



PROPOSED RULE MAKING

CR-102 (June 2024) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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FILED

DATE: July 23, 2025

TIME: 8:01 AM

WSR 25-15-152

Agency: Department of Ecology AO# 23-09

☒ Original Notice

☐ Supplemental Notice to WSR _____

☐ Continuance of WSR _____

☒ Preproposal Statement of Inquiry was filed as WSR 24-07-084 ; or

☐ Expedited Rule Making--Proposed notice was filed as WSR _____; or

☐ Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

☐ Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Chapter 197-905 WAC Battery Stewardship Program. The Washington State Department of Ecology proposes this new chapter in the Washington Administrative Code to guide implementation of the state's battery stewardship program.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
		Zoom webinar	
August 28, 2025	1:00 PM – 4 PM	Zoom webinar. Register: https://waecy-wa.gov.zoom.us/meeting/register/NmU9mz0ASJOqYBNF_MyzJA#/registration	Meeting link and phone dial-in options available after registering for the meeting
September 3, 2025	5:30 PM – 9:00 PM	Zoom webinar. Register: https://waecy-wa.gov.zoom.us/meeting/register/b15_1jPyRjatDGUEiJW7zw#/registration	Meeting link and phone dial-in options available after registering for the meeting

Date of intended adoption: 12/15/2025 (Note: This is **NOT** the effective date)

Submit written comments to:

Name Chris Fredley

Address Department of Ecology
Solid Waste Management Program

PO Box 47600

Olympia, WA 98504-7600

Email batterystewardship@ecy.wa.gov

Fax N/A

Other Website:

<https://swm.ecology.commentinput.com?id=84Dx26bpJ9>

Beginning (date and time) July 23, 2025, 12:00 AM

By (date and time) September 10, 2025, 11:59 PM

Assistance for persons with disabilities:

Contact Ecology ADA Coordinator

Phone 360-407-6831

Fax N/A

TTY For Washington Relay Service or TTY call 711 or 877-833-6341

Email ecyADAccordinator@ecy.wa.gov

Other <https://ecology.wa.gov/accessibility>

“Request for reasonable accommodation form:

[https://ecology.wa.gov/About-us/AccountabilityPage 2 of 13 transparency/Accessibility/](https://ecology.wa.gov/About-us/AccountabilityPage%20of%2013transparency/Accessibility/)

By (date) September 10, 2025, 11:59 PM

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Ecology is promulgating rules to clarify requirements for battery producers to mark their batteries, establish collection and handling standards to ensure the safe and effective collection and handling of batteries, and determine how the department's fees will be calculated to cover costs of implementing, administering, and enforcing the program.

Reasons supporting proposal: Washington State passed a law in 2023 that establishes a statewide recycling program for used batteries that is funded by battery producers. Ecology is required to adopt rules as necessary to implement, administer,

and enforce chapter 70A.555 RCW. The rule clarifies certain elements of the law, such as definitions, program goals and performance targets, collection and management standards, reporting requirements, and fees.

Statutory authority for adoption: RCW 70A.555.100 Rule making—Fees—Department's duties

Statute being implemented: Chapter 70A.555 RCW Batteries- Environmental Stewardship

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Department of Ecology

Type of proponent: ☐ Private. ☐ Public. ☒ Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Megan Warfield	Lacey, WA	360-701-9683
Implementation	Kelly Boyle	Lacey, WA	425-561-0392
Enforcement	Kelly Boyle	Lacey, WA	425-561-0392

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)?

☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name
Address
Phone
Fax
TTY
Email
Other

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

☒ Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name Chris Fredley
Address Department of Ecology
Solid Waste Management Program
PO Box 47600
Olympia, WA 98504-7600
Phone 564-233-1615
Fax
TTY 360-407-6831
Email Batterystewardship@ecy.wa.gov
Other Website: <https://apps.ecology.wa.gov/publications/SummaryPages/2507049.html>

☐ No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

- ☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.
- ☐ This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570](#)(2) because it was adopted by a referendum.
- ☒ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025](#)(3). Check all that apply:
- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |
- ☐ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025](#)(4). (Does not affect small businesses).
- ☐ This rule proposal, or portions of the proposal, is exempt under RCW _____.
- Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

