



DEPARTMENT OF
ECOLOGY
State of Washington

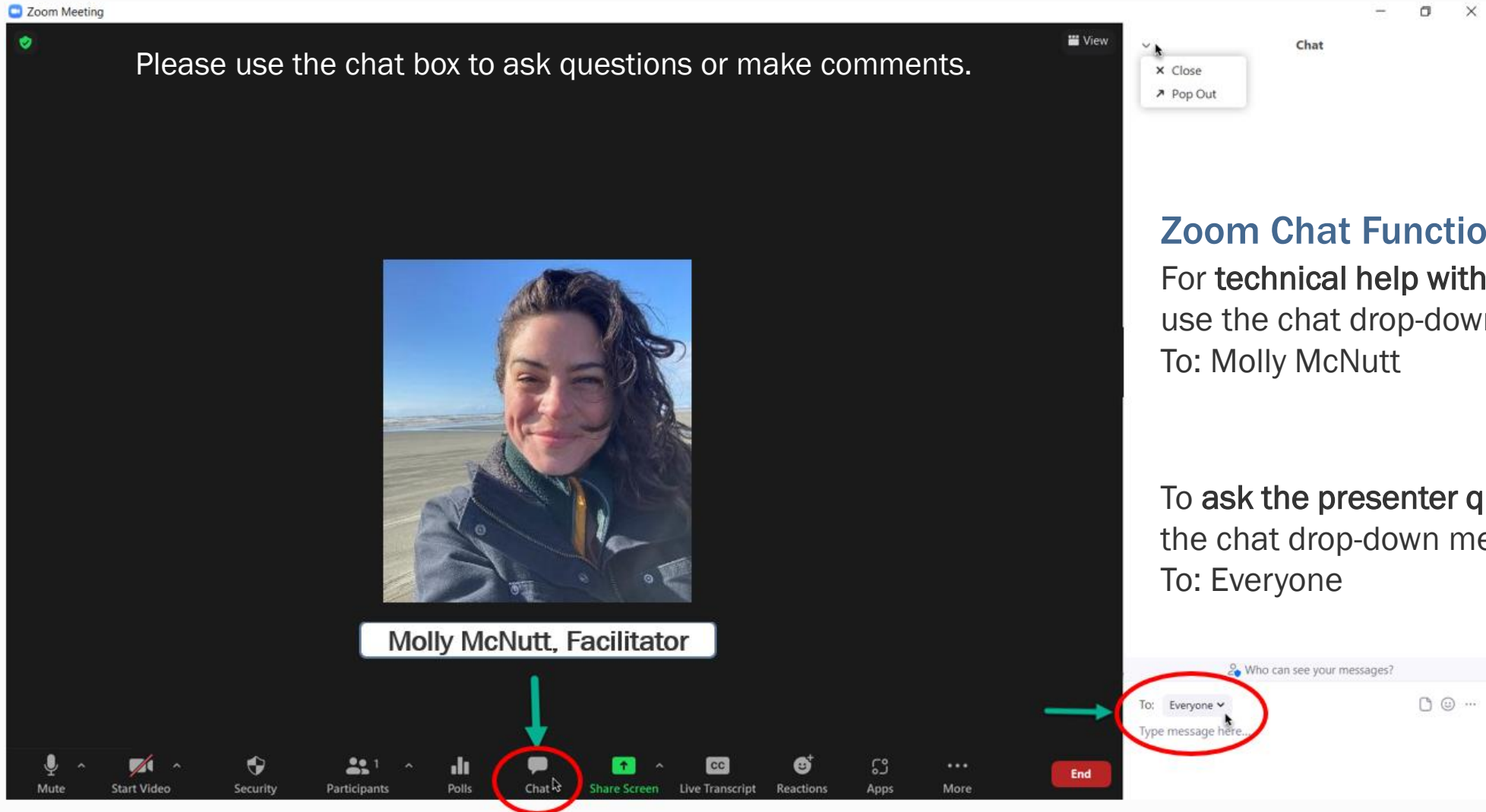
Battery Stewardship Program Rulemaking—Chapter 173-905 WAC

Rule Advisory Committee Meeting #1

May 6, 2024 | 10 am – 12 pm (pacific time)

Chris Fredley, Megan Warfield

Assisting with this meeting:



The image shows a Zoom meeting interface. At the top, a text box says "Please use the chat box to ask questions or make comments." Below this is a video feed of a woman, Molly McNutt, with the caption "Molly McNutt, Facilitator". At the bottom is the Zoom control bar. The "Chat" icon is circled in red, with a green arrow pointing to it. Another green arrow points from the "Chat" icon to a separate window showing the chat interface. In this window, the "To:" dropdown menu is also circled in red, and it is set to "Everyone".

