

# Call2Recycle, Inc.

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August 4, 2023

Address: 1200 First Street NE, 5th Floor, Washington, DC 20002

Subject: Call2Recycle comments to the Department of Energy and Environment; Notice of Proposed Rulemaking for Chapter 40 of Title 16 DCMR Consumers, Commercial Practices, and Civil Infractions

Delivered via email to: [productstewardship@dc.gov](mailto:productstewardship@dc.gov)

On behalf of Call2Recycle, Inc., we are pleased to respond to the Department of Energy and Environment Notice of Proposed Rulemaking for Battery Stewardship Infractions.

## BACKGROUND ON CALL2RECYCLE

Call2Recycle, Inc. (Call2Recycle), a non-profit 501(c)4, was founded in 1994 by the rechargeable battery industry who recognized the need to manage end-of-life disposal of its products and voluntarily came together to assume this responsibility. Having more than 25 years' experience, Call2Recycle recognizes the myriad of challenges and opportunities of the ever-changing dynamics surrounding battery management and supports initiatives that align with our mission to collect and recycle batteries safely and responsibly and augments established battery management solutions rather than disrupts already successful systems. Call2Recycle looks forward to sharing key considerations garnered from our experience and 150+ million pounds of batteries safely and responsibly collected for recycling.

Call2Recycle is primarily funded by more than 200 battery and battery-powered product manufacturers (stewards) to responsibly collect and recycle rechargeable batteries (along with primary batteries in select jurisdictions, including Washington, D.C. where it is the only registered Battery Stewardship Organization). Call2Recycle's stewardship program offers battery management for portable primary (weighing up to 4.4 lbs.) and rechargeable batteries (having less than 300-watt hours and weighing up to 11 lbs.).

In the following pages, Call2Recycle's proposed changes are indicated in red. We would be happy to schedule a meeting to further discuss our comments on the Notice of Proposed Rulemaking for Battery Stewardship program infractions.

## COMMENTS

### 4014.3 (A)

<b>Citation</b>	20 DCMR § 3900.1(b) (failure to fully implement an approved battery stewardship plan or amendment to the plan no later than ninety (90) days after receiving DOEE approval);
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	There is no definition for “fully implemented” and it is unclear how it will be determined if a Battery Stewardship Organization (BSO) meets this requirement. The important aspects of a Battery Stewardship Plan are the outcomes after a full year of implementing the approved plan and there are little to no actions that are implemented in the first 90 days after plan approval. For these reasons, Call2Recycle recommends that the focus for both the DOEE and the BSO should be on the annual reports after the program has been running for at least a year, therefore we recommend this clause is deleted.
<b>Proposed change</b>	<del>20 DCMR § 3900.1(b) (failure to fully implement an approved battery stewardship plan or amendment to the plan no later than ninety (90) days after receiving DOEE approval);</del>

## 4014.3 (B)

<b>Citation</b>	<i>20 DCMR § 3900.1(e) (failure to register with DOEE using an agency prepared registration form on or before January 1 of each year);</i>
<b>Comment</b>	An annual submittal of the same BSO registration form providing the same information that does not change year to year is a redundancy of work for the BSO and the DOEE. A one-time submittal of the registration form is a more rational approach. As such, Call2Recycle recommends this infraction is removed as it is not at the same level of importance as compared to other infractions relating to the battery stewardship program.
<b>Proposed change</b>	<del>20 DCMR § 3900.1(e) (failure to register with DOEE using an agency prepared registration form on or before January 1 of each year);</del>

## 4014.3 (I)

<b>Citation</b>	<i>20 DCMR § 3900.3(a) (failure to provide a safety tutorial as required for a battery collection site designated under an approved plan);</i>
<b>Comment</b>	Call2Recycle recommends this infraction be removed, as it does not impact the overall performance of the battery stewardship program. Enforcing that a safety tutorial is provided for all sites does not by itself add any value to the program. It is the combination of a clear, well-written tutorial both provided and completed by the collection site that in totality improves safety. It is Call2Recycle’s concern that by adding this to the list of infractions, the emphasis is placed on actions that will not lead to greater safety distracting from overall performance goals.
<b>Proposed change</b>	<del>20 DCMR § 3900.3(a) (failure to provide a safety tutorial as required for a battery collection site designated under an approved plan);</del>

## 4014.3(J)

<b>Citation</b>	<i>20 DCMR § 3900.4 (conducting end-of-life handling that is not in accordance with practices set forth in an approved battery stewardship plan or amendment to the plan);</i>
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<b>Comment</b>	Call2Recycle recommends this infraction be removed as it will have little impact on the overall battery stewardship program. It is unclear what is considered “end of life handling that is not in accordance with practices set forth in an approved battery stewardship plan” and the criteria DOEE will use to determine if this is not met. There is no requirement in the annual report by the BSO that addresses this item to the level needed to provide impactful information, nor does the DOEE have the ability to audit this infraction on their own. Therefore, Call2Recycle recommends this clause is deleted.
<b>Proposed change</b>	<del>20 DCMR § 3900.4 (conducting end-of-life handling that is not in accordance with practices set forth in an approved battery stewardship plan or amendment to the plan);</del>

## 4014.3(K)

<b>Citation</b>	<i>20 DCMR § 3901.1 (failure of a producer to join a battery stewardship organization); or</i>
<b>Comment</b>	Call2Recycle recommends that this infraction should be a Class 2. The failure of a producer to not join a battery stewardship organization while continuing to place batteries on the market severely limits the incoming fees to the BSO which in turn reduces our ability to run an effective and safe program. This reduction in funding and additional burden to the BSO reduces our ability to run the program which is a result of a producer showing “ <i>flagrant, fraudulent, or willful conduct, or unlicensed activity, or that are imminently dangerous to the health, safety, or welfare of persons within the District of Columbia</i> ”.
<b>Proposed change</b>	<del>4014.3 (t)</del> <b>4014.6</b> Violation of any of the following provisions shall be a Class 2 infraction: <i>20 DCMR § 3901.1 (failure of a producer to join a battery stewardship organization);</i> <del>or</del>