



Battery Stewardship Program Rulemaking-Chapter 173-905 WAC

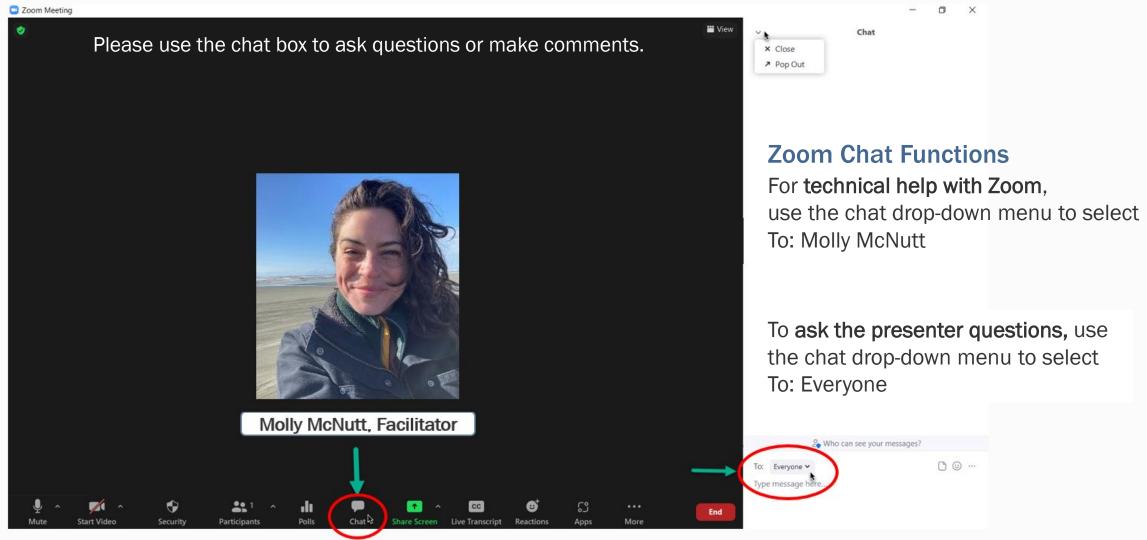
Rule Advisory Committee Meeting #2

June 24, 2024 | 11 AM - 2 PM (Pacific Time)

Chris Fredley, Megan Warfield

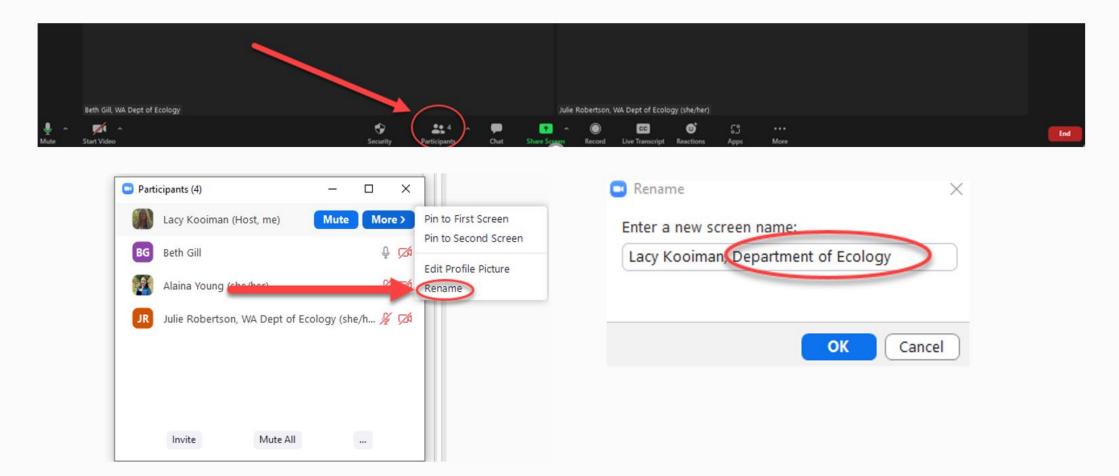


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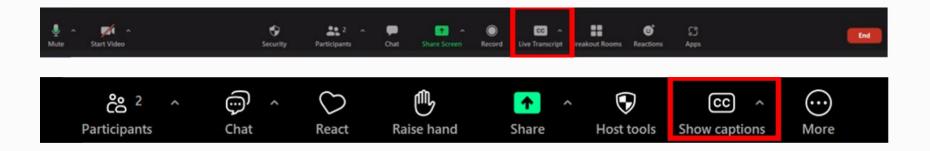