Zoom Meeting

Please use the chat box to ask questions or make comments.

View

Molly McNutt, Facilitator

Mute Start Video Security Participants Polls Chat Share Screen Live Transcript Reactions Apps More End

Chat

Close Pop Out

Who can see your messages?

To: Everyone

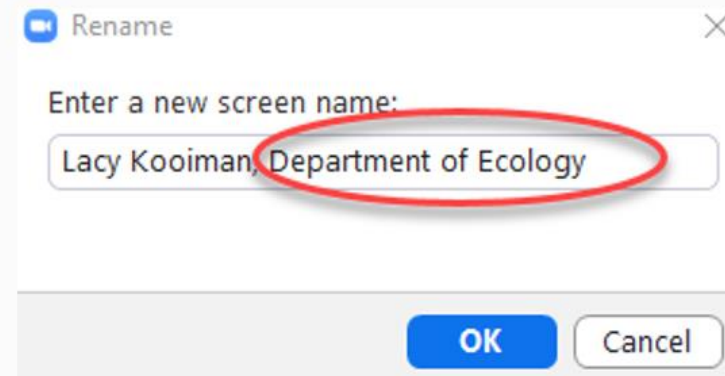
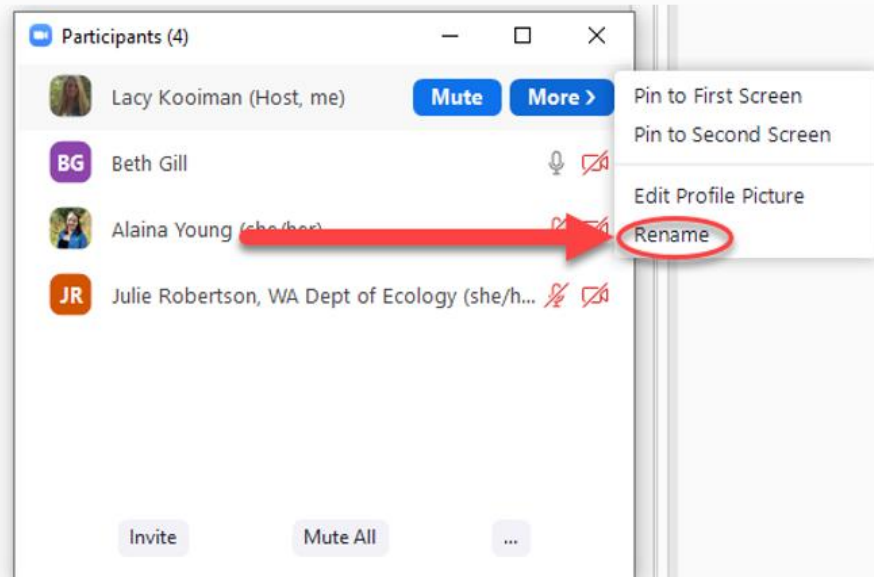
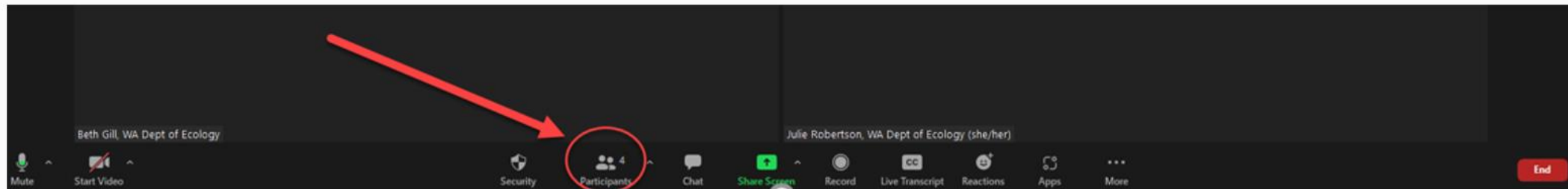
Type message here...

Zoom Chat Functions

For technical help with Zoom, use the chat drop-down menu to select To: Molly McNutt

To ask the presenter questions, use the chat drop-down menu to select To: Everyone

Zoom Functions: Rename to Add Your Affiliation



Zoom Functions: Audio Settings

Mute/Unmute & Audio Settings

You can mute and unmute your microphone. If you click on the arrow next to the mute button (bottom left main Zoom screen), you have additional options for audio settings. You can change your microphone, leave the computer audio or access the audio options.

