



December 21, 2011

**Workplace Safety  
& Insurance Board**

**Commission de la sécurité  
professionnelle et de l'assurance  
contre les accidents du travail**

**Head Office:**  
200 Front Street West  
Toronto, Ontario  
Canada M5V 3J1

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200, rue Front Ouest  
Toronto (Ontario)  
Canada M5V 3J1

Account 3953784  
Firm 767961FM

☎ (416) 344-1000 ☎ 1-888-313-7373  
TTY/ATS : 1-800-387-0050  
1-800-387-0750  
[www.wsib.on.ca](http://www.wsib.on.ca)

RECHARGEABLE BATTERY  
RECYCLING CORPORATION OF  
CANADA  
4576 YONGE ST SUITE 606  
NORTH YORK ON M2N 6N4

Dear Mr. Zenobio:

**SUBJECT: Reclassification Account # 3953784**

This is in response to your letter of October 7, 2011, in which you requested reconsideration of the industry classification assigned to your firm's account.

The Workplace Safety and Insurance Board (WSIB) classify individual employer operations according to the WSIB's classification scheme. In addition to the classification scheme Regulation 175/98 of the Workplace Safety and Insurance Act (WSIA) provide rules for determining the appropriate placement within the classification scheme of a business activity. The Regulation defines business activity as follows:

*"Means an operation that relates to the production of a product or the provision of a service and includes the work done by domestic workers".*

As per the information found on your website Call2recycle.org your firm is involved in promoting environmental sustainability by providing free battery and cell phone recycling. Batteries are dropped off at various Collection centers couriered by Purolator to Newalta for sorting and consolidation and sent to Inmetco or other locations for recycling.

A review of the information found on your firm file shows that your firm is currently assigned Rate Group 570 (Classification Unit) (CU) 4999-004. This rate group category,

*"Includes employers engaged in the recovery, treatment, and disposal of hazardous chemical waste material. This process may include the transportation, storage, recycling, reprocessing, and stabilizing of chemicals".*

In your request for reconsideration you included a classification questionnaire which confirmed that several aspects of your business activity have been outsourced to third parties. These activities are as follows:

- Purolator provides transportation services of spent batteries for recycling.
- Newalta provides battery sorting and consolidation services.
- Inmetco provides battery recycling services

In addition, we have also taken into account that you have only two staff in Ontario working directly as office administrators to oversee and manage your battery collection and recycling program.

For classification purposes the contracting out rule is defined in Ontario Regulation 175/98, Section 10, of the Workplace Safety and Insurance Act, (WSIA) and is included below for your review:

*"If an employer contracts with another person to have that person carry out an operation that would be a business activity or part of a business activity if the employer carried out the operation, the employer shall, for the purposes of determining what premium rates should apply to the employer, be deemed to be directly carrying out that activity."*

A review of your agreement with Newalta Corporation, a hazardous waste facility who supports your business for the battery collection and recycling, also demonstrates that RBRC Canada takes an active role in the process. RBRC Canada's involvement includes the following:

- RBRC pays direct ground shipping costs for Sorted Batteries and Non-Conforming Batteries from the Newalta to Inmetco or such other locations as RBRC Canada may in writing direct.
- RBRC pays all fees for handling all materials, including Batteries and Non-Conforming Batteries, from the Consolidation facility to Inmetco or another destination designated by RBRC.
- RBRC has obtained all applicable licences, permits, fees, and expenses for the operation of the RBRC Canada Collection Program

This demonstrates that RBRC Canada is not merely acting in a supervisory capacity but is actively involved in the overall aspects of the recycling operations.

The agreement also demonstrates that RBRC Canada has controlling interest in the process and this is clearly demonstrated in the scope of this agreement with Newalta: RBRC exercises the rights under the agreement as follows:

- RBRC Canada has the right, upon reasonable notice, to inspect from time to time Newalta's Consolidation Facility and all aspects that might impact the handling of Batteries, Non-Conforming Batteries.



