



DEPARTMENT OF
ECOLOGY
State of Washington

Battery Stewardship Program Rulemaking—Chapter 173-905 WAC

Rule Advisory Committee Meeting #3

September 23, 2024 | 11 AM – 2 PM (Pacific Time)

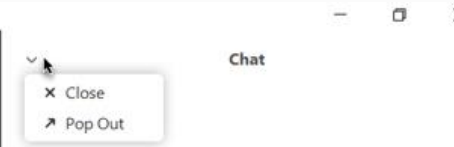
Assisting with this meeting:

Zoom Meeting

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Molly McNutt, Facilitator



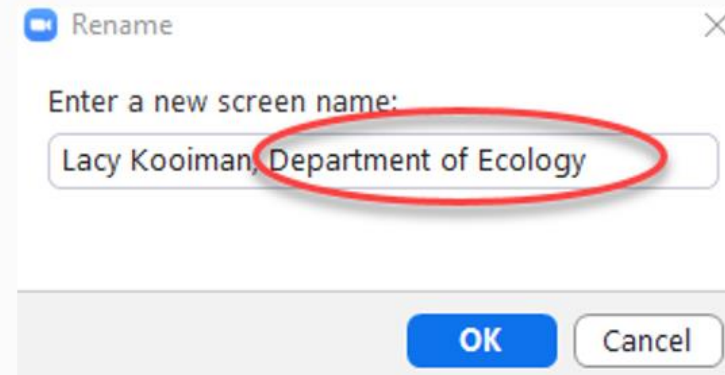
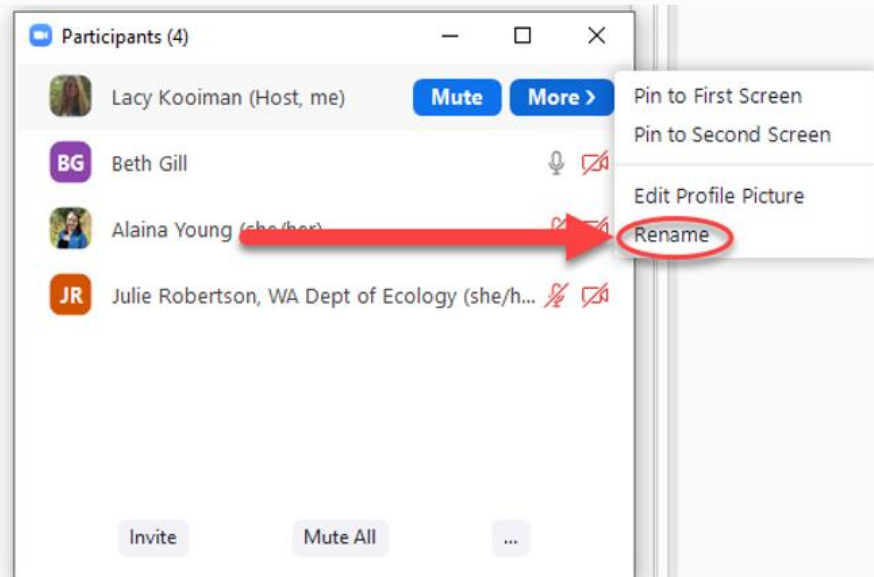
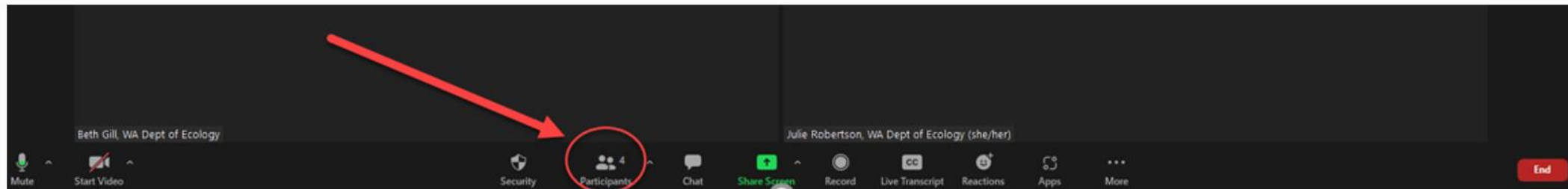
Zoom Chat Functions