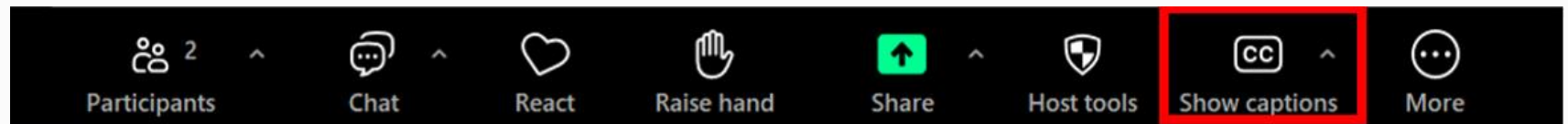


Closed Captions

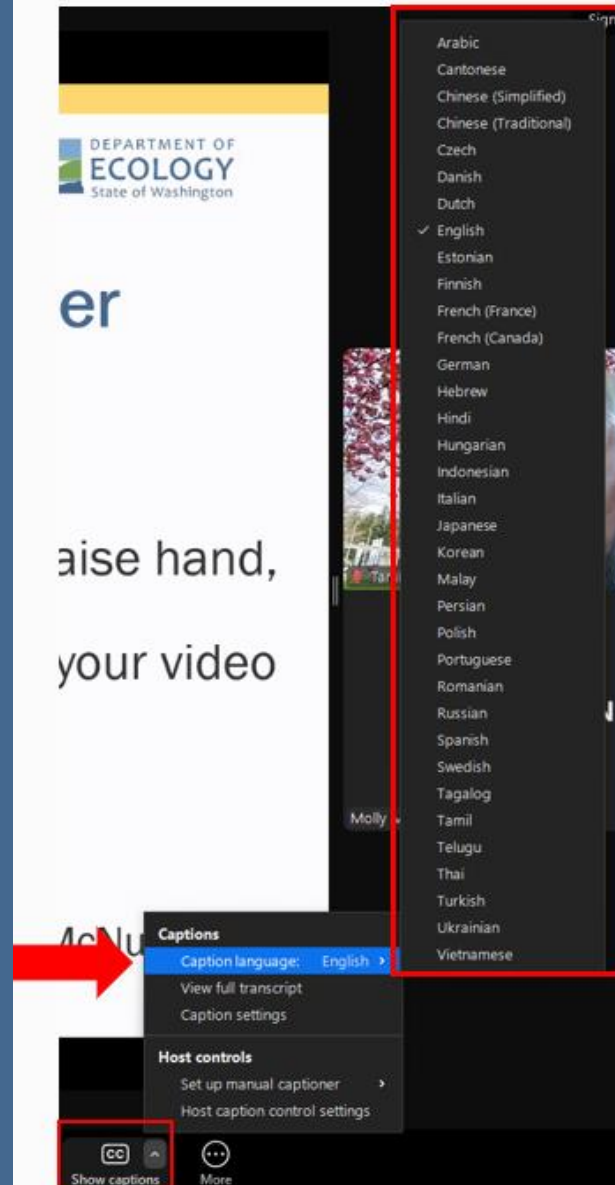
Closed captions and a live transcript is enabled for this meeting.

To turn on the live transcript:

- Locate the cc “Live Transcript” or “Show Captions” option on your Zoom control bar.
- Different versions of Zoom look a little different.



Closed Captions Continued



To select language preference:

- Click on the ^ next to “Show captions”
- Click “Caption language”
- Select your preferred language for closed captions

Meeting Logistics: Questions & Comments

Committee Members

- If you would like to ask a question or make a comment throughout the meeting, please use Zoom's chat or "raise hand" feature.

Non-Committee Participants

- Please hold all questions and comments until the Q&A and Comments portion of the meeting.
- During that time, please use Zoom's chat or "raise hand" feature

Meeting Logistics: Going Forward

After each committee meeting, Ecology will post the meeting summary on the rulemaking webpage

- <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-905>

If you'd like to provide input on rule topics or rule language **after** today's meeting, please use our Public Comment Form webpage.

- <https://wt.ecology.commentinput.com/?id=iH593UeTK>

Today's Agenda

Time	Topic
10:00 am	Welcome and meeting logistics
10:05 am	Panel and committee introductions
10:25 am	Purpose and ground rules
10:30 am	Battery stewardship law and rulemaking timeline overview
10:50 am	Rulemaking key topics
11:20 am	Future meeting planning
11:35 am	eComment introduction
11:40 am	Q&A and comments
11:55 am	Wrap up

Want to download this presentation?
We'll drop a link in the chat.



