

Chapter 173-905 WAC, Battery Stewardship Rulemaking Meeting

3/6 10 am - 12 pm PST

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

Participants

Addison Houston - Seattle and King County Public Health- Climate Adaptation Strategist

Adrian Tan - King County

Alejandro Torres

Alissa Campbell - Recology

Carin Stuart - Call2Recycle, Inc.

Crystal Leatherman - WA Retail Association

Danielle Spalding - Cirba Solutions

Fatemah Bamdad

Heather Trim - Zero Waste Washington

India Brine - WRRRA

Jason Cummings - Snohomish County PUD

Jeff Everett

Katlin Bloom - CA DTSC

Lorraine Goodman

Michelle Cevallos - CalRecycle

Pam Johnson – King County HWMP

Preston Peck - City of Tacoma

Rex Price

Richard Abramowitz

Sara Kirby

Shannon McClelland - AWC

Talon Swanson

Tricia Dutcher - Redwood

William McCarter

Ecology staff:

Shannon Jones

Caleb Carlson

Chris Fredley

Megan Warfield

Brett Rude

Ethan Bean

Dan Weston

Christine Haun

Jared Mathey

Krysta Thornton

Katy Harvey

Evan Long

Kelly Boyle

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Send Questions:

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Meeting Agenda

- Welcome and meeting logistics
- Rulemaking process overview: What to expect next
- Battery rule key concepts and draft rule language
- Listening session: Public comment
- Wrap up

Download the draft rule language document:

<https://fortress.wa.gov/ecy/ezshare/SWM/Rulemaking/BatteryRulemaking-Chapter-173-905-WAC-Draft-Language.pdf>

The agenda, the power point presentation from the meeting, and the draft rule language document are all available on the rulemaking website: <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-905>

Recap of where we are in the rulemaking process:

- Filed the CR-101 March 19, 2024
- 12 months of rule development with this advisory committee (3/10/2024 - 5/14/2025)
- 6 public meetings
- 6 informal comment periods
- 20 sections of WAC drafted

Timeline of what comes next in the rulemaking process:

- March 2025 – The last informal comment period. Ecology HIGHLY recommends getting all important comments in during this month, BEFORE the CR-102 filing, as substantive changes are difficult to make after the CR-102 is filed.
- We will be beginning the Economic Analysis and SEPA Analysis
- July 2025-CR-102 -Rule filing/rule proposal. The rule language will formally be proposed.
- After the CR-102 is filed, Ecology will conduct a formal comment period
- Ecology is planning public hearing in September, 2025
- Ecology is planning to adopt the rule by December, 2025

Timeline for program implementation:

- July 1, 2026 - Battery stewardship organizations must submit a plan to Ecology for managing portable batteries
- January 1, 2027 - Producers must participate in a battery stewardship organization
- July 1, 2027 - Program begins for covered portable batteries- Retailers may no longer sell portable batteries or battery containing products that have not joined an approved battery stewardship organization
- January 1, 2028- Producers shall mark brand on their batteries
- January 1, 2029 - Medium format batteries are added as covered batteries under the program
- January 1, 2030- Producers shall mark their batteries with the chemistry contained within the battery and add a mark indicating the battery is not to be disposed of as household waste.

Key objectives for this rulemaking:

- Establish procedure for setting the agency fee
- Clarify definitions, plan requirements, and annual reporting requirements where otherwise unclear in the law
- Establish battery management standards
- Define which local government demonstrable costs are subject to reimbursement by the battery stewardship organization
- Clarify battery marking requirements

Key Concepts covered in meeting (see slides and draft rule document for details and draft rule language):

- Definitions
 - "Covered battery" and exclusions
 - "Regulated generator"
 - "Best available technologies"
- Formation of a new battery stewardship organizations
- Participation in a battery stewardship organization (and cost-sharing considerations if there is more than one)
- Plan review fee
- Administrative fee

- Fee cost-sharing
 - One plan – battery stewardship organization covers entire fee
 - Multiple plans - fee will be divided based on market share
 - Considering whether this should be based on revenue or pounds sold
- Role of retailers
- Marking requirements
- Outside collection of batteries
- Enforcement provisions

Questions:

Heather Trim - Clarified that ALL local government costs are supposed to be covered by the battery stewardship organization. Also very important to define and clarify "easily removable."

Addison Houston - Echoes comments on "easily removeable batteries" and whether that includes items with battery banks (from medium format generators). Provided an example of a Jackery portable power unit.

Pam Johnson: Under demonstrable costs, "may" include should say "may include but not limited to" to allow for flexibility.

Shannon McClelland: Strongly recommend removing language that repeats statute verbatim or closely echoes statute verbatim.

Heather Trim: Need to see visual comparison of RCW language with proposed language to better understand nuances in changes proposed.

Crystal Leatherman: How frequently would retailers need to check if brands have pulled out of a battery stewardship organization? How would they be aware of when the process begins? When it comes to the retailer needing to make sure a battery is certified with the correct markings--the most they can do is take the word of the manufacturer. Thank you for making sure retailers are not required to serve as collection sites. Thank you for giving retailers the opportunity to receive written warning before receiving fines (gives grace to retailers who are unknowingly non-compliant).

Shannon McClelland: The dates in the role of the retailer section don't track with the RCW. Statute says 2027 for portable batteries and 2029 for medium format (section .030)

Crystal Leatherman: A retailer would need to take a battery containing product apart to see if the marking requirements are met. We need to know the cadence of how retailers will know if batteries or products are compliant.

Heather Trim: What you said about outside collections is not the intent of the law. The state's interpretation is not the intent.

Carin Stuart: Is the certification requirement annual or one-and done? Appreciate clarification around wheelie-bin marking and use of periodic table elemental symbols.

Jeff Everett: As a producer of a battery containing product, I may not know what batteries are in my product. It would be hard for me to put my brand on the batteries as the law requires.

Heather Trim: Would like the rule to clarify more about the “effectiveness” of the education and outreach. What kind of effectiveness?

Preston Peck: Would demonstrable costs include facility expansion?

Carin Stuart: Not comfortable providing training to collection sties about where to direct people with non-covered batteries or battery containing products. That information lives at the local level. Please clarify the collection rates in -400.

Tricia Dutcher: If multiple battery stewardship plans are approved, do they each need to meet all the convenience standards, or can their collective efforts across the state meet those standards, similar to how education efforts shall be coordinated or the single cost to the state is split based on market share? Can the 5-year survey also be a collective effort across the state? Can a retailer opt to collect on their own, but not with the BSO or on behalf of a producer?

Shannon McClelland: For demonstrable costs, what is the intent? A-G is not required. Is the intent of the agency to restate the statute as the definition of "demonstrable cost." Everything after "...means costs that a local government incurs as a result of a local government..." is not required. "Includes but is not limited to" isn't necessary. The rule seems to imply "must" and "may" at the same time.

Jeff Everett: Is membership in Call2Recycle transferable between states? Will we have to pay multiple fees? Can we raise the price of our products to cover the costs?