

October 15, 2024

RE: Call2Recycle Comments for Washington Battery Stewardship Program Rulemaking for September 23 Meeting Concepts

Thank you for the opportunity to provide written comments on the informal rulemaking. Below are the Call2Recycle comments with references to each clause for which the comment is written and the comment immediately below. When wording is in red, this indicates a proposed deletion or addition to the language.

Administrative Fee and Plan Review Fee (3) Administrative fee: Beginning May 1, 2026, each stewardship organization must pay an annual fee to the department. The fee will be due each year on June 1.

Comment: A 30-day notice of receipt of total administrative fee and submitting full payment is a quick timeframe and may not be possible. Call2Recycle recommends a 60-day notice between fee notification and payment due. We propose changing the language to read “Beginning ~~May~~ **April** 1, 2026, each stewardship organization must pay an annual fee to the department. The fee will be due each year on June 1.”

Administrative Fee and Plan Review Fee (3) Administrative fee (c) (i): Stewardship organizations will submit to the department their total represented aggregated market share amount in pounds by April 1.

Comment: The current written language can be interpreted as the Battery Stewardship Organization (BSO) needs to determine their market share and submit that data to the Department. During the public meeting it was clarified that the intent is the BSO submits their reported battery volumes in pounds and the Department will determine market share. Call2Recycle recommends revising the language to better reflect intent.

Secondly, in the first year of a program, a BSO will not yet have reported data to submit pounds to the department to determine market share. As an example, the following timeline outlines the various due dates for a program:

- 1) Plan submitted to Department July 1, 2026
- 2) Plan approved within 6 months (approved by December 31, 2026)
- 3) Plan implementation begins with producer reporting data January 1, 2027
- 4) By April 1, 2027, a BSO with monthly reporting would only have 3 months of battery pounds to submit to the Department. Q1 is typically not a representative set of data for an entire year for the industry.





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As a result of both comments, Call2Recycle recommends that the following clarification is added to the language “Stewardship organizations will submit **data from the previous full year in year two of their approved plan** to the department their total **pounds reported by their member producers by April 1** so that the Department can determine **represented** aggregated market share by BSO. **amount in pounds by April 1.**”

Stewardship Plan Components (1) (a) (vii): A description of how the battery stewardship organization will coordinate with other program operators, including covered battery collection and recycle programs and electronic waste recyclers, regarding the proper management or recycling of collected covered batteries, for purposes of providing the efficient delivery of services and avoiding unnecessary duplication of effort and expense.

Comment: The language instructs the BSO to coordinate with other program operators. Call2Recycle is unclear if this “coordination” requires exchanging items collected by one operator that are in scope of another operator. For example, is the e-cycle program required to provide loose batteries or removable batteries to the Call2Recycle program and is Call2Recycle expected to provide covered e-waste collected to the e-cycle program? Call2Recycle requests additional clarity on what it means to “coordinate” with other programs in rulemaking.

Stewardship Plan Components (b) covered producers and brands (ii): A list of battery brands and battery-containing product brands covered in the plan; and

Comment: Call2Recycle requests that the list of brands of batteries and battery-containing products be a single combined list without the requirement to determine if the brand is for a battery or product. Currently Call2Recycle only provides a list of covered brands and does not further clarify if the brand is for a battery or a device to the DOEE under the District law. Therefore, Call2Recycle requests an additional clarifying sentence be added that states “**The list of brands may be in the form of a single list without specifying which brands are for batteries and which are for battery-containing products**”.

Stewardship Plan Components (c) collection sites (i): A list of collection sites, including the site name, physical address, phone number of the site, name and email address of a contact person at the site, and latitude and longitude of the site, provided in Microsoft Excel or a program of compatible file format;

Comment: Call2Recycle maintains a list of all these items with the exception of a specific name and email address. This is because at retail sites store managers can change often so they generally provide a generic “store manager” title and email address. That way as those roles rotate, we still have an opportunity to contact and speak with the manager but the specific name of the person is not kept updated. Therefore, Call2Recycle proposes the following change to the clause “A list of collection sites, including the site name, physical address, phone number of the site, name and email address of a contact person at the site **(this may be generic for a site)**, and





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latitude and longitude of the site, provided in Microsoft Excel or a program of compatible file format.”