Panel and committee Introductions

20 minutes

Battery Rulemaking Team

- Chris Fredley – SWM Program Rules Coordinator
- Megan Warfield – Product Stewardship Unit Lead
- Christine Haun – E-Cycle Program
- Shannon Jones – Plastic Packaging Specialist
- Daniel Weston – Recycling/Materials Management Specialist
- Katy Harvey – Hazardous Waste Specialist
- Elizabeth Court – SWM Program EJ Coordinator
- And special thanks to Molly McNutt for facilitating!

Battery Rule Advisory Committee



Primary Members	Organization/Affiliation		Alternates/Back-ups	Organization/Affiliation
Heather Trim	Zero Waste Washington			
George Kerchner	PRBA (The Rechargeable Battery Association)		Marc Boolish	PRBA (The Rechargeable Battery Association)
Rick Gilbert	Kitsap County Solid Waste			
Carin Stuart	Call2Recycle			
Rod Whitaker	Washington Refuse & Recycling Association			
Rafiq Jennings	Washington DC Dept. of Energy & Environment		Jen Dickman	Washington DC Dept. of Energy & Environment
Don Tatro	Redwood Materials		Tricia Dutcher	Redwood Materials
Crystal Leatherman	Washington Retail Association			
Danielle Spalding	Cirba Solutions			
Bobbi Barnowsky	Tribal Solid Waste Advisory Network (TSWAN)		Danny Joe Stensgar	Confederated Tribes of the Colville
Joelle Loescher	Clark County (Washington State Association of Counties)		Jess Fischberg	Clark County (Washington State Association of Counties)
Scott Lancaster	Washington State Fire Marshal's Office			
Dan Fitzgerald	Stanley Black & Decker			



Purpose and Ground Rules

5 minutes

Meeting Purpose

The Washington State Department of Ecology is soliciting input in the development of regulatory language to support implementation of Chapter 70A.555 RCW Batteries—Environmental Stewardship

- Rulemaking is for implementing, interpreting, or providing specifics of a statute Ecology administers or enforces
- The rulemaking process must follow the requirements of Chapter 34.05 RCW, Administrative Procedures Act
- Ecology is seeking feedback on potential topics to address when drafting the proposed regulation

Ground Rules

- Share relevant information when possible
- Use specific examples, use simple terms when possible, and define any technical terms
- Be respectful of discussion time and maintain a balanced conversation
- Focus on interests, not positions
- Respect differing perspectives, interests, and positions
- Articulate reasons for input
- Propose solutions whenever possible
- Review materials in advance of meetings



Battery Stewardship Law and Rulemaking Timeline Overview

20 minutes

EPR Laws in Washington

2007



RCW 70A.500

2010



RCW 70A.505

2017



RCW 70A.510

2018



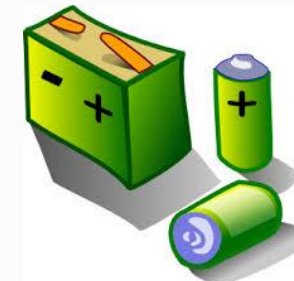
RCW 69.48

2019



RCW 70A.515

2023



RCW 70A.555

Background

- SB 5144 passed by the legislature in April 2023.
- Codified as Chapter 70A.555 RCW.
- Creates a statewide system for the collection and recycling of unwanted batteries
- The law mandates that Ecology adopt rules to implement the program



What Batteries Are Covered?

- Covered
 - Portable batteries:
 - Rechargeable batteries: <11 pounds and <300 watt-hours
 - Non-rechargeable batteries: <4.4 pounds
 - Medium format batteries:
 - Rechargeable batteries: 11 - 25 pounds or 300–2000 watt-hours
 - Non-rechargeable batteries: 4.4 – 25 pounds
- Not covered:
 - Batteries contained in a medical device
 - Batteries inside a product and not intended to be removed
 - Lead acid batteries weighing more than 11 pounds
 - Vehicle lead acid batteries subject to Chapter 70A.205 RCW



Where Will They Be Collected?

- Portable batteries:
 - 95% of WA residents must have one collection site within a 15-mile radius
 - One additional site for every 30,000 residents of each urban area
 - Accessible to public transit and convenient to overburdened communities
- Medium format batteries:
 - At least 25 permanent collection sites
 - Must have one in each county with more than 200,000 residents
 - Only collected at Household Hazardous Waste (HHW) facilities or other sites with certified staff



What about damaged batteries?