- ☐ The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.
- ☒ The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)): Ecology baselines are typically complex, consisting of multiple requirements fully or partially specified by existing rules, statutes, or federal laws. Where the proposed rule differs from this baseline of existing requirements, it is typically subject to (i.e., not exempt from) analysis required under the Regulatory Fairness Act (RFA; Chapter 19.85 RCW) based on meeting criteria referenced in RCW 19.85.025(3) as defined by the Administrative Procedure Act in RCW 34.05.310. The Small Business Economic Impact Statement (SBEIS) below includes a summary of the baseline for this rulemaking, and whether or how the proposed rule differs from the baseline.
- ☐ The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- ☐ No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- ☒ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

This Small Business Economic Impact Statement (SBEIS) presents the:

- Compliance requirements of the proposed rule.
- Results of the analysis of relative compliance cost burden.
- Consideration of lost sales or revenue.
- Cost-mitigating action taken by Ecology, if required.
- Small business and local government consultation.
- Industries likely impacted by the proposed rule.
- Expected net impact on jobs statewide.

A small business is defined by the Regulatory Fairness Act (chapter 19.85 RCW) as having 50 or fewer employees. Estimated costs are determined as compared to the existing regulatory environment—the regulations in the absence of the rule. The SBEIS only considers costs to “businesses in an industry” in Washington State. This means that impacts, for this document, are not evaluated for government agencies.

The existing regulatory environment is called the “baseline” in this document. It includes only existing laws and rules at federal and state levels.

This information is excerpted from Ecology’s complete set of regulatory analyses for this rulemaking. For complete discussion of the likely costs, benefits, minimum compliance burden, and relative burden on small businesses, see the associated Regulatory Analyses document (**Ecology publication no. 25-07-049, July 23, 2025**). We have retained the section numbering from the Preliminary Regulatory Analyses (PRA) to facilitate cross-referencing with the document for additional information and discussion.

COMPLIANCE REQUIREMENTS OF THE PROPOSED RULE, INCLUDING PROFESSIONAL SERVICES

We discuss the battery stewardship law (chapter 70A.555 RCW), followed by other existing rules and laws that govern the management of batteries at their end-of-life (see Section 2.1 in the PRA). We then compare components of the rule (chapter 173-905 WAC) to chapter 70A.555 RCW and other legal requirements to highlight the rules relative impacts where practical (see section 2.3 in the PRA). We refer to this analysis as comparing the rule to its “statutory baseline”. While we can isolate and summarize some impacts from discretionary portions Ecology’s rule, it is impossible to separate all impacts of the rule from those created broadly by chapter 70A.555 RCW. This is because the law creates the program itself, and the program creates the majority of the costs and benefits, but these cannot be realized without the rule and Ecology’s administration and oversight. This is particularly the case for aspects of the proposed rule like fees (RCW 70A.555.100), where program administration inherently could not function without fees to pay for it.

Since we cannot fully separate all elements specified in statute from the program as implemented by the rule, we also describe the impacts of the rule and the law together (“Program” from here on), against a reality with no extended producer responsibility alternative. For this purpose, we also consider a no-Program baseline comprised of current recycling behavior, recycling cost, and battery-related risk in Washington state (for detail, refer to section 2.4 in the PRA).

2.1 Existing Rules and Laws

2.1.1 Chapter 70A.555 RCW, Batteries—Environmental Stewardship

Chapter 70A.555 RCW requires the recycling of most types of household batteries. This includes AA and AAA batteries used in everyday items such as flashlights, button batteries used in watches and other smaller devices (“portable batteries” hereafter as defined in RCW 70A.555.010(12)), and larger batteries used in electric bikes, scooters and power tools (“medium format batteries” hereafter as defined in RCW 70A.555.010(11)). Together, batteries under these classifications are considered “covered batteries” (RCW 70A.555.010(5)(a)).

Some batteries such as car batteries, batteries for medical devices, and batteries in products that are not intended or designed to be easily removable by the consumer (RCW 70A.555.010(5)(b)(v)) are excluded from the program. Big energy storage system batteries ranging from those used by homeowners to store solar and wind power, to grid stabilization applications at utility scale, are also excluded due to their weight under definitions of portable and medium format battery.

