

## Battery Stewardship Rule Advisory Committee Meeting 3

Hosted by Ecology on September 23, 2024 11 am - 2 pm (Pacific Time)

- **Meeting read-along document:** <https://ecology.wa.gov/9-23-24-meeting-read-along-document>
- **Meeting agenda:** <https://ecology.wa.gov/9-23-24-meeting-agenda>
- **Special note:** Comment period is open September 16-October 16: <https://wt.ecology.commentinput.com/?id=iH593UeTK>
- **Rulemaking Webpage:** <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-905>

### Administrative Fee and Plan Review Fee – Christine Haun

#### Questions to consider:

- Are the due dates (June 1 for admin fee, April 1 market data due date) reasonable? Should we be assessing costs based on calendar year or fiscal year? What units make most sense for determining market share?

#### Comments and discussion summary:

- Carin Stuart- Call2Recycle - To clarify, is admin fee assessed May 1 and due 30 days later on June 1? Yes.  
Fiscal or calendar year both work as long as it's consistent throughout the language.
- Pounds is the correct unit for calculating market share. PRO will know only what is reported to them, so Ecology will only ask PROs to report the market share reported to them.
- In the state, the fiscal year is July - June. Is that consistent with other organizations? We should be sure to clarify dates.
- Joelle Loescher- Clark County - July 1st might align better as a deadline with corporate year-end accounting activities.
- Rafiq Jenings, DC DOEE - Need to make sure that program due dates aren't all occurring at the same time and creating overwhelming workload.
- Richard Abramowitz - Echoes Carin's comment: If all the reporting dates for all reports required are fiscal year, then it should be consistent. If reports are required by fiscal year, then market share data should be by fiscal year.
- Plan review fee is not laid out in the legislation. Is this something added by Ecology? Megan: It's a clarification. The law doesn't specifically mention a plan review fee and gives Ecology the authority to set fees to cover all of our costs. One concern is that we don't work associated with plan review to fall to an existing stewardship organization if a second one comes along. We want to keep costs associated with reviewing separate plans separate

from costs of overseeing the entire program cost estimate (covered by annual administrative fees).

- Joseph Boudah (DOEE) - Advise looking into market share data as you are going through the rulemaking. Look at what other states are doing to find what's truly accurate. Also to present for consideration, Ecology says they want to adjust fees in future years to adjust for costs of current year. What if someone leaves the program because the cost is too high and then there are less people to cover the costs?

## **Plan Components – Megan Warfield**

### **Comments and discussion summary:**

- Danielle Spalding - To clarify, will all the budget and procedural information be publicly available? Megan - Yes, unless the BSO goes through the process to request CBI for specific elements of the plan. If there are elements that you want to request CBI for, try to make them separate chapters or appendices so that they aren't integrated with all of the other plan info and difficult to separate out.
- Rafiq Jennings DC DOEE - Will it be the BSO's responsibility to bring collection sites online and into the program or will Ecology tell the BSO which facilities it needs to set up as collection sites? Will the burden to get to the 10,000 per person fall to Ecology or to the BSO? Megan: The BSO has the primary responsibility. Ecology's role is to ensure that collection is extended to overburdened communities so Ecology will work with the BSO to identify those communities. We are hoping that the permanent collection network will provide overlap with those areas but if there are areas not being provided adequate service, Ecology will notify the BSO that it needs to focus additional efforts there. The state will not be recruiting collection sites overall though.
- Rafiq- getting collection sites online has been a big hurdle for DC program. Many collection sites won't do it since it isn't specifically required of them.
- Carin Stuart - Several comments. - List of criteria used to determine technical and economic feasibility of recycling the components of batteries. Unclear what this line item would cover. Could we just note that we recycle everything we receive. Megan- This is anticipated to be forward thinking about types of batteries that may not be technically or economically feasible due to size, tech challenges, etc.  
Carin- How sites will deal with batteries that are not covered (like those that are difficult to remove)? Producers don't have a solution for this at present.
- Richard Abramowitz - Law is written as if there will be ONE stewardship organization. Could get messy with multiple BSOs with different standards and procedures. If there is more than one, there needs to be some type of consistency to ensure that everyone interacting with the program is treated the same (particularly local governments contracting with them and receiving reimbursements).