Includes batteries damaged or identified by the manufacturer as being defective for safety reasons



Must provide collection opportunities in each county (site or event)



Collected only at sites with specially trained personnel



Battery Stewardship Organization Responsibilities

- Provide for and ensure the collection of all covered batteries.
 - Establish collection sites
 - Provide suitable collection containers
 - May suspend or terminate a collection site or service that does not adhere to the collection site criteria in the approved plan
- Implement a battery collection plan
 - Submit a battery collection plan to Ecology for approval
 - Coordinate activities with other program operators, including covered battery collection and recycle programs and electronic waste recyclers
 - Carry out promotional activities in support of plan implementation such as providing signage and education materials

Battery Stewardship Organization Responsibilities Continued

- Administer the program
 - Cover all costs of the program
 - Ensure adequate funding is available
 - Reimburse local governments for demonstrable costs
 - Develop and continually improve a system to collect charges from participating producers
- Submit annual reports to Ecology
- May bring civil action against producers who sell covered batteries not included in an approved plan
- Every five years, carry out a survey of public awareness

Producer Responsibilities

- Participate in an approved Washington battery stewardship plan
- Certify participation in a plan to retailers who sell their batteries
- Provide appropriate funding to the BSO to run the program
- Comply with marking requirements
 - Beginning January 1, 2028, mark batteries with an identification of the producer unless the battery is less than $\frac{1}{2}$ inch in length or diameter.
 - Beginning January 2030, mark batteries with the chemistry contained within each covered battery.

Ecology's Responsibilities

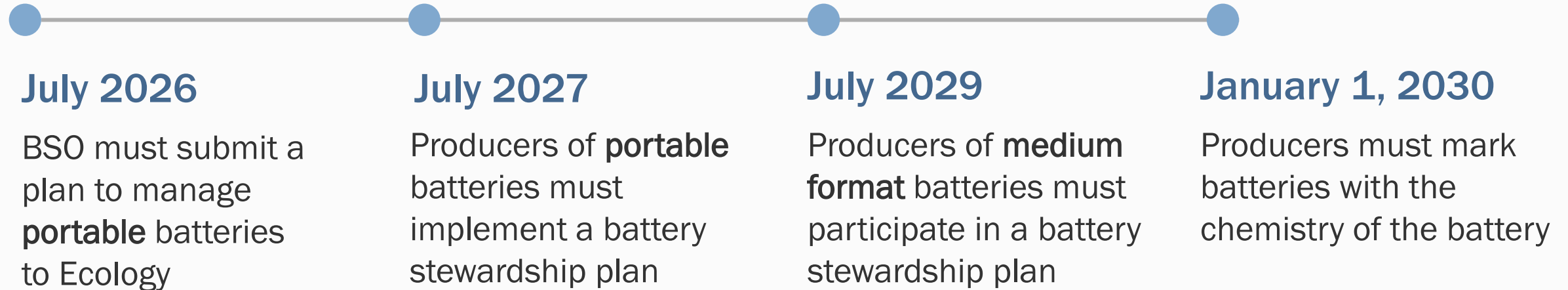
- Post online the list of participating producers
- Review battery stewardship plans submitted by the BSO
- Provide administrative oversight of the program
- Review annual reports submitted by the BSO
- Adopt rules to guide implementation of the program
- Provide technical assistance to producers, stewardship organizations and retailers
- Impose civil penalties on persons who violate chapter 70A.555 RCW.