Beginning January 1, 2027, battery producers (see RCW 70A.555.010(14) for definition of producer) must establish a statewide network of battery collection sites that provide opportunities for people to drop off portable batteries for recycling at no cost. Beginning January 1, 2029, the program is expanded to include the collection of medium format batteries. In addition to funding battery collection, battery producers are responsible for the cost of transporting, processing, education, administration, agency [Ecology] reimbursement, and other end-of-life management functions (RCW 70A.555.060(3)(a)). To meet these requirements, battery producers can choose either to:

1. Participate in an approved battery stewardship plan designed by a nonprofit “battery stewardship organization” (BSO),
Or
2. Implement a battery stewardship plan themselves, in which case the producer would be the battery stewardship organization.

A BSO implementing a battery stewardship plan must submit plans to Ecology describing how the program will operate (RCW 70A.555.040) and pay fees to the department (RCW 70A.555.100). Under option 1, the BSO would in turn charge participating producers to cover the costs of the plan. Under option 2, the producer would bear the full cost of implementing and funding the plan, including fees to the department.

Under the law, the total number and locations of collection sites in the state must meet density and convenience standards, among other collection network requirements. For example, there must be at least one permanent collection site for portable batteries within a 15 mile radius for at least 95 percent of Washington residents (RCW 70A.555.070(3)(b)(i)); and at least one permanent collection site for portable batteries in addition to those required in (b)(i) of this subsection for every 30,000 residents of each urban area in this state (70A.555.070(3)(b)(iii)), among other details.

Importantly, BSOs must use existing public and private waste collection services and facilities, including battery collection sites that are established through other battery collection services, transporters, consolidators, processors, and retailers, where cost-effective, mutually agreeable, and otherwise practicable (RCW 70A.555.070(4)(a)). They must also use as a collection site for covered batteries any retailer, wholesaler, municipality, solid waste management facility, or other entity that meets the criteria for collection sites in the approved plan, upon the submission of a request by the entity to the battery stewardship organization to serve as a collection site (RCW 70A.555.070 (b)(i)).

For reference throughout this document, Ecology performed a GIS analysis of existing battery collection sites meeting the definitions above compared to the number of sites that would be needed, at minimum, to meet the density and convenience standards in the law. Findings show that roughly 226 sites would be required in total to meet the standard, and that 119 sites are or will be located within the Seattle-Tacoma urban area.

For brevity, additional detail and references to chapter 70A.555 RCW are relegated to section 2.3 in the PRA under “statutory baseline” subheadings as they apply to department fees, public outreach, plan review, annual reports, quarterly updates, marking requirements (including product certification), and site training and monitoring.

2.1.2 Other Rules and Laws Governing Battery Recycling

In the absence of the rule, other existing state and federal laws apply to the handling and disposal of batteries, including:

- Chapter 173-350 WAC Solid waste handling standards. In particular:
 - WAC 173-350-360 Moderate risk waste handling,
 - WAC 173-350-100 Definitions.
- Chapter 173-303 WAC Dangerous waste regulations,
- Chapter 70A.02 RCW Environmental Justice, which defines and directs areas that constitute overburdened communities pertaining to the rule’s convenience standards,
- 49 C.F.R., Parts 171-180, which regulate lithium batteries as a hazardous material under the U.S. Department of Transportation’s (DOT) Hazardous Materials Regulations,
- 49 C.F.R., Parts 173.185 and 189 regulating lithium cell and sodium containing batteries, respectively.

A large portion of the new rule is drawn directly from statute or other state and federal regulations summarized in a way that retains the bulk of its original intent.

For the purposes of this analysis, we narrow our analytical scope to parts of the rule where Ecology has discretion to impose, alter, or materially expand on specific requirements in the authorizing statute. These parts of the proposed rule are categorized below by concept in bold, and correspond to a similarly themed section in chapter 173-905 WAC:

- Add, expand, or clarify **definitions**
- Develop a **fee structure** that recovers Ecology costs related to overseeing the battery stewardship program
- Require quarterly **education and outreach**
- Add, expand, or clarify **stewardship plan** contents
- Add, expand, or clarify **plan submissions**
- Allow Ecology to amend and accept a plan after two disapprovals in **plan review**
- Add, expand, or clarify **annual report requirements**
- Give 30 days for additional information requested by the department during annual **report review**
- Add, expand, or clarify **quarterly updates**
- Add, expand, or clarify **marking requirements**
- Add, expand, or clarify **collection network requirements**
- Add, expand, or clarify **collection site procedures, safety, and training**

2.3.1 Adds, expands, or clarifies definitions

We expect no direct impact outside of where the defined terms are used in the rule, as discussed in subsequent sections below. Particularly with a new rule, definitions do not, in and of themselves, have regulatory impact beyond their use in the rule’s requirements. The sections below reflect both the requirements and their relevant definitions.