Stewardship Plan Components (c) collection sites (x): A description of how collection sites will be trained to deal with receiving batteries that are not required to be collected, such as batteries that are not easily removable from a product or covered electronic products under chapter 70A.500 RCW;

Comment: Currently, Washington lacks a program or process for collecting batteries that are not easily removable. However, there is a collection mechanism in place for covered electronic equipment. Call2Recycle recommends that the Department clarify its communication to collection sites regarding the handling of non-removable batteries. This clarification will ensure that proper instructions are provided, minimizing potential concerns about the directives communicated to downstream stakeholders.

Stewardship Plan Components (c) (xi) A description of how the battery stewardship organization has met the statewide convenience standards established in RCW 70A.555.070.

Comment: The clause is phrased assuming that at the time of plan submittal the convenience metric has been met. For the first plan submitted this will not be the case as the stewardship organization will just begin to expand collection site networks. Call2Recycle recommends the following change “A description of how the battery stewardship organization **will meet** ~~has met~~ the statewide convenience standards established in RCW 70A.555.070.”

Stewardship Plan Components (d) performance goals (i): 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;

Comment: During the September 23 public meeting, a clarification was that this should read “A metric to measure, on an annual basis, the performance of the plan in achieving continuous progress to improve the **collection** rate of battery recycling in Washington;”. Please make this revision in future rulemaking language.

Stewardship Plan Components (d) performance goals (vi) (D): 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



Comment: Call2Recycle’s comment as it relates to this clause is to request clarification if the interpretation of the law requires all batteries to go through an approved plan or can business and this list of “special locations” choose to use a third party to collect their batteries? This is a key understanding for the stewardship organization to better understand the possibility of convincing entities such as hospitals to change their battery disposal services and it will inform how our plan is written.

Stewardship Plan Components (f) 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.

Comment: The included terminology “risk of spills” appears out of place in this context. The batteries that are collected under the law do not have free electrolyte therefore spillage would not be a hazardous material such as a liquid. Call2Recycle recommends removing the term “spill” from this clause.

Stewardship Plan Components (h) fee structure: A description of how the stewardship organization will structure fees to encourage:

- (i) Recyclability or recycling;
- (ii) Use of recycled content;
- (iii) Other design attributes that reduce the environmental impacts of covered batteries.

Comment: While the proposed language aligns with the law, Call2Recycle would like to be on record noting that it is outside of the expertise of a battery stewardship organization to make the determination on these listed items.

- First, battery processors have a method to process specific chemistry. The design of a battery does not change the processing so there are not pathways for batteries to be more or less recyclable.
- Second, there is no clear way for a BSO to determine if a battery does or does not contain recycled content. Additionally, the use of recycled content does not decrease the cost to recycle a battery and therefore should not impact the structure of fees due to the inclusion of recycled content. The costs remain the same for collection, transportation and processing, therefore the fees should remain the same.
- There are other elements that affect the expenses of collecting and recycling batteries that will be used.

However, the two examples provided would not meaningfully change the expense to any battery EPR program. No proposed change is recommended rather this is an informative comment.





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Stewardship Plan Components (j) local government coordination: Procedures that a local government must follow to coordinate with the battery stewardship organization for the following activities:

(A) Collecting covered batteries at its own expense outside of the program;

Comment: From a BSO perspective, any collection procedures that would be communicated to a government entity that intends to operate outside of the program at their own expense would be to follow the best practices and guidelines of the BSO as those are developed for safe and efficient means of collecting and recycling batteries. It is also assumed that the local governments would be required to send batteries to the approved vendors under the BSOs plan. Call2Recycle is asking for clarification that local governments operating at their own expense outside of an approved program would be required to follow the procedures provided by the BSO and only send those collected batteries to approved vendors.