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



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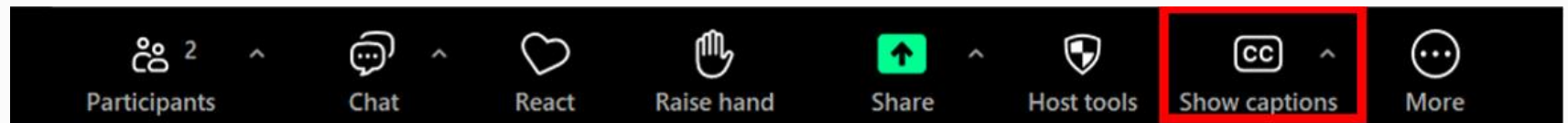
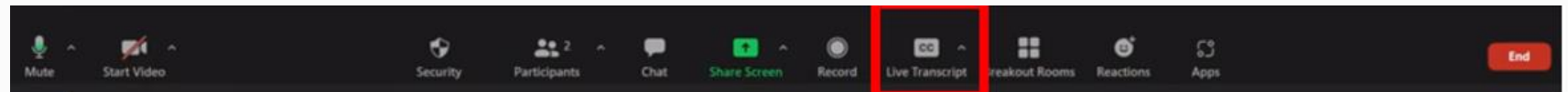


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- Locate the cc “Live Transcript” or “Show Captions” option on your Zoom control bar.
- Different versions of Zoom look a little different.



Meeting Logistics: Questions & Comments

- We will have Q&A time allotted for all participants at the end of each rule concept section.
- If you would like to ask a question or make a comment, please use Zoom's **chat** or "**raise hand**" feature.
- For participants dialed in via your phone, use your phone's dial pad:
 - ***9** to raise/lower hand
 - ***6** to unmute/mute

Meeting Logistics: Going Forward

After each committee meeting, Ecology will post the meeting materials 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>

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

Download the Read-Along Document



<https://ecology.wa.gov/9-23-24-meeting-read-along-document>



Today's Agenda

Time	Topic
11:00 AM	Welcome and meeting logistics
11:10 AM	Rulemaking key concept: Administrative fee and plan review fee
11:30 AM	Rulemaking key concept: Plan components
12:20 PM	30-minute break
12:50 PM	Rulemaking key concept: Plan Submittal, Review, and Implementation
1:25 PM	Rulemaking key concept: Collection and handling standards
2:00 PM	Wrap up



Rulemaking Key Concept: Administrative Fee and Plan Review Fee

20 minutes

Administrative Fee and Plan Review Fee

- Ecology is required under RCW 70A.555.100 to promulgate rules that establish fees that are adequate to cover the department's costs.



Administrative Fee

- Beginning May 1, 2026, an annual fee will be assessed for each year.
- The fee will be due each year on June 1.
- Ecology will base fees on administrative costs from the previous fiscal year and an estimate of the following fiscal year.
- If a single BSO, that stewardship organization is responsible for the entire fee.
- If multiple BSO's, the fee will be allocated in proportion to the market share a plan represents.

Administrative Fee: Market Share Data

- Market share information is based on data provided by the stewardship organization and any available national market share data.
- Stewardship organizations will provide their total represented aggregated market share amount in pounds by April 1.
- If data is not submitted, the market share calculation will be estimated on available data.
- A BSO may request information be made available only for the confidential use of the department, in accordance with RCW 43.21A.160.

Overpayment or Underpayment

- If the collected annual payment exceeds the department's costs for a given year, the department will apply any remaining annual payment funds from the current year to the annual payment for the next fiscal year.
- If the collected annual payment was less than the department's costs for a given year, the department will increase annual payments for the next fiscal year to cover the department's fees.

Plan Review Fee

- A one-time plan review fee is required and separate from the annual administrative fee.
- Payment in the amount of \$50,000 is due from each stewardship organization at the time of plan submittal.
- This fee is not required when submitting a plan renewal or amendment.