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Meeting Logistics: Questions & Comments

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



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 and use simple terms when possible
- Be respectful of discussion time
- Focus on interests, not positions
- Create space for those less vocal
- Take ownership of your words and actions
- Articulate reasons for input
- Propose solutions whenever possible
- Review materials in advance of meetings

Today's Agenda

Time	Topic
11:00 AM	Welcome and meeting logistics
11:10 AM	Advisory committee introductions
11:20 AM	Rulemaking key topic: program goals and targets
11:55 AM	Rulemaking key topic: reporting requirements
12:30 PM	30-minute break
1:00 PM	Rulemaking key topic: plan components
1:30 PM	Q&A and comments
2:00 PM	Wrap up

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



Advisory Committee Introductions

10 minutes

Battery Rule Advisory Committee



Primary Members	Organization/Affiliation	Alternates	Organization/Affiliation
Heather Trim	Zero Waste Washington		
George Kerchner	The Rechargeable Battery Association (PRBA)	Marc Boolish	The Rechargeable Battery Association (PRBA)
Rick Gilbert	Kitsap County Solid Waste		
Carin Stuart	Call2Recycle		
Rod Whittaker	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		
Shannon McClelland	Washington Association of Cities		



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
- Kelly Boyle Product Stewardship Specialist
- Molly McNutt Program Outreach Specialist



Rulemaking Key Topic: Program Goals and Targets

35 minutes



Stewardship program Performance Goals RCW 70A.555.050

- (1) Each battery stewardship plan must include performance goals that measure, on an annual basis, the achievements of the program. Performance goals must take into consideration technical feasibility and economic practicality in achieving continuous, meaningful progress in improving:
 - (a) The rate of battery collection for recycling in Washington;
 - (b) The recycling efficiency of the program; and
 - (c) Public awareness of the program.
- (2) The performance goals established in each battery stewardship plan must include, but are not limited to:
 - (a) Target collection rates;
 - (b) Target recycling efficiency rates of at least 60 percent for rechargeable batteries and at least 70 percent for primary batteries; and
 - (c) Goals for public awareness, convenience, and accessibility that meet or exceed the minimum requirements established in RCW 70A.555.070.



Collection Rate

total weight of primary and rechargeable batteries collected during the previous calendar year



average annual weight of primary and rechargeable batteries that were estimated to have been sold in the state



Regulatory Concepts - Collection Rate

- Plan content
 - Target collection rates for the first three years
 - Target collection rates adjusted via plan amendment or at plan renewal
- Calculation
 - Weight of covered batteries only
 - Weight of non-covered batteries excluded
 - Weight of non-batteries excluded
 - Preference for actual sales data (rather than pro rata national data)



Questions or Feedback on Collection Rate?



Recycling Efficiency Rate

weight of covered battery components and materials recycled



weight of those covered batteries collected



Regulatory Concepts - Recycling Efficiency Rate

- Plan content
 - Target recycling efficiency rates for the first three years
 - Target recycling efficiency rates adjusted via plan amendment or at plan renewal
- Calculation
 - Weight of covered batteries only
 - Rely on state definitions of "recycling"
 - Weight of all covered batteries not just those sent for recycling
 - May be calculated at the facility level each facility's recycling efficiency rate combined to get overall rate



Questions or Feedback on Recycling Efficiency Rate?



Public Awareness, Convenience, Accessibility Goals

- BSO must carry out public awareness survey in year 1 and every five years (RCW 70A.555.080)
- Convenience standards for portable batteries
 - 1 permanent site within 15-mile radius for 95%; 1 additional site per 30,000 residents in urban areas
- Accessibility standards for portable batteries
 - Establish sites proportional to number & population of overburdened communities
- Collection opportunities at special locations
- Service to island and geographically isolated communities



Public Awareness, Convenience, Accessibility Cont'd

- Convenience standards for medium format batteries
 - At least 25 permanent sites statewide, with one per county of at least 200,000
 - Reasonable geographic dispersion
- Accessibility standards for medium format batteries
 - Establish sites accessible to public transit
 - Establish sites that are convenient to overburdened communities
 - Service to island and geographically isolated communities
 - Collection site or collection event once per year minimum in each county