2.3.2 Develop a fee structure that recovers Ecology costs related to overseeing the battery stewardship program

Compared to the authorizing statute, the rule would specify how fees are determined, structured and distributed across a population of payers. This would likely impose a cost to battery producers either directly, or through stewardship plan membership. Although uncertain in the current context, a change in production cost from regulatory compliance may affect Washington retailers and consumers, including businesses, in the form of higher battery prices.

2.3.3 Require quarterly education and outreach

It is not apparent how often educational and promotional activities would take place to meet other performance goals in statute without this aspect of the rule. The rule establishes a clear minimum quarterly requirement.

Despite educational and outreach requirements being nearly identical to statute, the impacts of requiring them quarterly in the proposed rule range from no impact, to imposing a cost to battery producers either directly, or through their stewardship plan membership. Although uncertain in the current context, a change in production cost from regulatory compliance may affect Washington retailers and consumers, including businesses, in the form of higher battery prices (see PRA Section 3.4.1).

There would likely be positive benefit to program effectiveness with respect to both collection volumes and safety, provided education and outreach would have been less frequent (e.g. annually or semiannually) in the absence of the rule.

2.3.4 Add, expand, or clarify stewardship plan contents

Compared to RCW 70A.555.040, the proposed rule would ensure that program planning and operations would be reported to the department and the public, along with detailed recycling goals by battery type and chemistry.

Documenting collection site choices would require minimal effort since these data should already exist as part of plan development under the statute. The act of establishing various performance goals in the plan itself also carry minimal costs.

The cost of data collection and reporting related to performance goals could be positive but minimized by the fact that reporting on “primary” and “rechargeable” categories is most likely already part of sorting facility operations. Likewise, data on battery collection by chemistry type would already be required of stewardship organizations to meet reporting requirements under RCW 70A.555.090(1)(c).

Additional information and detail in this section would provide clarity to stewardship organizations, and help the department ensure compliance, monitor progress, and direct reform as needed. In conjunction with other aspects of the proposed rule, this would lead to a more effective and efficient stewardship program and better recycling outcomes.

2.3.5 Add, expand, or clarify plan submissions

Compared to baseline requirements, the proposed rule would ensure that more detailed information is provided to the department and the public regarding program planning and operations.

The cost of providing or breaking out information that is already required by statute in more aggregate forms is positive, but likely negligible. The additional information and detail in this section would provide clarity to stewardship organizations, and help the department ensure compliance, monitor progress, and direct reform as needed. In conjunction with other aspects of the proposed rule, this would lead to a more effective and efficient stewardship program and recycling outcome.

2.3.6 Allow Ecology to amend and accept a plan after two plan review disapprovals

The cost for Ecology to make amendments on behalf of the stewardship organization would likely be recovered through the plan review fee. However, the rule would also likely lead to the stewardship organization needing to provide fewer iterations of a plan and thus reducing labor costs. Since this section of the rule ultimately prevents indefinite plan iterations, we assume its effects on this aspect are positive (a benefit) but negligible. More broadly, and in conjunction with other aspects of the proposed rule, this helps ensure an effective and efficient stewardship program and better recycling outcomes.

2.3.7 Add, expand, or clarify annual report requirements

There would be some cost to formatting and printing budget information in a report required by the rule, but it is likely negligible. This is because budgeting information required by the rule likely exists for internal reporting within the stewardship organization’s business structure. In a similar way, records regarding safety training and marking requirement certifications should already be tracked internally, and therefore adding these to a report is likely negligible. WAC 173-905-150(2) simply clarifies “independent financial assessment” from RCW 70A.555.090(1)(a) to mean “independent financial audit”. For this reason we do not expect additional impacts of this rule section relative to statute.

Reporting battery related incident data would likely impose a cost to battery producers either directly, or through stewardship plan membership because in the form of time to collect, verify, and organize primary data. Although uncertain

in the current context, a change in production cost from regulatory compliance may affect Washington retailers and consumers, including businesses, in the form of higher battery prices (see Section 3.4.1 in PRA).