**Questions or feedback on administrative fee
and plan review fee?**

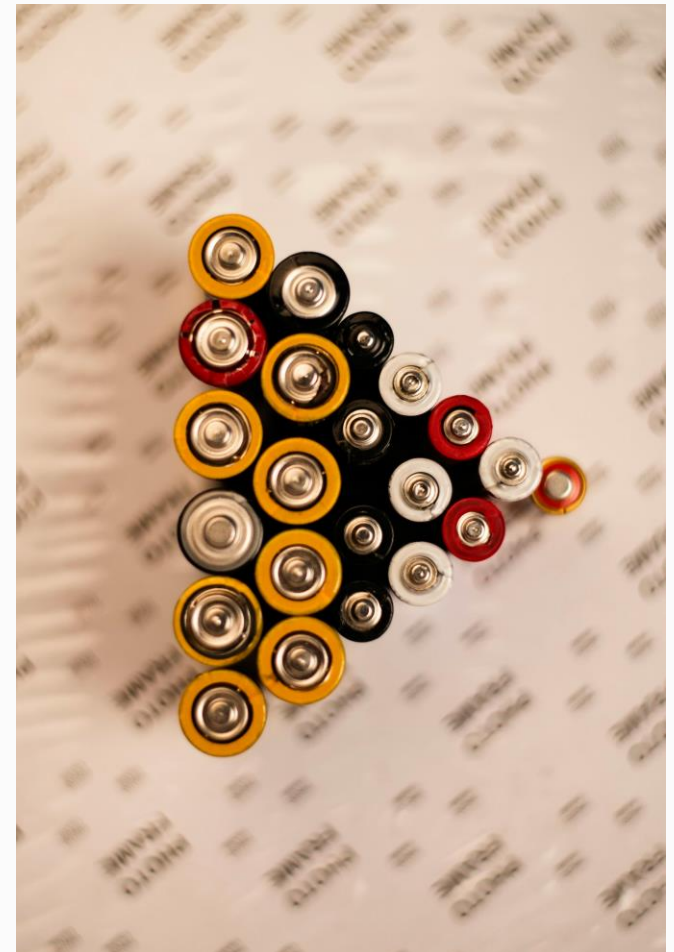


Rulemaking Key Concept: Plan Components

50 minutes

Program Components

- Ecology proposes to promulgate rules that:
 - Clarify the required components of a battery stewardship plan
 - Clarify the format certain components should be submitted in.



Program Operation

- A description of how the program will collect all covered batteries on a free, continuous, convenient, visible, and accessible basis, using environmentally sound management practices including:
 - A list of transporter or contractors to be used by the program for collecting batteries from the collection sites and relevant information for each.
 - A list of facilities to be used by the program for final disposition of batteries and relevant information for each facility.

Program Operation Continued

- A description of the recycling process to be used for each type of battery chemistry
- A list of the criteria the BSO will use to evaluate the economic and technical feasibility of recycling the components of discarded batteries
- A description of how the BSO will routinely monitor all handling, transporting, and processing companies
- A description of how the BSO will conduct end-of-life handling for batteries or battery components that cannot be recycled
- A description of how the BSO will coordinate with other program operators, including covered battery collection and recycle programs and electronic waste recyclers

Covered Producers and Brands

- A list of producers covered in the plan;
- A list of battery brands and battery-containing product brands covered in the plan; and
- Information for a contact person of each member producer of the battery stewardship organization including name, mailing address, phone number, and email address.

Collection Sites

- A list of collection sites provided in Microsoft Excel or a program of compatible file format
- A description of the criteria the battery stewardship organization will use to determine whether an entity may serve as a collection site
- A description of the types of collection containers that will be used at collection sites
- A copy of signage to be made available to collection sites that informs customers of the end-of-life management options for batteries provided by the program
- A copy of signage or labels to be placed on or near collection containers providing specific instructions to customers disposing of batteries
- A description of how damaged and defective batteries will be collected

Collection Sites Continued

- A description of methods for hosting collection events to supplement permanent collection services
- A description of the process the battery stewardship organization will use to ensure each collection site:
 - Has the materials and equipment necessary to handle customer demand; and
 - Has established a regular pick-up schedule to prevent overflow issues at the site.
- A description of the process for decommissioning a collection site that would allow batteries collected by the site to be shipped to the proper facilities for recycling;
- A description of how collection sites will be trained to deal with receiving batteries that are not required to be collected
- A description of how the battery stewardship organization has met the statewide convenience standards established in RCW 70A.555.070.

Performance Goals: Target Collection Rates

- A metric to measure, on an annual basis, the performance of the plan in achieving continuous progress to improve the rate of battery recycling in Washington
- Target collection rates for covered primary and rechargeable batteries (calculated separately)
 - Target collection weight =
Total weight of covered batteries of each type collected during previous year
 \div
Estimated average annual weight of covered batteries of each type sold in Washington previous three years

Performance Goals: Recycling Efficiency Rates

- Target recycling efficiency rates for covered batteries by chemistry. Target at least 60 percent for rechargeable batteries and at least 70 percent for primary batteries