Regulatory Concepts - Public Awareness Goals

- Public Awareness
 - Set awareness target for year one and year five in initial plan
 - Each subsequent plan resubmittal will update awareness target
- Calculation
 - Goal measured through statistically representative survey of state residents



Regulatory Concepts – Convenience & Accessibility Goals – Portable batteries

- Set goal for of how many collection sites will be at special locations in year one through year five
- Examples of special locations: parks with stores & campgrounds, and?
- Set goal for how many collection sites will be in island or geographically isolated communities in year one through year five
 - Ecology will help identify island & geographically isolated communities
- Only permanent sites will count towards numeric standards



Regulatory Concepts – Convenience & Accessibility Goals – Medium format batteries

- Set goal for of how many collection sites will be accessible to public transit in year one through year five
- Set goal for how many collection sites will be convenient to overburdened communities in year one through year five
- Set goal for how many collection sites will be in island or geographically isolated communities in year one through year five
 - Ecology will help identify island & geographically isolated communities



Questions or Feedback on Public Awareness, Convenience or Accessibility Goals?



Rulemaking Key Topic: Reporting Requirements

35 minutes



Reporting Requirements RCW 70A.555.090

- Collection sites
- Sales
- Financials
- Weight of batteries collected and disposition
- Performance targets
- Management of batteries
- Education and outreach



Collection Sites RCW 70A.555.090(1)(I)

(I) A list of all collection sites and accompanying latitude and longitude data and an address for each listed site, and an up-to-date map indicating the location of all collection sites used to implement the program, with links to appropriate websites where there are existing websites associated with a site;

Regulatory Concepts

- Collection site list may be provided as appendix in annual report but also sent to Ecology as a Microsoft Excel document
- Map may exist on battery stewardship organization website in the form of a site locator
- The map should be interactive, and provide address, phone number, website if applicable, and information about batteries accepted at each collection location



Sales RCW 70A.555.090(1)(i)

(i) The estimated aggregate sales, by weight and chemistry, of batteries and batteries contained in or with battery-containing products sold in Washington by participating producers for each of the previous three calendar years;

Regulatory Concepts

- 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 RCW <u>70A.555.090(1)(a) & (b)</u>

- (a) An independent financial assessment of a program implemented by the battery stewardship organization, including a breakdown of the program's expenses, such as collection, recycling, education, and overhead, when required by the department;
- (b) A summary financial statement documenting the financing of a battery stewardship organization's program and an analysis of program costs and expenditures, including an analysis of the program's expenses, such as collection, transportation, recycling, education, and administrative overhead. The summary financial statement must be sufficiently detailed to provide transparency that funds collected from producers as a result of their activities in Washington are spent on program implementation in Washington. Battery stewardship organizations implementing similar battery stewardship programs in multiple states may submit a financial statement including all covered states, as long as the statement breaks out financial information pertinent to Washington;



Financials RCW <u>70A.555.090(1)(a) & (b)</u>

Regulatory Concepts

- 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 costs associated with collection site supplies, or collection events
 - Transportation costs associated with moving batteries from collection sites to processing locations
 - Recycling costs costs paid to processors
 - Salary and benefits
 - Education and outreach
 - Overhead
 - Invoices for program operations should be maintained and provided to Ecology upon request
- The summary financial table should show budgeted amount, actuals spent, and the variance



Questions or Feedback on Collection Sites, Sales, or Financials?



Weight of batteries & materials RCW 70A.555.090(1)(c),(d) & (g)

- (c) The weight, by chemistry, of covered batteries collected under the program;
- (d) The weight of materials recycled from covered batteries collected under the program, in total, and by method of battery recycling;
- (g) The weight and chemistry of batteries sent to each facility used for the final disposition of batteries. The information in this subsection (1)(g) may be approximated for program operations in Washington based on extrapolations of national or regional data for programs in operation in multiple states;

Regulatory Concepts

- Researching definition of chemistry
- If approximated, report should identify data sources and methodology for calculating estimates
- Materials recycled from covered batteries should be reported by facility