The proposed rule would however ensure transparency to the department and the public regarding program planning, operations, and finance necessary for monitoring, compliance, and reform. Stewardship organizations would also benefit from regulatory clarity in this section. More broadly, and in conjunction with other aspects of the proposed rule, this helps ensure an effective and efficient stewardship program and better recycling outcomes.

2.3.8 Give 30 days for additional information requested by the department during annual report review

The statute is vague regarding incomplete annual reports and a timeline for information requests. Given the 90 day timeline for plan review, specifying 30 days to provide information needed to comply with reporting requirements provides a benefit by avoiding potential confusion and program delays. More broadly, and in conjunction with other aspects of the proposed rule, this helps ensure an effective and efficient stewardship program and better recycling outcomes.

2.3.9 Add, expand, or clarify quarterly updates

There could be some cost to formatting and printing this information in a report, but it is likely negligible. We presume that operational information related to civil actions, changes in collection sites, and educational efforts would already be tracked for internal reporting within the stewardship organization's existing business structure. While the cost of collecting primary incident data is likely positive (see section 2.3.7 in the PRA), the requirement to report on incidents quarterly also draws from existing information mandated by the rule for annual reporting. Reporting these at a quarterly frequency, once collected, is negligible.

The proposed rule would ensure more timely reporting to the department and the public regarding program planning, operations, and safety necessary for monitoring, compliance, and reform. For example, a trend in battery related incidents could be identified more quickly through quarterly reports than an annual alternative. More broadly, and in conjunction with other aspects of the proposed rule, this helps ensure an effective and efficient stewardship program and better recycling outcomes.

2.3.10 Add, expand, or clarify marking requirements

The additional packaging requirement likely represents some cost to producers who would need to add design elements to applicable packaging. Imposing a particular design in the rule is not likely to impose an additional cost beyond what would have been the chosen under the statutory baseline (e.g. some design time, volume of ink etc. would be required). The design chosen in the rule (WAC 173-905-310(2)(b)) is commonly required by European countries, already appear on many batteries and battery containing products also selling into those markets and is most likely the symbol that would have been chosen under the baseline to indicate that the battery should not be disposed of as household waste.

In comparison to the statute requiring producers to provide certification to every customer or retailer where their batteries are sold, the rule allows producers to instead provide certification to the stewardship organization they participate in, or if they are not participating in a stewardship organization, directly to the department. This likely represents a benefit to producers, as it requires less effort and fewer materials, including gathering new data on all sales locations. The rule also likely benefits retailers who, because of centralization under the rule, will be able to easily search Ecology's website to find which producers are certified as compliant.

2.3.11 Add, expand, or clarify collection network requirements

Specifying "service" to mean a "collection event" in the context of an area without a permanent site reduces ambiguity for the stewardship organization and the department when considering applicable services. However, to the degree that other services would have been less costly than collection events, restricting the stewardship organization's choices could lead to higher costs.

Note the definition of a "collection event" under WAC 173-350-100 means a one-time or recurrent designation of a site and areas within that site used by an operator to collect moderate risk waste (MRW) from the public and to store the MRW for less than forty-eight hours. While a collection event could be selected as a service under the statute, the rule implicitly restricts other forms, such as a mail-back envelope.

There is no impact from adding the forty-eight hour storage requirement for collection events to the rule, as the definition of a "collection event" under WAC 173-350-100 already includes a similar forty-eight hour storage requirement.

2.3.12 Add, expand, or clarify collection site procedures, safety, and training

The rule requires daily activity by collection site staff for monitoring, along with storage, marking, and shipping requirements that would not necessarily occur at the same frequency or detail without the rule. Similarly, there is no guarantee that education to collection sites would be provided annually without the rule. These sections would likely

impose a cost to battery producers either directly, or through stewardship plan membership. Although uncertain in the current context, a change in production cost from regulatory compliance may affect Washington retailers and consumers, including businesses, in the form of higher battery prices (see Section 3.4.1 In PRA).

Compared to baseline requirements, the proposed rule would work to ensure that non-covered, damaged, and recalled batteries are quickly identified, properly handled, marked, and shipped from collection sites. Benefits from these actions would likely include fewer fires and leaks at collection sites, which could extend to reducing risk during transport, and at solid waste and recycling facilities. Added protection against incidents would help ensure that collection sites, many of which would be voluntary, remain in service to meet BSO collection site requirements. More broadly, and in conjunction with other aspects of the proposed rule, this helps ensure an effective and efficient stewardship program and better recycling outcomes.

