

## Battery Stewardship Rule advisory committee meeting

Hosted by Ecology on 6/24/2024 using Zoom from 11 AM – 2 PM (Pacific Time)

Note: Meeting not recorded - Summary available on [Battery Stewardship Rulemaking webpage](#)

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### Questions:

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### Participants:

**Ecology:** Molly McNutt, Megan Warfield, Chris Fredley, Shannon Jones, Christine Haun, Dan Weston, Jon Jennings, Jerry French, Kelly Boyle

**Advisory Committee:** Bobbi Barnowsky (TSWAN), Carin Stuart (Call2Recycle), Crystal Leatherman (Washington Retail Association), George Kerchner (PRBA), Heather Trim (Zero Waste WA), Joelle Loescher (Clark County), Rick Gilbert (Kitsap County), Shannon McClelland (Association of WA Cities), Tricia Dutcher (Redwood Materials—subbing for Don Tatro)

**Absent:** Rod Whittaker (WRRRA), Rafiq Jennings (WA DC DOE), Danielle Spalding (Cirba Solutons), Scott Lancaster (WA State Fire Marshal's Office), Dan Fitzgerald (Stanley Black & Decker)

**Other participants:** Alejandro Torres, Alexandra Sottile, Amanda Ringer Brandon Housekeeper, Brett Rude, Brian Nelson (PeaceHealth), Chris York (Redwood), David Huelbig (Panasonic), Jessica Cha, Katie McErlean, Matt Shepard- Koningsor, Pam Johnson Preston Peck, Roger Miksad (Battery Council), Sara Beach, Shelly Fuller (Boulder County, CO), Stephanie Liu, Steven Polunsky, Susan Bernard (BCI), Taylor Loeber (Target), WTC LLC, Zoe Bultman (Rivian)

### June 24th Meeting Summary:

The advisory committee met on June 24, 2024 to discuss the Draft Battery Stewardship Rule (Chapter 173-905 WAC). Ecology is developing rulemaking to support Chapter 70A.555 RCW. We are seeking feedback on potential topics to address when drafting the proposed regulation. All meetings are open to public, but we asked that non-advisory committee members hold questions and comments until the end of the meeting.

Committee members introduced themselves. Chris Fredley discussed meeting purpose and ground rules

- Soliciting input via public meetings to develop regulatory language to support implementation of Chapter 70A.555 RCW Batteries - Environmental Stewardship
- Be specific, relevant, respectful, open-minded. Articulate reasons for input, propose solutions, and review materials in advance of meetings.

Ecology emphasizes that input and feedback is MOST helpful when accompanied by suggested alternate draft language and/or detailed explanation of what you think a proposed language alteration will accomplish (including unintended consequences, reasons the current language doesn't work, etc).

### Primary Topics discussed during this meeting included:

- Program goals and targets – RCW 70A.555.050
- Reporting requirements – RCW 70A.555.090
- Plan components – RCW 70A.555.040

### Collection rate

- Reviewed the definition of collection rate
- Ecology stated preference for actual sales data (Rather than pro rata national data)
  - Feedback from Carin Stuart (Call2Recycle) – The way they run the reporting information as a battery steward organization is pro rata. This is because return numbers are always in flux. Many stewards only know that they put products on the market in the US without any greater specificity, unless they are a retailer or obligated producer in WA. The way they collect their data is at the level of how the batteries come into market (eWaste, in or with devices, etc). Distributors don't have any tracking or data on how many units are sold into WA.
  - George Kerchner reinforces this point. Understands the desire for actual sales data but thinks we will have a hard time getting it.

### Recycling efficiency rate

- Reviewed the definition of recycling efficiency rate
- Ecology stated that recycling efficiency rate may be calculated at the facility level - each facility's recycling efficiency rate can then be combined to get overall rate.
  - Carin Stuart (Call2Recycle) mentions that in DC all they need to report is whether recycling efficiency rates were met as a yes/no. They don't report an actual number.
  - Heather Trim (Zero Waste Washington) doesn't see how we will get an overall rate if we aren't getting numbers from each facility. Also thinks that if a steward doesn't meet the goal then it needs to be published for the sake of public transparency/accountability. Need to see how far off they are if rate isn't met.

### **Goals for public awareness, convenience, and accessibility of program**

- There is a requirement for collection sites in “special locations.” Examples of special locations: Parks with stores and campgrounds. Ecology asked, “What are other types of special locations where people would need to dispose of batteries?”
- Ecology stated that only permanent sites will count toward numeric standards.
  - Feedback from Jon Jennings: A methodology for determining what defines an overburdened community would also be helpful to discuss as many different factors could lead to being overburdened.
  - Bobbi Barnowsky wants to know if tribes are considered geographically isolated communities, because outreach strategies should be different and may be more challenging. Ecology asked for help identifying any geographically isolated tribal communities that wouldn’t come up in our GIS analysis.