Weight of batteries & materials RCW 70A.555.090(1)(c),(d) & (g)

Regulatory Concepts cont'd

- For each sorting facility used the report should provide
 - Weight by chemistry of batteries received
 - Weight of by chemistry of batteries sent on to recycling
 - Weight of any residuals disposed
- For each recycling facility used the report should provide
 - Weight by chemistry of batteries received
 - Weight of materials recycled
 - Weight of any residuals disposed
 - A description of the recycling process used
 - The recycling efficiency achieved
- A weighted overall recycling efficiency rate should be calculated



Performance Goals RCW 70A.555.090(1)(e),(h), & (n)

- (e) A calculation of the recycling efficiency rates, as measured consistent with subsection (2) of this section;
- (h) The collection rate achieved under the program, including a description of how this collection rate was calculated;
- (n) A summary on progress made towards the program performance goals established under RCW <u>70A.555.050</u>, and an explanation of why performance goals were not met, if applicable; and

- Report should provide each facility's recycling efficiency rate as well as overall program recycling efficiency rate
- Report should state the collection rate achieved and describe the calculation
- The report should compare the goals established in the stewardship plan with actual rates achieved



Questions or Feedback on Battery Weights or Performance Goals?



Battery Management RCW 70A.555.090(1)(f),(j), & (m)

- (f) For each facility used for the final disposition of batteries, a description of how the facility recycled or otherwise disposed of batteries and battery components;
- (j) A description of the manner in which the collected batteries were managed and recycled, including a discussion of best available technologies and the recycling efficiency rate;
- (m) A description of methods used to collect, transport, and recycle covered batteries by the battery stewardship organization

Regulatory Concepts

 This information should be addressed in narrative sections of the report; accompanying the relative data



Additional Facility Reporting RCW 70A.555.090(3)

- (3) In addition to the requirements of subsection (1) of this section, with respect to each facility used in the processing or disposition of batteries collected under the program, the battery stewardship organization must report:
- (a) Whether the facility is located domestically, in an organization for economic cooperation and development country, or in a country that meets organization for economic cooperation and development operating standards; and
- (b) What facilities processed the batteries, including a summary of any violations of environmental or labor laws and regulations over the previous three years at each facility.



Questions or Feedback on Battery Management or Additional Facility Reporting?



Education and Outreach RCW 70A.555.090(1)(k) & (o)

- (k) A description of education and outreach efforts supporting plan implementation including, but not limited to, a summary of education and outreach provided to consumers, collection sites, manufacturers, distributors, and retailers by the program operator for the purpose of promoting the collection and recycling of covered batteries, a description of how that education and outreach met the requirements of RCW 70A.555.080, samples of education and outreach materials, a summary of coordinated education and outreach efforts with any other battery stewardship organizations implementing a plan approved by the department, and a summary of any changes made during the previous calendar year to education and outreach activities;
- (o) An evaluation of the effectiveness of education and outreach activities.

- This information should be addressed in narrative sections of the report
- Sample of outreach material should be provided in an appendix
- In years the awareness survey is required, survey results and a discussion of the results should be included



Confidential Business Information RCW 70A.555.090(5)

(5) A producer or battery stewardship organization that submits information or records to the department under this chapter may request that the information or records be made available only for the confidential use of the department, the director of the department, or the appropriate division of the department. The director of the department must consider the request and if this action is not detrimental to the public interest and is otherwise in accordance with the policies and purposes of chapter 43.21A RCW, the director must grant the request for the information to remain confidential as authorized in RCW 43.21A.160.

Regulatory Concepts

Outline the department's process for requesting confidential business information



Questions or Feedback on Any of the Reporting Requirements?



30-minute Break

We will resume the meeting after a short break

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Welcome Back

The meeting will resume soon

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Rulemaking Key Topic: Plan Components

30 minutes

Stewardship Plan Components RCW 70A.555.040



- List of producers and brands
- Education and outreach
- Collection sites
- Financials
- Performance goals
- Management of batteries
- Plan amendment & resubmittal



Stewardship Plan Components RCW 70A.555.090(1) and 1(a)