COSTS OF COMPLIANCE: SUPPLIES

Cost Category	High Estimate	Mid Estimate	Low Estimate
<i>From Rule</i>			
Education and Outreach	\$655,255	\$327,628	\$0

Note: 20-year net present values

COSTS OF COMPLIANCE: LABOR

Note that cost components printed under the labor category may include equipment, supplies, professional services, and administration (captured by overhead rates in labor estimates) in ways that are inseparable.

Cost Category	High Estimate	Mid Estimate	Low Estimate
<i>From Rule</i>			
Plan Review	\$212,139	\$107,363	\$2,587
Annual Report Review	\$697,362	\$352,933	\$8,504
Technical Assistance	\$285,765	\$1,446,254	\$34,849
Annual Reporting	\$929,010	\$465,490	\$1,970
Site Training	\$859,582	\$429,791	\$0
Site Monitoring (Gov)	\$1,189,013	\$594,506	\$0
Site Monitoring (Non-Gov)	\$14,154,919	\$7,077,459	\$0

Note: 20-year net present values

COSTS OF COMPLIANCE: OTHER

Under a battery stewardship Program, the cost of collection, transportation, and processing efforts otherwise born by local government, companies, and individuals in the future will largely be passed on to producers; compared to the state of the world in which the rule, and therefore the law and Program, is not implemented (see Section 2.4 in the PRA).

Applying the weighted average cost of existing recycling efforts by chemistry type (discussed in Section 2.4.3 in the PRA), we estimate the cost of future collection ranges from roughly \$2 million per year to just over 4.1 million per year by 2045 (in current year dollars). The following captures our range of 20-year net present value of costs, and assumptions about out-of-state production costs being passed back into the state.

Cost Category	High Estimate	Mid Estimate	Low Estimate
<i>From Program</i>			
Recycling costs	\$56,924,383	\$28,642,780	\$361,176

Note: 20-year net present values

COMPARISON OF COMPLIANCE COST FOR SMALL VERSUS LARGE BUSINESSES

We calculated the estimated costs to comply with the proposed rule, based on the costs estimated in Chapter 3 of this document. Traditionally, Ecology would prepare an analysis with tables quantifying costs per employee (RCW 19.85.040(1)(a)), among other metrics. However, for this rule there is a narrow subset of retailers and manufacturers in the state that can be described anecdotally as producers, but are not identifiable at an individual level (e.g., those that make or import battery containing products under their own brand, whose batteries are unmarked or not already participating in a stewardship plan). Until after the rule goes into effect, and these businesses subscribe to a plan or self-identify, we cannot quantify disproportionate impacts across large and small business in this segment.

There may be some costs to retail in the form of time to verify that covered batteries or battery-containing products they sell participate in an approved battery stewardship plan, and are marked correctly. However, this verification process was simplified through sections of the rule (see section 2.3.10 in the PRA) by providing a list of compliant producers on Ecology's website. Ecology assumes compliance with the rule by producers and therefore limits speculation about the need for further retail action. There is also no reporting requirement for retailers. Site monitoring costs to private businesses (non-government) (see section 3.2.12 in the PRA) are not considered compliance cost to business for the purposes of this chapter because their participation as a collection site is entirely voluntary.

As these costs are described qualitatively in our analysis (see section of 3.5 in the PRA), we cannot quantify disproportionate impacts across large and small business in this segment. Taking this into consideration and because the rule is likely to impose more than minor costs on some small businesses in Washington, we conclude that the proposed rule may have disproportionate impacts on small businesses, and therefore Ecology must include elements in the proposed rule to mitigate this disproportion, as far as is legal and feasible.

MITIGATION OF DISPROPORTIONATE IMPACT

The RFA (19.85.030(2) RCW) states that:

"Based upon the extent of disproportionate impact on small business identified in the statement prepared under RCW 19.85.040, the agency shall, where legal and feasible in meeting the stated objectives of the statutes upon which the rule is based, reduce the costs imposed by the rule on small businesses. The agency must consider, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses:

- a) Reducing, modifying, or eliminating substantive regulatory requirements;
- b) Simplifying, reducing, or eliminating recordkeeping and reporting requirements;
- c) Reducing the frequency of inspections;
- d) Delaying compliance timetables;
- e) Reducing or modifying fine schedules for noncompliance; or
- f) Any other mitigation techniques including those suggested by small businesses or small business advocates."