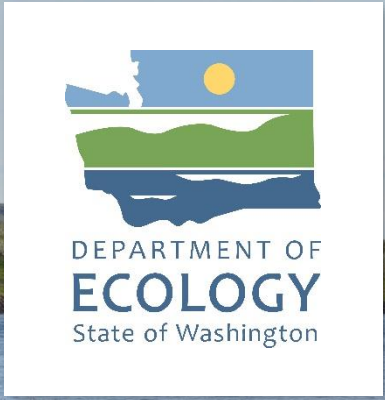


Anticipated Rulemaking Timeline



Program Implementation Timeline





Join the email list



https://public.govdelivery.com/accounts/WAECY/subscriber/new?topic_id=WAECY_303



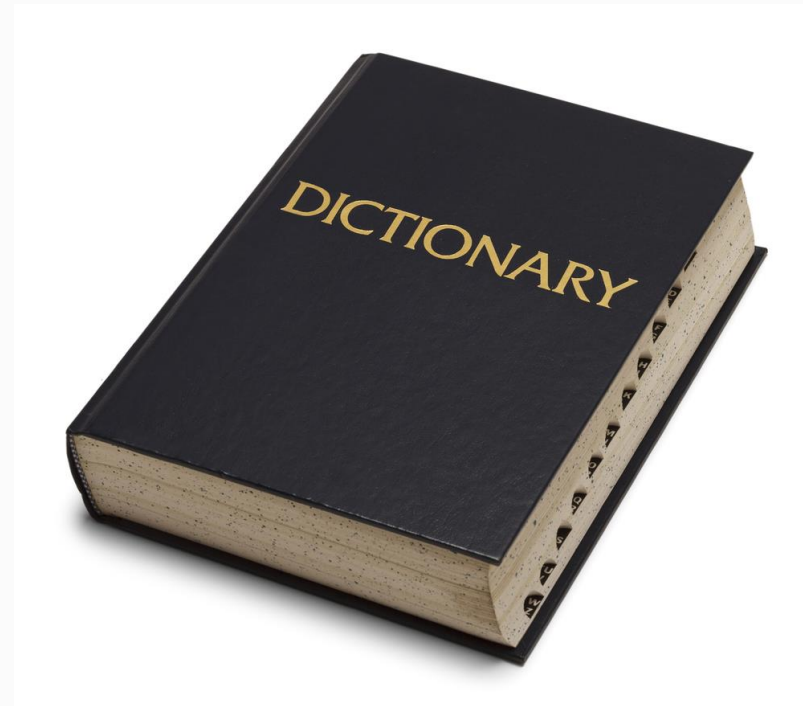
Rulemaking Key Topics

30 minutes

List of Potential Topics

- Definitions
- Plan requirements
- Funding and fees
- Program management standards
- Collection site procedures
- Reporting and goals
- Education and outreach
- Labeling requirements

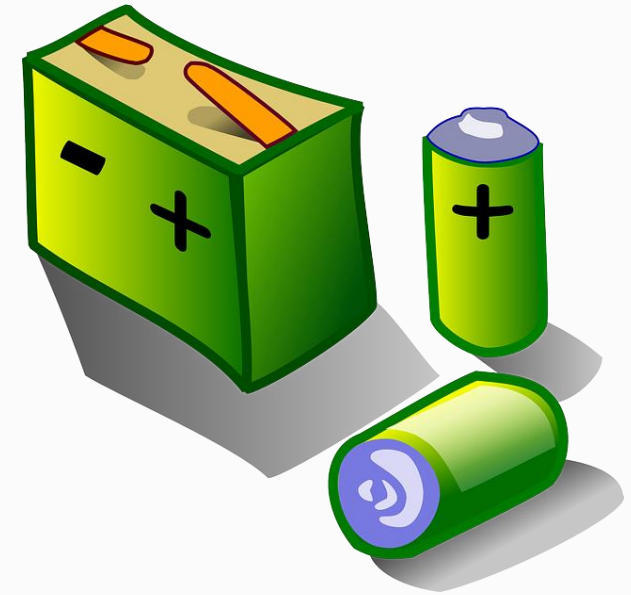
Definitions



Basic battery definitions

(13) "**Primary battery**" means a battery that is not capable of being recharged.

(16) "**Rechargeable battery**" means a battery that contains one or more voltaic or galvanic cells, electrically connected to produce electric energy, designed to be recharged.



Basic program definitions

(3) "**Battery stewardship organization**" means a producer that directly implements a battery stewardship plan required under this chapter or a nonprofit organization designated by a producer or group of producers to implement a battery stewardship plan required under this chapter.

(15) "**Program**" means a program implemented by a battery stewardship organization consistent with an approved battery stewardship plan.

“Covered battery”



(5)(a) "**Covered battery**" means a portable battery or, beginning January 1, 2029, a medium format battery.

(b) "Covered battery" does not include:

(i) A battery contained within a medical device, as specified in Title 21 U.S.C. Sec. 321(h) as it existed as of July 23, 2023, that is not designed and marketed for sale or resale principally to consumers for personal use;

(ii) A battery that contains an electrolyte as a free liquid;

(iii) A lead acid battery weighing greater than 11 pounds;

(iv) A battery subject to the provisions of RCW [70A.205.505](#) through [70A.205.530](#); and

(v) A battery in a battery-containing product that is not intended or designed to be easily removable from the battery-containing product.

Definitions related to “covered battery”

(12) "**Portable battery**" means the following primary or rechargeable covered batteries:

(a) For rechargeable batteries, a battery weighing no more than 11 pounds and has a rating of no more than 300 watt-hours;

(b) For primary batteries, a battery weighing no more than 4.4 pounds.

