

Act No. 139 (H.695). Conservation and land development; solid waste; primary batteries

An act relating to establishing a product stewardship program for primary batteries

This act requires a producer of primary batteries to implement, on or before January 1, 2016, a plan to collect primary batteries for recycling or other approved disposition. If a producer fails to implement an Agency of Natural Resources (ANR)-approved stewardship plan on or before January 1, 2016, the producer and retailers shall be prohibited from selling the producer's primary batteries in the State, except that a retailer may sell inventory acquired before January 1, 2016 or before expiration or revocation of a plan. The act allows a primary battery stewardship organization to assume the responsibilities, obligations, and liabilities of multiple primary battery producers if the organization does not create unreasonable barriers to participation and maintains a website listing all producers and brands covered by the organization's approved plan. The act requires a primary battery producer or primary battery stewardship organization to report to ANR annually regarding implementation of an approved stewardship plan and to have the plan audited after five years of implementation to determine effectiveness. In addition, the act requires a primary battery producer or stewardship organization to pay an annual fee of \$15,000.00 for operation under an approved stewardship plan.

A primary battery stewardship plan submitted by a producer or a stewardship organization must meet specified requirements. The plan must provide free collection of primary batteries from any person. A collection facility shall allow for collection of up to 100 batteries per consumer visit. All municipalities, all retailers that sell primary batteries, and all certified solid waste management facilities shall be allowed to opt to be a collection facility under a plan. At a minimum, a stewardship plan shall provide no fewer than two collection facilities in each county, and each collection facility shall provide for collection throughout the year. The stewardship plan shall include an education and outreach program regarding the availability and location of collection of primary batteries. The plan shall also include a reimbursement procedure and a collection rate performance goal for primary batteries subject to the plan. An approved stewardship plan shall have a term not to exceed five years.

The act also authorizes primary battery producers or stewardship organizations to seek reimbursement from other primary battery producers, rechargeable battery steward, or stewardship organizations for the costs of collecting batteries of those producers. The act establishes a reimbursement process, including the authority for a producer subject to a reimbursement request to request an independent audit of the requested reimbursement amount. If the audit indicates that the requested costs are reasonable, the producer subject to the request must pay the requested amount and the audit costs. If the audit indicates that the requested costs are unreasonable, the producer submitting the request pays the audit costs and is responsible for paying the requested reimbursement amount. The act authorizes a primary battery producer, a rechargeable battery steward, or a stewardship organization to bring a private cause of action against a producer, steward, or stewardship organization who fails to respond to a reimbursement request.

The act requires ANR to approve or deny a collection plan submitted by a primary battery producer or stewardship organization. ANR may also require amendment of a stewardship plan. ANR shall post all stewardship plans on the Agency website for 30 days, and ANR shall establish a public input process for approval of a new or amended collection plan. The act requires ANR to approve or deny a registration of a stewardship organization. ANR shall maintain a website that includes a copy of all approved stewardship plans and lists all approved primary battery producers and the approved producer's brands.

Effective Date: May 22, 2014