We considered all of the above options, the goals and objectives of the authorizing statutes (see Chapter 6), and the scope of this rulemaking. We limited compliance cost-reduction methods to those that:

- Are legal and feasible.
- Meet the goals and objectives of the authorizing statute.
- Are within the scope of this rulemaking.

Reducing substantive regulatory requirements, reducing reporting requirements, reducing inspection frequency, delaying compliance timetables, or modifying fine schedules for noncompliance would not have met the goals and objectives of the statute that require the establishment of a convenient, accessible, and environmentally sound product stewardship program for all covered batteries throughout Washington State. Finally, we included the following elements in the proposed rule to reduce costs to small businesses.

Battery stewardship organizations (BSO) must propose a battery stewardship plan that includes a description of how the BSO will establish and administer a means for fully funding a program that equitably distributes the program's costs among the producers that are part of the BSO. This is intended to alleviate costs to small businesses in Washington that meet the definition of producer under this regulation. In Ecology's experience with other product stewardship program's a stewardship organization typically apportions costs to producers based on market share, thus protecting smaller businesses.

The rule allows producers to certify compliance to the stewardship organization they participate in, or if they are not participating in a stewardship organization, directly to the department. This likely reduces impacts to small business, as it requires less effort and fewer materials, relative to gathering new data on all sales locations by producers under the statute. The rule also likely benefits small retailers who, because of the rule, can easily search Ecology's website to find which producers are compliant.

SMALL BUSINESS AND LOCAL GOVERNMENT CONSULTATION

We involved businesses, some of which meet the definition of a small business, and local governments in the development of the proposed rule, using the eComment website, the Battery Stewardship Advisory Committee Workgroup, and other public meetings.

Organizations that participated in these engagement opportunities included Battery Council International, Redwood Materials, Cirba Solutions, Call2Recycle, Pacific Power Batteries, Sequim Electronics, Critical Materials Recovery, LLC, Ridwell, Washington Refuse & Recycling Association, Zero Waste Washington, PRBA (The Rechargeable Battery Association), Stanley Black & Decker, Panasonic, Rivian, Volvo, Washington Retail Association, Directv, Costco, Pullman Disposal, Lenovo, Peacehealth, Vizio, Target, Best Buy, and Energizer.

Local governments that participated in these engagement opportunities included Clark County Public Health, City of Tacoma, City of Federal Way, Clark County Solid Waste & Recycling, City of Vancouver, Kitsap County Solid Waste, the Washington State Association of Counties, Snohomish PUD, King County, Whatcom County, Spokane County, City of Seattle, Oregon Metro, Grays Harbor County, City of Spokane, and Clark County.

NAICS CODES OF INDUSTRIES IMPACTED BY THE PROPOSED RULE

The proposed rule likely impacts the following industries, with associated NAICS codes. NAICS definitions and industry hierarchies are discussed at <https://www.census.gov/naics/>.

- 335910 – Battery Manufacturing

This rule will likely impact a wide variety of other industries that may not be appropriately defined by the North American Industry Classification System. These industries include manufacturers and retailers that make and sell batteries and/or products with batteries in them, and businesses that import products that may have batteries not covered by a battery stewardship organization.


CONSIDERATION OF LOST SALES OR REVENUE, IMPACT ON JOBS

Businesses that would incur costs could experience reduced sales or revenues if the proposed rule significantly affected the prices of the goods they sell. The degree to which this could happen is strongly related to each business’s production and pricing model (whether additional lump-sum costs would significantly affect marginal costs), as well as the specific attributes of the markets in which they sell goods, including the degree of influence each firm has on market prices, as well as the relative responsiveness of market demand to price changes. Finally, overall shifts in economic activity in the state, including competition within markets and attributes of the labor market simultaneously adjust in response to changes in compliance costs. Similarly, employment within directly impacted industries, other industries in Washington, the labor market within and outside of the state, and in the state will also adjust in response to a change in costs.

Impacts from the rule on retailers and manufacturers in the state are described qualitatively and anecdotally throughout our analysis, but not identifiable quantitatively or at an individual level. For this reason, the magnitude of sales, revenue, or job loss from the rule in any specific economic sector within the state of Washington is unclear.

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

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