Performance Goals: Outreach and Education

- A metric for measuring the percentage of people in Washington who know how to recycle covered batteries through stewardship plan collection sites
- A description of how progress in increasing public awareness will be measured, such as through surveys or polls conducted on an annual basis

Performance Goals: Collection Accessibility

- A goal for the number of covered battery collection sites that will be accessible to overburdened communities identified by the department.
- A goal for the number of portable battery collection sites at special locations including, but not limited to:
 - Campgrounds
 - Parks with stores
 - Hospitals
 - Fire stations
 - Homeless shelters
 - Aid organizations
 - Donation centers
 - Schools
 - Solid waste facilities

Education and Outreach

- Sample materials to make retailers aware of their obligation to sell only covered batteries and battery-containing products of producers participating in an approved plan
- Sample materials made available to retailers, for voluntary use, including in-store 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
- Sample promotional materials such as flyers or social media posts employed to achieve consumer awareness goals that communicate:
 - That the program provide free collection of covered primary and rechargeable batteries
 - Guidance for safe handling of covered batteries
 - How to find collection sites.

Education and Outreach Continued

- A description of how the battery stewardship organization will identify target audiences and appropriate outreach for those audiences
- A description of outreach efforts specifically targeted to vulnerable populations and overburdened communities
- A description of how the stewardship organization will document education and outreach efforts.

Safety

- A description of the process the battery stewardship organization will use to distribute training procedure information to collection sites.
- The plan must also include a copy of all procedural materials that will be distributed to collection sites including preventative protocols to reduce risk of spills or fires, response protocols in the event of a spill or fire, and protocols for the safe management of damaged or defective batteries.

Program Funding

- A description of the method to fully fund a program that:
 - Covers the full implementation of the program
 - Equitably distributes the program's costs among the producers that are participating in plan
- A description of how the stewardship organization will structure fees to encourage:
 - Recyclability or recycling;
 - Use of recycled content;
 - Other design attributes that reduce the environmental impacts of covered batteries.

Budget

A description of the program budget for program implementation and a list that separates line items for the following categories and include a definition for each category:

- Collection costs
- Transportation costs
- Processing costs
- Disposition costs (separate line item for each cost)
- Education, outreach and communications costs
- Program evaluation costs;
- Plan review and administrative fees paid to the department;
- Demonstrable costs paid to local governments or local government facilities; and
- Personnel, general, and other administrative costs.

Local Government Coordination

- A copy of a template local government reimbursement agreement and an explanation of how local governments were consulted with in the template's development;
- Procedures that a local government must follow to coordinate with the battery stewardship organization for the following activities:
 - Collecting covered batteries at its own expense outside of the program;
 - Holding collection events; and
 - Education and outreach efforts.

Questions or feedback on plan components?

30-minute Break

We will resume the meeting
after a short break



Download the read-along document



Welcome Back

The meeting will resume shortly



Download the read-along document.





Rulemaking Key Concept: Plan Submittal, Review, and Implementation

35 minutes

RCW 70A.555.040

(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 70A.555.070 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.

RCW 70A.555.040

(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.

Our Draft Rule Concepts

- Ecology proposes to promulgate rules that:
 - Clarify what conditions warrant submittal of a new plan and what conditions warrant submittal of a plan amendment.
 - Establish the timing and process Ecology will adhere to in its review of submitted battery plans.
 - Clarify what it means to fully implement a battery stewardship plan.



Conditions to Submit a Plan

- A battery stewardship organization shall submit a plan to the department for review and approval:
 - By July 1, 2026, or within six months after the formation of the battery stewardship organization, whichever is later.
 - No later than five years after the department last approved the plan; or
 - When there is a need to include a type or format of covered battery that is not addressed in the plan last approved by the department.

Plan Submittal Requirements

- Submittal of a stewardship plan shall be accompanied with a payment of the plan submittal fee.
- Plans should be submitted electronically in both Microsoft Word and pdf format, unless specified otherwise.



Plan Information Submitted to the Department

- A battery stewardship organization may request information contained in a plan be made available only for the confidential use of the department, in accordance with RCW 43.21A.160.
- 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 and WAC 173-905-XXX, no earlier than five years after the initial approval of the plan.

Conditions to Submit a Plan Amendment

- A battery stewardship organization shall submit a plan amendment to the department for review and approval when:
 - There is a proposed change to the performance goals.
 - There is a change to the method of financing plan implementation.
 - There are significant changes in the operation, administration, or implementation of the program that are not addressed under the plan last approved by the department.

Questions or feedback on plan submittal?