### **The law establishes some hard numeric standards and some that are more flexible. What is unclear and should be addressed in rule? Reporting Requirements**

- Department is researching definition of chemistry
- Preference for actual sales data
- Data for batteries and data for batteries in battery containing products should be reported separately
- If estimated, report should identify data sources and methodology for calculating estimates
- Financials are referenced in 70A.555.090(1)(a) and (b) and Ecology would like to address the following in rule:
  - An independent financial audit should be submitted with each annual report
  - The summary financial statement should include a table of the program budget including the following line items
    - Total revenue
    - Total expenses including collection, transportation, recycling, staff, education, outreach, and overhead costs
  - Invoices for program operations should be maintained and provided to Ecology on request.
  - Information addressed in narrative sections of the report
  - Samples of outreach should be provided in an appendix
  - Survey results and discussion of results should be included.

### **Plan Components**

- A stewardship organization may submit a plan at any time
- Medium format batteries may be addressed in initial plan
- Producer and brand lists may be submitted separately
- Materials provided to retailers should be both physical and on-demand printing
- Plan needs to propose goals
- Ecology will help identify vulnerable populations and overburdened communities

- There was discussion about when a plan could be amended versus a new plan submitted. There was a question about what information could be provided in a quarterly update to the department versus a plan amendment.

### Questions/Comments/Feedback:

- Heather Trim brought up EPA's upcoming voluntary standards for marking batteries and inquires how this will affect our rulemaking. Ecology responds that the plan right now is to address the marking as it exists in our law now but align with EPA when/if they release standards.
- Jon Jennings: In terms of considering compliance with environmental law and labor law, how would we assess compliance with another countries' laws?
- Heather Trim- When will we have draft rule language to respond to? Will it be piece-meal or all at once? Megan responds that we are trying to minimize meetings during next year's session so we hope to have language for people to react to by early next year. Our language has to be ready for economic analysis by mid-next spring. We will put the language together piece-meal.
- George Kerchner- Eco-modulated fees are not a required part of plans and create their own unique set of challenges. Need to maintain that they aren't a mandatory requirement. Heather Trim does note that the idea of manufacturers being the responsible party is that they are in a position to design and make things better for the recycling system. Manufacturers should have a stake in reducing their own costs by making things easier for the consumers and for local jurisdictions managing the waste. George notes that many stewardship organizations are in no position to tell, for instance, overseas manufacturers, how to design their products.
- Heather Trim understands that the collection of information is time-consuming but there needs to be some mechanism to do an audit of information. We need to know how much we have of each type of battery.
- Carin Stuart also comments on fee modulation saying the stewardship organization is familiar with with some attributes related to say safety or recycling value, but can't go beyond that. George Kerchner agrees and feels the law allows the stewardship organization other ways to encourage conservation. There was further discussion about whether or not the law requires the use of eco-modulated fees as it is mentioned in a few different sections in the law.
- Carin clarifies collection boxes are sent to a sorter first and we know where that box initiated (hypothetically WA state). The amount tracked out of Washinton can be tracked. We will know the weight of batteries entering a sorting facility from Washington locations. But once sorted by chemistry, the batteries will be consolidated with batteries perhaps from other states. We won't know how many "Washington" batteries will be destined for each processor upon leaving the sorting facility.
- Tricia Dutcher (Redwood) suggests that "lithium" be used when reporting batteries by chemistry; that segregating out all the lithium chemistries would not be necessary.
- Shannon McClelland (Washington Association of Cities) comments that Ecology shouldn't define things that don't need defining – that it's ok to rely on "plain use" of a word.
- Rick Gilber (Kitsap County) mentioned that the "template agreement" would likely not be accepted by every local jurisdiction; that they all have their own contracting requirements.
- Jim Pearson (Ecology) asked what the repercussions are for violations at downstream processors? (Related to the reporting requirement about violations).

- There was discussion about non-covered batteries and non-batteries showing up in collection bins. Carin Stuart (Call2Recycle) said they conduct audits a few times a year and reach out to collection sites with high contamination rates.

**Next steps:**

- All interested parties may submit rule language suggestions to Ecology.
- Register for next advisory committee meeting:
- July 22, 11 AM – 2 PM (Pacific Time)

**Resources:**

- <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-905>
- <https://ecology.wa.gov/rule-advisory-committee-meeting-agenda-6-24-24>
- <https://ecology.wa.gov/rule-advisory-committee-meeting-presentation-6-24-24>