Plan Submittal, Review, and Implementation (1) Plan submittal (a) (i): By July 1, 2026, or within six months after the formation of the battery stewardship organization, whichever is later.

Comment: The law states 6 months after the adoption of rules under section 11 of this act not after a BSO is formed. Call2Recycle proposes that the language reflects the law to read “By July 1, 2026, or within six months **after the adoption of rules under section 11 formation of the battery stewardship organization**, whichever is later.”

Plan Submittal, Review, and Implementation (3) Plan and plan amendment review (f): 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.

Comment: Call2Recycle recommends the option to either implement the plan as amended by the department or withdrawal their plan and not commence with the implementation of the plan. Call2Recycle recommends the language is revised to read “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 **or the battery stewardship organization may rescind the proposed plan and will not commence implementation.**”

Plan Submittal, Review, and Implementation (3) plan implementation (a): 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.

Comment: Since the submittal of a plan is based on both date and adoption of rules, the implementation should also be based on both. Propose the language is changed to read “Starting





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January 1, 2027, or within one year of adoption of rules under section 11 of the act, whichever is later, 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.

Secondly the draft language reads that no BSO is allowed to collected funds prior to plan implementation. However, funding is needed prior to implementation to cover expenses such as \$50K for plan review, staffing, and plan development. Recommend this clause is deleted ~~“and shall begin collecting funds from participating producers of covered batteries.”~~

Plan Submittal, Review, and Implementation (3) plan implementation (b) (ii): By July 1, 2027, each battery stewardship organization shall have fully implemented the plan for covered portable batteries. Full implementation means: The battery stewardship organization’s plan has been approved by the department; The collection convenience criteria established in RCW 70A.555.070 have been met;

Comment: Call2Recycle has had recent experience in launching a new battery EPR collection and recycling plan. Given this experience, six months to achieve the accessibility rate is not enough time. The District Battery Stewardship Law provides 1 full year and even that is proving to be incredibly challenging. Additionally, Vermont’s recent amended law give the agency’s secretary ability to amend the timing for implementation of collection sites accessibility metrics. Call2Recycle recommends the following language based on both Vermont and DC law is changed to read ~~“Unless otherwise approved by the department, by January 1, 2028, or within 2 years of the adoption of rules under section 11 of the act, whichever is later,~~ each battery stewardship organization shall have fully implemented the plan for covered portable batteries. Full implementation means: The battery stewardship organization’s plan has been approved by the department; The collection convenience criteria established in RCW 70A.555.070 have been met;

Collection and Handling Standards (1) (a): Collected batteries must be managed consistent with the prioritization outlined in the battery management hierarchy as defined in RCW 70A.555.030.

Comment: While the proposed language aligns with existing law, Call2Recycle would like to express that there are limitations for a Battery Stewardship Organization (BSO) in following the recycling hierarchy. Waste prevention and reduction for batteries is managed differently compared to other hard-to-recycle materials, such as paint. Batteries are typically sold with a product at the discretion of the manufacturer, and consumers usually use all the replacement batteries they purchase, which is not always the case with paint.

When reuse is appropriate, Call2Recycle cannot facilitate this process, as we lack the authority to return a collected battery to the market for reuse. Doing so would violate our agreements and pose safety concerns for the public. As a result, the only option within the battery management hierarchy is to recycle all collected batteries. Call2Recycle's intent is to recycle all batteries





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collected. No changes to the proposed language are recommended; this statement is intended solely as an informative comment.

Collection and Handling Standards (1) (i): Collection sites must ensure to tape or individually bag all lithium and lithium-ion batteries with exposed terminals.