- RBRC and licenses of RBRC Canada's parent corporation, RBRC US, shall have the right to audit Newalta's Consolidation Facility from time to time through the use of an agent or professional service.
- Newalta shall provide copies of all operating permits and licenses upon request from RBRC.
- RBRC and Newalta mutually agree to subject a shipment of pre-sorted batteries to a qualification process that will include full unpacking and sorting to confirm the accurate sorting had occurred to prior shipment.
- All Shipping containers received as part of the RBRC Recycling Program will be entered into the database created using RBRC's proprietary software.
- Newalta shall notify RBRC within five (5) business days of receipt of any shipping container found not to comply with U.S. Department of Transportation Regulations for protecting batteries during shipment.
- Within two (2) business days of the date on which Newalta ships batteries to a third party for recycling or reclamation, it will provide RBRC a copy of the Bill of Lading or other shipping document for each such shipment

Based on review of the information that has been provided in the questionnaire and also in agreement it is evident that RBRC Canada is actively involved in all aspects of the recycling of batteries and, therefore, correctly classified in RG 570 CU 4999-004, Chemical Waste and Recovery and Disposal.

As your firm is appealing the October 7, 2011 decision we have attached the Employer Objection Form (Revenue) for your completion. Please return this form with any new facts to my attention.

It is important for you to outline the issue(s) in dispute and the reason(s) for the objection(s). Workplace Safety & Insurance Board (WSIB) staff will use the information you provide to reconsider the decision. Both the original decision-maker and possibly an Appeals Resolution Officer (if you wish this issue forwarded to the Appeals Branch) will review the decision based on your information.

An authorized company employee or executive officer must sign the Objection Form. If you have chosen someone to represent you in this matter, you must provide a signature from your company owner. This will confirm that your representative, listed on the Objection Form is a valid representative for this appeal. Also, you must file a Direction of Authorization with the WSIB prior to or at the time the appeal is submitted. This document confirms who will act as your representative.

Sincerely,



Anita Jaipargas

Account Specialist

Employer Service Centre

1-800-387-0750

**If you decide to proceed with an objection, please read the following before completing the Objection Form (Employer Account). It will help resolve your objection and avoid unnecessary delays.**

**When Considering an Objection**

- **Review the firm file** (if required) to ensure you understand the reasons for the decision(s) made.
- Clarify any information with the WSIB's decision-maker **before** completing the objection form.
- Review the relevant WSIB policies/Employer Classification Manual (if required) which can be accessed online, via our website ([www.wsib.on.ca](http://www.wsib.on.ca)). Look under the "Policy" tab.

**IMPORTANT NOTICE**

- **You have already met the time limit to appeal. There are no time limits for returning the objection form.**
- **The most common reason for changing a decision is when the WSIB receives new information.**
- **Therefore, obtain any new information you believe is needed and send it with the completed objection form.**

**Representation**

- You may represent yourself or use a representative of your choice.
- The **Office of the Employer Adviser (OEA)** provides employers with fewer than 100 employees with representation services at no cost. The OEA can be reached at 1-800-387-0774.

**Role of the Decision-Maker**

- When the completed objection form is received, the decision-maker reviews all **new** information and **reconsiders** the decision(s).
- All reconsiderations are promptly communicated.
- If the issues are not resolved to the objecting party's satisfaction, the case is referred to the Appeals Branch. You will be notified when this occurs.

**Role of Appeals Branch**

- The Appeals Branch offers a one-level appeal process using a variety of resolution methods. If the matter proceeds to the Appeals Branch, an Appeals Resolution Officer will contact you to discuss these resolution methods.
- An Appeals Resolution Officer's decision is the final decision of the WSIB and can only be appealed to the independent Workplace Safety & Insurance Appeals Tribunal.
- For more information about the Appeals process, please see the document entitled **Appeal System - Practice and Procedures**, found on the WSIB website.

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## Objection Form (Employer Account)

Please read the information sheet on **Objecting to an Employer Account Decision.**  
**Please PRINT in black ink.**

Claim No.(if applicable)

### General Information

Firm Name		Account No.	Firm No.
Address			
City/Town			Postal Code
Telephone (     )	FAX (     )	Language <input type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Other _____	

### Objection

I wish to object to the following decision(s):

Decision Maker	Date of Decision (dd/mm/yyyy)

### Reasons for Objection

Please explain why you disagree with the decision(s). Be as specific as possible. Attach additional pages if necessary.

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**New Information**

Is there any new information that was not considered when the decision was originally made?

☐

No

☐

Yes

If **Yes**, include this information with your objection form

**What results are you seeking from this process?****Representation (if any)**

Representative's Name

Organization

Address

City/Town

Postal Code

Telephone

(     )

FAX

(     )

**Signature**

Signature

Date

(dd/mmm/yyyy)

Name

Title

Please mail the completed form to:

**Workplace Safety & Insurance Board**  
**200 Front Street West**  
**Toronto ON M5V 3J1**

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