO to the product producer.

Once the BSO has an approved plan, if the battery producer remains a member of the BSO and the other conditions required for the exemption are met, your product would be exempt from the definition of battery-containing product. ([DC Code § 8-771.01\(2\)\(B\)](#))

Note that if a battery from more than one producer is used in your product, each battery's producer needs to follow the process above for your product to be exempt. Additionally, if you change the batteries contained in or packaged with the product to primary or rechargeable batteries of a different producer, you must notify the BSO, and the product is not exempt under this section unless and until the new battery producer complies with § 3901.2.

6. My company seems to qualify as a producer of covered batteries and/or covered battery-containing products, but the batteries or products were imported into the District a while ago. Does my company have any obligations under DC's battery stewardship law for this old stock?

DC's battery stewardship law states that a producer is *not* subject to the requirement to be a member of a BSO and as part of the BSO, implement a battery collection program, *if* the producer *only* sells or offers for sale in the District batteries or battery-containing products that were imported into the District before October 1, 2021.

If a person meets the definition of producer for any covered batteries or battery-containing products sold or offered for sale in the District that were imported into the District *on or after* October 1, 2021, the producer is subject to the requirements of the law. ([DC Code § 8-771.02\(c\)](#))

7. My company sells battery-containing medical devices in the District. How do I know if they are considered battery-containing products under DC's battery stewardship law?

A medical device as described in 21 USC 360c is only considered a "battery-containing product" under DC's battery stewardship law *if* the device is designed and marketed for sale or resale principally to consumers for personal use. ([DC Code § 8-771.01\(2\)\(C\)](#)) In other words, to be in scope, the device must be offered for sale to people for their own use.

Personal medical devices that are sold with batteries, such as hearing aids, blood pressure monitors, and insulin pumps, as well as personal medical devices with embedded batteries, would be considered battery-containing products under DC's law.

Sometimes the same device can be used both in a clinical setting and at home. If anyone can buy a device over the counter or online for their own use, it is designed and marketed to consumers for personal use. If a device can only be used in a clinical setting or is not marketed to any consumers, the item is not considered a battery-containing product under the law.

If your company has questions about whether your device is a battery-containing product after reviewing the above information, please contact productstewardship@dc.gov.

8. My company sells a product that meets the definition of battery-containing product in DC's battery stewardship law, but the battery is embedded. Do I still have obligations under the law?

Yes. DC's battery stewardship law doesn't distinguish between embedded batteries and those that are removable. Even though the BSO is only required to collect and recycle loose batteries, not battery-embedded products, producers of battery-embedded products are required to be a member of the BSO as noted in [D.C. Code § 8-771.02\(a\)\(1\)](#). FAQ #5 describes an exemption that may be available for your product once the BSO's plan is approved.

9. My company (Company #1) manufactures a covered battery or covered battery-containing product for another company (Company #2) to sell under the Company #2 brand. Does my company need to join a battery stewardship organization (BSO)?

Under the definition of "producer" described in question 4, Section (A) does not apply because Company #1 is not selling the item under its own brand. Section (B) applies to the owner or licensee of the brand under which the item is sold, offered for sale, or distributed for sale in the District. If Company #1 is not a brand licensee, Company #2 is required to join the BSO because it sells the item under its own brand in the District. If Company #1 is a brand licensee, either Company #1 or Company #2 must join the BSO.

DC's battery stewardship law applies to my company – how do I comply?

1. How do we join a battery stewardship organization (BSO)? Do you have a list of approved BSOs?

Call2Recycle is the BSO under the District's battery stewardship law. Only this organization registered as a BSO by the deadline of January 1, 2022.

To join Call2Recycle's BSO, please contact:
Carin Stuart at cstuart@call2recycle.org or (678) 218-4593.

2. What is the deadline for producers to participate in a BSO?

A producer of covered batteries and covered battery-containing products must be a member of a BSO to sell or offer for sale these items in the District of Columbia currently, including retail, wholesale, business-to-business, and online sales. ([DC Code § 8-771.02\(a\)\(1\)](#))

The deadline for an organization to register as a BSO was January 1, 2022. Producers were required to join a BSO by then so they could be identified on the BSO's registration form.

If your company is required to be a member of a BSO and has not joined the BSO, to come into compliance, contact the BSO to join as soon as possible.

3. My company is already a member of a BSO. How do we prove to DOEE that we are a member and therefore in compliance? Are there any additional steps to comply beyond this membership? What if we joined the BSO after the January 1, 2022 BSO registration deadline?

Producers are not required to register with DOEE or submit information to DOEE. Producers must be a member of a BSO. In its annual BSO registration form, Call2Recycle lists the producers that are members of its organization at the time the form was submitted. Call2Recycle can confirm membership if a company joins after the registration was submitted.