Comment: There are other options to meet DOT requirements for terminal protection. This should be changed to read “Collection sites must ensure **proper terminal protection is achieved to meet DOT shipping requirements to tape or individually bag all lithium and lithium-ion batteries with exposed terminals.**”

Collection and Handling Standards (2): General comment on language for damaged and defective battery handling standards

Comment: For this section on how damaged and defective batteries should be handled in a safe manner, Call2Recycle recommends the language be general in nature and the details are placed on the BSO for inclusion in a plan for approval. Call2Recycle recommends citing the requirement to meet 49 CFR 173.185 for transportation and providing storage instructions as a section in the plan. This would call out the minimum requirements that should be addressed in a plan without being prescriptive in rule. However, specific comments to each subclause in this section are outlined below.

Collection and Handling Standards (2): Program collection - damaged and defective battery handling standards. The following standards apply to only collection sites that collect damaged and defective batteries:

Comment: Want to ensure that it is agreed the law only requires damaged and defective batteries to be collected at sites approved to handle these types of batteries per the clause “damaged and defective batteries are intended to be collected at collection sites staffed by persons trained to handle and ship those batteries.”. Only these sites will be provided with DDR kits at no cost. All other locations can choose to purchase DDR kits at their expense. DDR training will be provided to all sites including how non-DDR locations should educate consumers with DDR. To ensure understanding is consistent Call2Recycle recommends adding the following sentence to this section to read “Program collection - damaged and defective battery handling standards. **Damaged and defective batteries are intended to be collected at collection sites staffed by people trained to handle and ship those batteries.** The following standards apply to only collection sites that collect damaged and defective batteries:

Collection and Handling Standards (2) (a) (vi): Inspected regularly to look for evidence of swelling, fire, smoke, gas, melting, cracking, corrosion, leakage, or discoloration.





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Comment: Inspection should only take place one time at initial handling. Once it is confirmed a DDR then it remains a DDR. Change to read “Inspected **regularly** to look for evidence of swelling, fire, smoke, gas, melting, cracking, corrosion, leakage, or discoloration.”

Collection and Handling Standards (2) (b): Personnel training (ii) The collection site must ensure each employee responsible for shipping hazardous materials is trained in accordance with 49 C.F.R. Part 172 Subpart H.

Comment: For Call2Recycle collection kits there are U.S. DOT Special Permits that allow for personnel to not have to be 49 C.F.R. Part 172 Subpart H trained. Therefore, Call2Recycle recommends that this is considered if the special permit does not require training. Call2Recycle recommends that following change to the language “The collection site must ensure each employee responsible for shipping hazardous materials are trained in accordance with 49 C.F.R. Part 172 Subpart H **unless U.S. DOT Special Permitting of the container does not require Hazmat training under 49 CFR.**”

Collection and Handling Standards (2) (b): Personnel training (iii) Collection site employees must receive initial and annual training on responding to various types of battery fires. (iv) Collection sites must ensure facility personnel are able to effectively respond to emergencies.

Comment: It is unclear in parts (iii) and (iv) of this clause who is responsible for the training. A BSO can provide training regarding determining if a battery is damaged or defective but for responding to fires and emergencies, those policies are typically set up by the company who is serving as a collection site. Each site is different depending on the companies’ unique circumstances and therefore this level of detailed training should be under the purview of the collection site and not the BSO. Call2Recycle recommends that under section (b) Personnel training, a distinction is made that (i) and (ii) are the requirements of the BSO while (iii) and (iv) are the requirements of the collection site.

Collection and Handling Standards (2) (d): collection sites must report damaged and defective battery-related incidents to the battery stewardship organization within 14 calendar days.

Comment: Before Call2Recycle offers feedback on the proposed language, we would like to understand the Department's goals in seeking this information. Specifically, we are interested in what data the Department wants to gather regarding damaged and defective batteries entering the program in Washington. Clarifying this will help us identify better ways to provide the information the Department is seeking.

Sincerely,

Carin Stuart