- Richard, Danielle Spalding, and Marcus Boolish-When we say "by chemistry" do we mean rechargeable vs primary or does it need to be more specific? Getting down to the level of detail like "lithium ion" or "lithium primary" for example may create additional issues when calculating recyclability. They have the potential for very different efficiency recycling rates. Really need to know how far we have to go into a chemistry or sub-chemistry level. This just needs to be clarified a little bit. Megan: We need to know more about what level of chemistry we need to specify in the rule in order to be flexible enough to allow for future chemistries. Ask for commenters to expand on that. Provide recommendations on broad sub-chemistry levels
- Rick Gilbert- Kitsap County - Template service agreement won't be sufficient for local governments that require contracts with anyone that provides service for any reason.
- McKenna Morigan - For education and outreach, in addition to sample materials it would also be important to request a timeline for when and how often/what frequency retailers are provided with materials.
- Carin Stuart - For fee structure to focus on eco-modulation, the recyclability of materials for a given chemistry is not likely to change between different batteries. If there is an Eco modulation on recycled content, the processor would have to pay the same amount regardless. We don't have the capability to determine whether the product was actually recycled or not. There are other forms of eco-modulation that could be applied, but it will be really difficult from the pro's perspective to eco-modulate the fee. Megan: We need more info on what the PRO feels it CAN do in terms of eco-modulation. Ex: If there are batteries that cost more to be recycled, they should be charged more for those types of batteries.

## **Plan Submittal, Review, and Implementation – Chris Fredley**

### **Questions to consider:**

- What types of significant changes under RCW should require submittal of anew plan? what types of changes could instead required submittal of plan amendment?  
What is meant by change in financing plan implementation under RCW 70A.555.040(3)(b) That might require a new plan to be submitted.
- What types of significant changes should require submittal of a new plan, not including adding or removing a processor or transporter under the plan?  
What is meant by change in financing plan implementation-not including changes to the fees or fee structure established in the plan?

### **Comments and discussion summary:**

- Rafiq: How will these types of plan revisions be impacted if there are multiple BSOs submitting revisions at once. A new one coming into the market late could upend the metrics of the previously established ones. To prevent this, DC doesn't allow applications for new BSOs after the initial application window to become one.

- Richard Abramowitz: Regarding new or smaller entries who may want to participate, will there be a mechanism to pay the fee in increments (2-3 payments) so that an org doesn't have to pay the \$50k before they have had an opportunity to even collect the money from their participating members?
- Carin Stuart (Call2Recycle): Concerned about the dates that BSO starts to implement and starts collecting fees from producers. How will the BSO pay the \$50k without collecting fees sooner?
- Regarding "full implementation" definition: Based on experience implementing in DC, the timeline is really tight to get all the collection sites on board. DC's timeline was a year and Carin thinks even more may be needed. Without legislative requirements for collection sites to join, it's hard to get them to join and be on board. How can we as gov regulators ensure that the BSOs are able to maintain financial stability?
- In BC, multiple material collection sites are allowed?

## **Collection and Handling Standards – Katy Harvey**

- What types of damaged and defective battery related incidents should be reportable? Do you suggest adding or revising any of the collection and handling standards discussed today?
- Carin Stuart: If there is a reportable incident, PROs/producers are notified of it and have record of it. What pieces of these standards should the BSO be expected to have in the plan vs just to expect from their collection sites? Responsibility needs to be more clearly assigned to the BSO OR the collection sites in this.
- Richard Abramowitz: Would this apply to all small generators in addition to the large? Answer: A DDR battery kit on site would be the minimum expectation so that it could be shipped off site. This would apply to all retail collection sites as well.
- Joseph Boudah: In experience operating collection location, you will always run into contamination (general trash, eWaste (large amounts), and batteries outside the program scope). Any info you can provide to collection sites about this on initial sign up is helpful.
- Megan: Is there an expectation that collection sites or transporters routinely check the collection boxes for contamination? Carin: The expectation for the collection site is that the collector inspects the box prior to offering it for transport. Joseph Boudah: The onus is typically on the collection site.

## **Future Meeting Topics – Megan Warfield**

- Local government reimbursement: How prescriptive should the rule be? Should it list off all activities that would qualify for reimbursement? The law requires "discussion of demonstrable costs to be reimbursed to local governments."

- Multiple battery stewardship organizations
- Emergency Preparedness: What emergency preparedness supplies must a collection site keep on hand? Is it simple enough to say "must have emergency supplies on hand" or should the rule be prescriptive about this.
- Medium format battery handling: Should there be standards for handling medium format batteries that are different/additional from those of portable batteries? Medium format batteries have a different convenience standard but in terms of their management, is there anything different we need to be thinking about?
- Transport standards for batteries: How prescriptive do we need to be about this? Do we need to address scenarios like self-transport or transport between different retail locations.
- Reporting of Safety violations: Should ecology be notified of safety violations regarding battery collection? Repeated violations? How frequently should Ecology be notified? Does this fall better into a quarterly update from the stewardship organization?