

Extended Producer Responsibility and Recycling

Wiley professionals rank among the world's preeminent authorities on safety, stewardship, and recycling associated with batteries, portable electric products, televisions, and plastics. The firm works regularly on behalf of the largest battery, consumer electronics, and plastics reclaimer trade associations in the country.

Wiley lawyers and regulatory analysts have played the leading role among law firms in addressing public policy and regulatory challenges facing rechargeable battery, portable electronics, and electric vehicle technologies around the world. Members of our group serve as Washington counsel for the Battery Council International (BCI), General Counsel of the Portable Rechargeable Battery Association (PRBA), General Counsel of the Electronic Manufacturers Recycling Management Company (MRM), General Counsel to the Association of Plastic Recyclers, and as legal counsel to Call2Recycle, Inc. and the Consumer Technology Association. Wiley also represents individual manufacturers, processors and formulators, retailers, and original equipment manufacturer (OEM) users in these sectors.

Wiley is representing these sectors on today's critical supply-chain issues – addressing basic material scarcity and conflict mineral issues, component supply assurances, distribution matters, expanding electrification and our domestic production capacity for lithium ion cells, multi-disciplinary approaches to addressing plastic waste, battery recycling, and related governmental funding initiatives. Some of these are cutting-edge, and some simply involve the application of years of legal experience to complex international corporate transactions, infrastructure planning, and project development.

Our experience goes back many years. Our team has been involved in the following, among many other matters:

- Drafting model legislation adopted by many states to support lead acid battery recycling.
- Initially petitioning the U.S. Environmental Protection Agency (EPA) to amend Resource Conservation and Recovery Act (RCRA) regulations and add the "universal waste provisions" that now facilitate the recycling of a large range of products.
- Representing industry interests in passage of the federal Mercury Containing and Rechargeable Battery Act and numerous state "product stewardship" statutes governing recycling of rechargeable consumer batteries and products.

- Establishing successful industry-sponsored spent-battery and electronic waste management programs across the nation.
- Working with the U.S. Department of Transportation and as industry representatives on a range of international standard-setting organizations in developing and implementing battery transportation safety rules and regulations.
- Counseling during the development and updating of the authoritative industry guidelines for designing plastic packaging so that it can be recycled.
- Assisting clients to obtain the first U.S. Food and Drug Administration (FDA) clearances for globally sourced and “OceanBound” recycled plastic.

Among other things, we offer an in-depth understanding of state plastic recycling and packaging laws and mandatory extended producer responsibility (EPR) collection programs for electronics. In these and other legislative matters, the practice’s regulatory analysts engage nationally and worldwide on developments that might influence our association and commercial clients who manufacture, use, and advance these products. The team advocates appropriate changes in governmental policies, whether in Sacramento, Seattle, Washington, DC, Brussels, Geneva, Tokyo, or Beijing.

Our team counsels clients on occupational health and safety, transportation safety, EPR compliance, air and waste management, advertising and labeling, customs and trade, and recycling. We understand batteries, electronics, and plastics throughout their entire product or project lifecycle – raw material sourcing, supply-chain integration and audits, incident response, and design, manufacture, packaging, transport, storage, use, disposal, and recycling – and their associated compliance needs under all relevant regulatory systems.

Our clients count on Wiley to guide them through clearance submissions, rulemakings, and administrative enforcement matters before EPA, FDA, the Occupational Safety and Health Administration (OSHA), the Consumer Product Safety Commission (CPSC), the U.S. Department of Transportation (DOT), the U.S. Department of Energy (DOE), and state and international bodies. Our current representative experience includes:

- Assisting companies seeking federal financial support for domestic battery manufacturing capacity.
- Addressing the recent ruling by OSHA on the regulation of lithium ion batteries under the Hazard Communication Standard.
- Serving as members of federal and state advisory committees addressing transportation safety.
- Representing companies to facilitate new chemical reviews for lithium-ion batteries, including bio-based ingredients and nanomaterials.
- Defending claims asserted against entities cooperating in recycling programs that rise under the federal Superfund statute and parallel state laws.
- Advising the pharmaceutical packaging and plastic container industries on strategies to comply with state recycling, product, packaging, and PFAS mandates and obtain revisions to them.

- Regularly assisting companies that recycle plastics obtain Letters of No Objection in the United States and Canada.
- Defending the ability of producers in litigation to use the chasing arrows symbol and recyclable claims.
- Counseling on California's recent adoption of plastics legislation that among other areas discontinues the use of the chasing arrow symbol on plastic packaging.
- Representing plastics and energy industry interests in the Federal Trade Commission (FTC) deliberations for updating the Green Guides on Environmental Marketing claims.

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