- What types of significant changes under RCW 70A.555.040(2)(a) should require submittal of a new plan?
- What types of changes could instead require submittal of a 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?

Plan Review Timing

- The department will post submitted stewardship plans on its website for public review and comment for at least 30 days.
- Within six months of submittal of a plan, or within three months of submittal of a plan amendment, the department will determine whether the plan or plan amendment meets the requirements and will issue a decision letter.



Plan Approval

- If the plan or plan amendment is approved, the department will:
 - Issue a letter of approval by email;
 - Post on its website an updated list of producers and brands covered under the approved plan.

APPROVED

Plan Rejection

- If the plan or plan amendment is rejected:
 - The department will issue a letter of disapproval by certified mail. The letter will include the reasons the department rejected the plan.
 - The battery stewardship organization must submit a new or revised plan within 60 days of receipt of the letter of disapproval.



Meeting the Plan Requirements

- The department may request additional information or clarification during the review of a plan. If the department determines that additional information is needed, the stewardship organization shall submit the additional information to the department within 60 days of receipt of the notice.
- If after two plan disapprovals the department deems a stewardship plan still does not meet the requirements of RCW 70A.555.040 and WAC 173-905-XXX, the department may amend the most recent plan submittal and the battery stewardship organization will be required to implement the plan as amended and approved by the department.

Plan Implementation

- Starting January 1, 2027, each battery stewardship organization shall begin to implement the plan as approved by the department and shall begin collecting funds from participating producers of covered batteries.
- By July 1, 2027, each battery stewardship organization shall have fully implemented the plan for covered portable batteries.
- By January 1, 2029, each battery stewardship organization shall have fully implemented the plan for covered medium format batteries.
- A battery stewardship organization may only implement a plan that has been approved by the department.

Full Implementation Definition

- “Full Implementation” means:
 - The BSO’s plan has been approved by the department;
 - The collection convenience criteria established in RCW 70A.555.070 have been met
 - All collection sites have received proper training, collection containers, signage and educational materials;
 - The BSO’s website is live, providing information about the program;
 - A collection site locator on the BSO’s website is operational;
 - The BSO has paid all necessary fees to the department.

Questions or feedback on plan review and implementation?

- 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?



Rulemaking Key Concept: Collection and Handling Standards

35 minutes

Collection and Handling Standards

- Ecology proposes to promulgate rules that:
 - Clarify general handling standards for collection sites.
 - Specify additional requirements for collecting damaged or defective batteries.



Collection and Handling Standards

- Several battery types are toxic, ignitable, reactive, or corrosive.
- Containers with mixed batteries originating from businesses and households should be handled as universal waste. [WAC 173-303-573](#)
- Collection sites are responsible for determining their universal waste handler category.



Collection and Handling Standards

Universal waste small quantity handler (*high-level overview*)

Doesn't exceed storage limit - 11,000 pounds

Safely collects and prevents releases of any universal waste.

Labels/marks containers

"Universal Waste-Battery(ies)," or "Waste Battery(ies)," or
"Used Battery(ies)"

One year accumulation limit from the date the universal waste is generated or received from another handler.

Trains employees to properly handle batteries and respond to emergencies.



[Print free labels](#)

Collection and Handling Standards

Universal waste large quantity handler (*high-level overview*)

Obtains an EPA/State ID Number before exceeding 11,000 pounds.

Notifies on their Site ID Form.

Maintains shipment records for batteries received at the facility and sent off site.

The record may take the form of a log, invoice, manifest, bill of lading, movement document, or other shipping document.

