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March 28, 2025

RE: Call2Recycle Comments to the Washington Battery Stewardship Program Rulemaking for March 6 Meeting Concepts

Call2Recycle would like to thank Ecology for the opportunity to provide feedback from the informal meeting held on March 6 as well as on the draft rule language.

Call2Recycle has significant concerns regarding the statement made during the recent public workshop that any entity, whether for-profit or non-profit, may collect covered batteries at retail locations without being part of an approved battery stewardship plan. In this written response, we outline three key points regarding this concern.

We urge the Department to carefully consider the implications of allowing public collections of covered batteries outside an approved plan. Such actions could undermine the efforts of non-profit Battery Stewardship Organizations (BSOs) that are diligently working to ensure compliance with the Extended Producer Responsibility (EPR) law for the battery industry.

- 1) The intent of the law is to ensure that batteries are collected and recycled in a safe and transparent manner.

Entities operating a battery collection and recycling program without an approved plan are removed from two critical items that should be overseen by the Department.

First, there is the crucial need to guarantee that the downstream processing of all covered batteries is conducted transparently and in an environmentally responsible manner.

Second, it is imperative that required safety protocols are both implemented and adhered to. Without an approved plan, there is no assurance that all collected batteries are recycled according to legal standards; they could be improperly disposed of in landfills or shipped overseas without any regulatory oversight from the Department.

Additionally, the absence of oversight means that collection sites may lack proper safety training and fail to receive safe collection kits necessary for the appropriate collection, storage, and transport of batteries. This deficiency in oversight not only jeopardizes environmental integrity but also undermines the law's original intent in RCW 70A.555.005 to protect public health and safety.

RCW 70A.555.005 – Findings

(3) Ensuring the proper handling, recycling, and end-of-life management of used batteries prevents the release of toxic materials into the environment and removes materials from the waste stream that, if mishandled, may present safety concerns to workers, such as by igniting fires at solid waste handling facilities. For this reason, batteries should not be placed into commingled recycling containers or disposed of via traditional garbage collection containers

- 2) Allowing for-profit companies to compete with a non-profit BSO for collection pounds, collection rates, and accessibility requirements puts the BSO and industry at risk of non-compliance under statute.

Allowing a for-profit company to compete with a non-profit BSO poses a significant risk to the BSO's and therefore the industry's ability to fulfill its statutory obligations. Ensuring an equal condition is crucial for the BSO and the industry to effectively meet established performance metrics and serve the public interest.

As outlined in RCW 70A.555.050, specific performance metrics must be proposed in a plan and approved by the Department. If a for-profit competitor operates without an approved plan, it creates an unequal condition that undermines the BSO's capacity to propose realistic and achievable performance metrics. This lack of competitive transparency can lead to uncertainties and difficulties in meeting these performance standards, ultimately jeopardizing the quality of services provided to the community.

RCW 70A.555.050 – Stewardship Program Components – Performance Goals

(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 section 8 of this act*

Furthermore, RCW 70A.555.070 requires a stringent accessibility requirement on the BSO. If the BSO is to effectively compete with for-profit companies, which can afford to pay retailers to serve as collection sites, it faces significant challenges. The BSO and the industry it supports risk non-compliance with the statute if they cannot meet these high accessibility standards. This situation not only jeopardizes the BSO's operational viability but also undermines the broader industry's ability to thrive in a competitive market.

Lastly, the draft rule language allows the Department to amend and require the BSO implement the amended plan if the Department disapproves two submittals. This procedure means that the BSO lacks final oversight regarding the required performance goals. Furthermore, external factors, such as competition that is not held to the same standards, may hinder the BSO's ability to meet these goals. Consequently, this situation sets both the BSO and the industry up for failure, that may render the performance goals meaningless for both the Department and the BSO.

Citation of draft rule language

If after two plan disapprovals Ecology determines that a plan still does not meet the requirements of RCW 70A.555.040, Ecology may amend the most recent plan submittal. A plan amended by Ecology in this manner becomes the approved plan.

3) The statute does not allow retailers to collect outside of a battery stewardship plan.

The highlighted sentence in RCW 70A.555.030 below indicates that retailers cannot collect outside of an approved BSO plan. The language states that if a retailer intends on collecting covered batteries, they must do so in accordance with the requirements consistent with section 8 of the act. Section 8 (RCW 70A.555.070) is the Collection and Management Requirements of a Stewardship Program. Therefore, all retailers must collect in accordance with a stewardship program which can only be operated by a BSO.

RCW 70A.555.030 - Role of Retailers

(3) Retailers of covered batteries or battery-containing products are not required to make retail locations available to serve as collection sites for a stewardship program operated by a battery stewardship organization. Retailers that serve as a collection site must comply with the requirements for collection sites, consistent with section 8 of this act.

Thank you again for the opportunity to share our thoughts on these informal rulemaking key concepts. Please let me know if I can be of further assistance.

Best Regards,



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