(11) "**Medium format battery**" means the following primary or rechargeable covered batteries:

(a) For rechargeable batteries, a battery weighing more than 11 pounds or has a rating of more than 300 watt-hours, or both, and no more than 25 pounds and has a rating of no more than 2,000 watt-hours;

(b) For primary batteries, a battery weighing more than 4.4 pounds but not more than 25 pounds.

Definitions related to “covered battery” cont’d

1)(a) "**Battery-containing product**" means a product that contains or is packaged with rechargeable or primary batteries that are covered batteries.

(b) A "battery-containing product" does not include a covered electronic product under an approved plan implemented under chapter [70A.500](#) RCW.

(7) "**Easily removable**" means designed by the manufacturer to be removable by the user of the product with no more than commonly used household tools.



“Producer” for “covered batteries”

(14)(a) "Producer" means the following person responsible for compliance with requirements under this chapter for a covered battery or battery-containing product sold, offered for sale, or distributed in or into this state:

(i) For covered batteries:

(A) If the battery is sold under the brand of the battery manufacturer, the producer is the person that manufactures the battery;

(B) If the battery is sold under a retail brand or under a brand owned by a person other than the manufacturer, the producer is the brand owner;

(C) If there is no person to which (a)(i)(A) or (B) of this subsection applies, the producer is the person that is the licensee of a brand or trademark under which the battery is used in a commercial enterprise, sold, offered for sale, or distributed in or into this state, whether or not the trademark is registered in this state;

(D) If there is no person described in (a)(i)(A) through (C) of this subsection within the United States, the producer is the person who is the importer of record for the battery into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the battery in this state;

(E) If there is no person described in (a)(i)(A) through (D) of this subsection with a commercial presence within the state, the producer is the person who first sells, offers for sale, or distributes the battery in or into this state.

“Producer” for “battery-containing products”

(14)(a) "Producer" means the following person responsible for compliance with requirements under this chapter for a covered battery or battery-containing product sold, offered for sale, or distributed in or into this state:

(ii) For **covered battery-containing products**:

(A) If the battery-containing product is sold under the brand of the product manufacturer, the producer is the person that manufactures the product;

(B) If the battery-containing product is sold under a retail brand or under a brand owned by a person other than the manufacturer, the producer is the brand owner;

(C) If there is no person to which (a)(ii)(A) or (B) of this subsection applies, the producer is the person that is the licensee of a brand or trademark under which the product is used in a commercial enterprise, sold, offered for sale, or distributed in or into this state, whether or not the trademark is registered in this state;

(D) If there is no person described in (a)(ii)(A) through (C) of this subsection within the United States, the producer is the person who is the importer of record for the product into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the product in this state;

(E) If there is no person described in (a)(ii)(A) through (D) of this subsection with a commercial presence within the state, the producer is the person who first sells, offers for sale, or distributes the product in or into this state;

(F) A producer does not include any person who only manufactures, sells, offers for sale, distributes, or imports into the state a battery-containing product if the only batteries used by the battery-containing product are supplied by a producer that has joined a registered battery stewardship organization as the producer for that covered battery under this chapter. Such a producer of covered batteries that are included in a battery-containing product must provide written certification of that membership to both the producer of the covered battery-containing product and the battery stewardship organization of which the battery producer is a member.

“Producer” continued...

(b) A person is the "producer" of a covered battery or covered battery-containing product sold, offered for sale, or distributed in or into this state, as defined in (a) of this subsection, except where another party has contractually accepted responsibility as a responsible producer and has joined a registered battery stewardship organization as the producer for that covered battery or covered battery-containing product under this chapter.

Definitions related measurement

(4) "**Collection rate**" means a percentage, by weight, that a battery stewardship organization collects that is calculated by dividing the total weight of primary and rechargeable batteries collected during the previous calendar year by the average annual weight of primary and rechargeable batteries that were estimated to have been sold in the state by all producers participating in an approved battery stewardship plan during the previous three calendar years.

(18) "**Recycling efficiency rate**" means the ratio of the weight of covered battery components and materials recycled by a program operator from covered batteries to the weight of those covered batteries collected by the program operator.



Definitions related to waste management

(2) "**Battery management hierarchy**" means a management system of covered batteries prioritized in descending order as follows:

- (a) Waste prevention and reduction;
- (b) Reuse, when reuse is appropriate;
- (c) Recycling, as defined in this chapter; and
- (d) Other means of end-of-life management, which may only be utilized after demonstrating to the department that it is not feasible to manage the batteries under the higher priority options in (a) through (c) of this subsection.