- (1) By July 1, 2026, or within six months of the adoption of rules under RCW 70A.555.100, whichever comes later, each battery stewardship organization must submit a plan for covered portable batteries to the department for approval. Within 24 months of the date of the initial adoption of rules under this chapter by the department, each battery stewardship organization must submit a plan for covered medium format batteries to the department for approval. A battery stewardship organization may submit a plan at any time to the department for review and approval. The department must review and may approve a plan based on whether it contains and adequately addresses the following components:
- (a) Lists and provides contact information for each producer, battery brand, and battery-containing product brand covered in the plan;

- Plans are due within 6 and 24 months of rule adoption
- A stewardship organization may submit a plan at any time
- Medium format batteries may be addressed in initial plan
- A list of producers and brands should be submitted and include a contact name, email of primary contact, mailing address, and phone number
- Producer and brand lists may be submitted separately
- Producer and brand lists may be provided as appendix in plan but also sent to Ecology as a Microsoft Excel document



Education and Outreach RCW 70A.555.040(1)(c),(d),(e), & (f)

- (c) Describes how the battery stewardship organization will make retailers aware of their obligation to sell only covered batteries and battery-containing products of producers participating in an approved plan;
- (d) Describes the education and communications strategy being implemented to effectively promote participation in the approved covered battery stewardship program and provide the information necessary for effective participation of consumers, retailers, and others;
- (e) Describes how the battery stewardship organization will make available to retailers, for voluntary use, instore signage, written materials, and other promotional materials that retailers may use to inform customers of the available end-of-life management options for covered batteries collected by the battery stewardship organization;
- (f) Lists promotional activities to be undertaken, and the identification of consumer awareness goals and strategies that the program will employ to achieve these goals after the program begins to be implemented;

- This information should be addressed in narrative sections of the plan
- Materials provided to retailers should be both physical and on-demand printing
- Sample of outreach material should be provided in an appendix



Performance Goals RCW 70A.555.040(1)(b),(l),(n) & (o)

- (b) Proposes performance goals, consistent with RCW <u>70A.555.050</u>, including establishing performance goals for each of the next three upcoming calendar years of program implementation;
- (I) Establishes collection goals for each of the first three years of implementation of the battery stewardship plan that are based on the estimated total weight of primary and rechargeable covered batteries that have been sold in the state in the previous three calendar years by the producers participating in the battery stewardship plan;
- (n) Details how the program will achieve a recycling efficiency rate, calculated consistent with RCW 70A.555.090, of at least 60 percent for rechargeable batteries and at least 70 percent for primary batteries;
- o) Proposes goals for increasing public awareness of the program, including subgoals applicable to public awareness of the program in vulnerable populations and overburdened communities identified by the department under chapter 70A.02 RCW, and describes how the public education and outreach components of the program under RCW 70A.555.080 will be implemented;

- Plan needs to propose goals for collection rate, recycling efficiency rate, public awareness, convenience, and accessibility
- Ecology will help identify vulnerable populations and overburdened communities



Questions or Feedback on Plan Submittal, Education & Outreach, or Performance Goals?



Financials RCW 70A.555.040(1)(h) & (i)

- (h) Describes the method to establish and administer a means for fully funding the program in a manner that equitably distributes the program's costs among the producers that are part of the battery stewardship organization. For producers that elect to meet the requirements of this chapter individually, without joining a battery stewardship organization, the plan must describe the proposed method to establish and administer a means for fully funding the program;
- (i) Describes the financing methods used to implement the plan, consistent with RCW <u>70A.555.060</u>, including how producer fees and fee modulation will incorporate design for recycling and resource conservation as objectives, and a <u>template reimbursement agreement</u>, developed in consultation with local governments and other program stakeholders;

- The plan should describe how producers will be charged
- The plan should provide a proposed budget for the first three years of the program
- The plan should describe how producer fees will take into consideration recyclability, or other conservation measures
- The plan will include a copy of template agreement the stewardship organization uses when partnering with local governments to become collection sites



Collection Sites RCW 70A.555.040(1)(g),(j), & (k)

- (g) Includes collection site safety training procedures related to covered battery collection activities at collection sites, including appropriate protocols to reduce risks of spills or fires and response protocols in the event of a spill or fire, and a protocol for safe management of damaged batteries that are returned to collection sites;
- (j) Describes how the program will collect all covered battery chemistries and brands on a free, continuous, convenient, visible, and accessible basis, and consistent with the requirements of RCW 70A.555.070, including a description of how the statewide convenience standard will be met and a list of collection sites, including the address and latitude and longitude of collection sites;
- (k) Describes the criteria to be used in the program to determine whether an entity may serve as a collection site for discarded batteries under the program;

- The plan narrative should describe how the collection network will operate.
- The plan should include a copy of policies and procedures, operations manuals, or training materials provided to collection sites as an appendix.
- Collection site list may be provided as an appendix in plan but also sent to Ecology as a Microsoft Excel document.
- The plan should outline the requirements to become a collection site, and what criteria may be used to terminate a collection site.