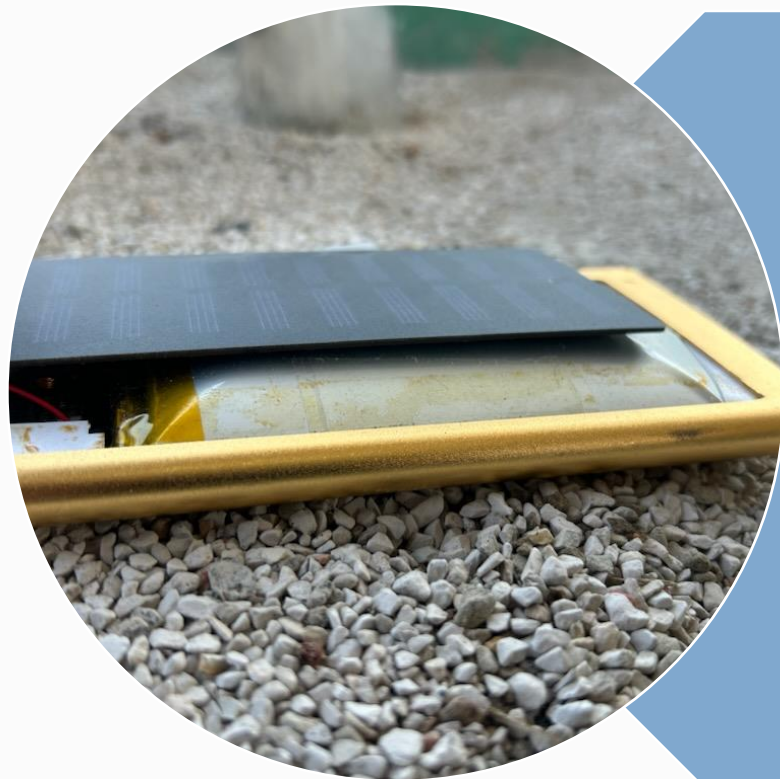
3-year recordkeeping requirement.



Collection and Handling Standards

- Prohibited from collecting damaged and defective batteries unless they are staffed by persons trained to handle them.
- If collected batteries offered for transportation meets the definition of hazardous materials under 49 C.F.R. Parts 171 through 180, then the collection site must meet all U.S. Department of Transportation Regulations.
- Collection sites who discover non-program products in a battery collection container must determine if the material is dangerous waste as defined under chapter 173-303 WAC.
- Collected batteries must be stored in accordance with all applicable International, State, and Local Fire Code.
- Collection sites must ensure to tape or individually bag all lithium and lithium-ion batteries with exposed terminals.

D&D Battery Handling Standards



Damaged and defective batteries must be:

- Separated from all other batteries.
- Stored in a dry environment away from extreme cold and extreme heat.
- Stored separately from flammable materials.
- Inspected regularly to look for evidence of swelling, fire, smoke, gas, melting, cracking, corrosion, leakage, or discoloration.
- In a container labeled as “damaged/defective battery.”
- Promptly sent offsite for recycling or disposal.

D&D Battery: Personnel Training

- **Collection sites must ensure their employees are:**
 - Trained to identify damaged and defective batteries.
 - For employees responsible for shipping hazardous materials, are trained in accordance with 49 C.F.R. Part 172 Subpart H.
 - Trained, on an annual basis, to effectively respond to various types of battery fires and other types of emergencies.



D&D Battery: Emergency Preparedness



Collection sites must identify an emergency contact and post signage with their name and telephone number.



Collection sites must maintain emergency supplies and decontamination equipment.

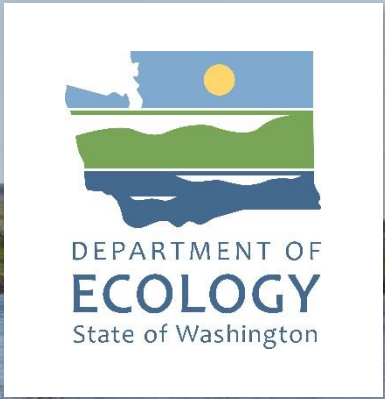
D&D Battery: Reporting incidents

Collection sites must report damaged and defective battery-related incidents to the battery stewardship organization within 14 calendar days.



Questions or feedback on collection and handling standards?

- 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?



Next Meeting

October 21, 2024, 11 AM

Questions

Chris Fredley

batterystewardship@ecy.wa.gov

(564) 233-1615

Comment Period

Sep 16 – Oct 16, 2024, 11:59 pm

Visit our comment page





Other Topics

Local Government Reimbursement

- How prescriptive should the rule be? Should it list off all activities that would qualify for reimbursement?

Multiple Battery Stewardship Organizations

- The statute requires local governments collecting batteries outside of a battery stewardship program to report to a battery stewardship organization and provide collected batteries to that organization. That BSO may count materials collected in this manner towards achievement of performance requirements.
- If there are multiple BSOs, would a local government operating outside of a program just choose one BSO to collaborate with?

Emergency Preparedness

- What emergency preparedness supplies must a collection site keep on hand?

Medium Format Battery Handling

- Should there be standards for handling medium format batteries that are different from those of portable batteries?

Transportation Standards for Batteries

Reporting of Safety Violations

- Should Ecology be notified of safety violations regarding battery collection? Repeated violations?
- How frequently should Ecology be notified?