(17) "**Recycling**" means transforming or remanufacturing waste materials into usable or marketable materials for use other than:

- (a) Combustion;
- (b) Incineration;
- (c) Energy generation;
- (d) Fuel production; or
- (e) Beneficial reuse in the construction and operation of a solid waste landfill, including use of alternative daily cover.

Definitions related to waste management cont'd

(8) "**Environmentally sound management practices**" means practices that: (a) Comply with all applicable laws and rules to protect workers, public health, and the environment; (b) provide for adequate recordkeeping, tracking, and documenting of the fate of materials within the state and beyond; and (c) include comprehensive liability coverage for the battery stewardship organization, including environmental liability coverage that is commercially practicable.

(9) "**Final disposition**" means the final processing of a collected battery to produce usable end products, at the point where the battery has been reduced to its constituent parts, reusable portions made available for use, and any residues handled as wastes in accordance with applicable law.

Miscellaneous definitions

(6) "**Department**" means the department of ecology.

(19) "**Retailer**" means a person who sells covered batteries or battery-containing products in or into this state or offers or otherwise makes available covered batteries or battery-containing products to a customer, including other businesses, for use by the customer in this state.

(20) "**Urban area**" means an area delineated by the United States census bureau, based on a minimum threshold of 2,000 housing units or 5,000 people, as of January 1, 2023.



Future Meeting Planning

15 minutes

Meetings Frequency & Duration

- Ecology proposes meetings every other month (5 more meetings)
- Ecology proposes longer meetings, ~3 hours per meeting
- If Ecology needs to share information between meetings, it will be posted on the rulemaking webpage
- Participants are encouraged to use eComments to provide feedback



eComment Introduction

5 minutes

How to submit comments to us

Visit our Public Comment Form webpage:

<https://wt.ecology.commentinput.com/?id=iH593UeTK>



Informal comment period ends 5/31/2024

Public Comment Form

Public Comment Form 1 Comment 2 Review 3 Your Copy

Battery Stewardship Program Rulemaking (Informal Comment Period)

Please note that this comment form is for the purpose of submitting a comment to the Washington State Department of Ecology. Providing contact information is necessary if you want to receive future notices or responses related to this topic.

Contact Information

*Indicates Required Fields

Submitted By *

Please Select

First Name *
Enter First Name

Last Name *
Enter Last Name

Address
Enter Address

City
Enter City or Town

State
Washington

ZIP
Enter Zip Code

Email
Enter Email Address

Your Comment

Comments are due by March 31, 2025
To make a comment, please enter comment(s) in the text area.
To submit attachments use the "upload a file" button below. Then hit 'Continue' to review your comments(s).
Next steps: After the close of the comment period, Ecology will review and respond to comments. We will send out a notice about the next steps to anyone who provided contact information above. Any information (e.g., personal or contact) you provide on this comment form or in an attachment may be publicly disclosed and posted on the Internet.

[View Document](#) [Publish Comment](#) [Chapter 173-905 WAC Webpage](#)

Insert comments on Battery Stewardship Program Rulemaking (Informal Comment Period)

[Upload a File](#)

Uploading a file is optional
You may attach up to five 20 MB files to accompany your submission. Allowed formats are pdf, jpg, jpeg, png, tiff, gif, doc, docx, xlsx, xls. If you experience technical difficulties submitting your comment please contact the person listed at the bottom of this page.

CONTINUE

Public Comment Form 1 Comment 2 Review 3 Your Copy

Please review your information and press 'submit comment' button.

Commenter Contact Information

First Name: Molly
Address:
State: Washington
Email:

Last Name: McNutt
City:
Zip:

Battery Stewardship Program Rulemaking (Informal Comment Period)
Title of the project I am commenting on, specific section of the project, specific comments, examples, supporting documentation uploaded as a file.

[Edit](#) **Submit Comment**

Tips for submitting comments

- Identify the title of the project and/or document you are providing comments on.
- Reference the section or specific text of the document whenever possible.
- Be concise but support your comments. Explain why you agree or disagree; suggest alternatives.
- Providing examples help us understand your comment.
- Submit your comment following the instructions and by the deadline announced.



Q&A and Comments

15 minutes



Questions



Chris Fredley

batterystewardship@ecy.wa.gov

(564) 233-1615

Comments



Visit our eComments page



<https://wt.ecology.commentinput.com/?id=iH593UeTK>

Informal comment period ends 5/31/2024

Thank you

More information is available at:

<https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-905>

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