Battery Management RCW 70A.555.040(1)(m)

- (m) Identifies proposed brokers, transporters, processors, and facilities to be used by the program for the final disposition of batteries and how collected batteries will be managed in:
- (i) An environmentally sound and socially just manner at facilities operating with human health and environmental protection standards that are broadly equivalent to or better than those required in the United States and other countries that are members of the battery stewardship organization for economic cooperation and development; and
- (ii) A manner consistent with the battery management hierarchy, including how each proposed facility used for the final disposition of batteries will recycle or otherwise manage batteries;

- The plan should provide a list of all brokers, transporters, processors, and other facilities used by the program, including primary contact name, email, and phone number, and mailing and physical address.
- The plan should describe how the stewardship organization will ensure proper management by those who
 handle covered batteries.
- For each facility, the plan should list the function of that facility and the processes it uses to manage batteries.



Questions or Feedback on Financials, Collection Sites & Outreach, or Battery Management?

Plan Resubmittal, Amendment, & Quarterly Update to Ecology RCW 70A.555.040(2),(3),(4), & (5)



- 2) If required by the department, a battery stewardship organization must submit a new plan to the department for approval:
- (a) If there are significant changes to the methods of collection, transport, or end-of-life management of covered batteries under RCW <u>70A.555.070</u> that are not provided for in the plan. The department may, by rule, identify the types of significant changes that require a new plan to be submitted to the department for approval. For purposes of this subsection, adding or removing a processor or transporter under the plan is not considered a significant change that requires a plan resubmittal;
- (b) To address the novel inclusion of medium format batteries or large format batteries as covered batteries under the plan; and
- (c) No less than every five years.
- (3) If required by the department, a battery stewardship organization must provide plan amendments to the department for approval:
- (a) When proposing changes to the performance goals under RCW 70A.555.050 based on the up-to-date experience of the program;
- (b) When there is a change to the method of financing plan implementation under RCW 70A.555.060. This does not include changes to the fees or fee structure established in the plan; or
- (c) When adding or removing a processor or transporter, as part of a quarterly update submitted to the department.
- (4) As part of a quarterly update, a battery stewardship organization must notify the department after a producer begins or ceases to participate in a battery stewardship organization. The quarterly update submitted to the department must also include a current list of the producers and brands participating in the plan.
- (5) No earlier than five years after the initial approval of a plan, the department may require a battery stewardship organization to submit a revised plan, which may include improvements to the collection site network or increased expenditures dedicated to education and outreach if the approved plan has not met the performance goals under RCW 70A.555.050.

Plan Renewal, Amendment, & Quarterly Update to Ecology RCW 70A.555.040(2),(3),(4), & (5)

- New plan will be required when:
 - Inclusion of a new collection method such as curbside or mail-back
 - If more than 25% of participating producers were to stop participating; or if producers representing more than 25% of the total revenue stream were to stop participating
 - If recycling efficiency rate dropped below 50%
 - Inclusion of medium format batteries, or currently excluded batteries
 - Every five years
- Quarterly Update to Ecology
 - List of collection sites added/dropped
 - Current producer and brand lists
 - Planned collection events
 - Planned outreach activities



Questions or Feedback on Any of the Stewardship Plan Components?



Q&A and Comments

30 minutes



Questions



Chris Fredley

batterystewardship@ecy.wa.gov (564) 233-1615

Comments



Visit our comment page



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

Informal comment period:

June 21, 2024, 4:00 PM - July 17, 2024, 11:59 PM



Thank you

Next Meeting:

July 22, 2024, 11 am (Pacific Time)

Meetings later this year:

- September 23, 2024, 11 am
- October 21, 2024, 11 am
- November 18, 2024, 11 am