

## **Chapter 173-905 WAC— Battery Stewardship Program**

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## WAC 173-905-010 Purpose

- (1) Washington state law requires establishment of a convenient, accessible, and environmentally sound product stewardship program for all covered batteries throughout Washington state. The legislature determined that such a system is necessary to ensure the proper handling, recycling, and end-of-life management of used batteries. Managing covered batteries through product stewardship removes them from the waste stream, prevents releases of toxic materials into the environment and ensures recycling of limited resources.
- (2) This chapter implements Batteries—Environmental Stewardship chapter 70A.555 RCW. This chapter establishes:
  - (a) Processes and procedures that Ecology and battery stewardship organizations will use to oversee and administer the program;
  - (b) Fees to be paid to Ecology to cover the full costs of implementing, administering, and enforcing chapter 70.555 RCW and this chapter; and
  - (c) Requirements for producers to mark batteries with their identification and an identification of the chemistry of the battery.
  - (d) Collection and handling standards to ensure the safe and effective collection and handling of batteries.

## WAC 173-905-020 Applicability

- (1) This chapter applies to:
  - (a) Any producer of covered batteries or battery containing products, as defined in this chapter;
  - (b) Any battery stewardship organization as defined in this chapter;
  - (c) Any retailer that sells, offers for sale, distributes, or makes available for sale a covered battery or battery containing product in or into Washington state;
  - (d) Any person who collects covered batteries in Washington state for a battery stewardship plan approved under this chapter;
  - (e) Any person who transports covered batteries in Washington state for a battery stewardship plan approved under this chapter; and
  - (f) Any local government in Washington state.

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## WAC 173-905-030 Definitions

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

**“Approved plan”** means a battery stewardship plan that was reviewed and approved by Ecology.

**“Battery-containing product”** means a product that contains, or is packaged with, rechargeable or primary batteries that are covered batteries. **“Battery-containing product”** does not include a covered electronic product under an approved plan implemented under chapter 173-900 WAC.

**“Battery management hierarchy”** means a management system of covered batteries prioritized in descending order as follows:

- (a) Waste prevention and reduction;
- (b) Reuse, when reuse is appropriate;
- (c) Recycling, as defined in this chapter; and
- (d) Other means of end-of-life management, which may only be utilized after demonstrating to the department that it is not feasible to manage the batteries under the higher priority options in (a) through (c) of this subsection.

**“Battery-related incident”** means a spill, fire, release, or other hazard resulting from the collection, handling, transportation, or processing of a covered battery that poses a risk to public safety or environmental health, including emergency response incidents.

**“Battery stewardship organization”** means a producer that directly implements a battery stewardship plan required under this chapter or nonprofit organization designated by a producer or group of producers to implement a battery stewardship plan required under this chapter.

**“Battery stewardship plan”** or **“plan”** means a plan developed under this chapter for the collection, transportation, recycling, and the safe and proper management of covered batteries.

**“Best available technologies”** means a recycling technology that results in the greatest recycling efficiency rate.

**“Brand”** means a registered or unregistered trademark, a logo, a name, a symbol, a word, an identifying, or a traceable mark that identifies a covered battery and identifies the owner or licensee of the brand.

**“Chemistry”** means the chemicals contained in a battery that are the primary components of the electrochemical reaction that produces electrical charge.

**“Collection rate”** means a percentage, by weight, that a battery stewardship organization collects that is calculated by dividing the total weight of primary and rechargeable batteries collected during the previous calendar year by the average annual weight of primary and rechargeable batteries that were estimated to have been sold in the state by all producers participating in an approved battery stewardship plan during the previous three calendar years.

**“Covered battery”** means a portable battery that has been used in Washington state regardless of original point of purchase. Beginning January 1, 2029, **“covered battery”** also means a medium format battery that has been used in Washington state regardless of original point of purchase.

**“Covered battery”** does not include:

- (a) A battery contained within a medical device where the device is not marketed to consumers;
- (b) A battery that is a wet cell battery including a vehicle battery as defined in RCW 70A.205.505; and
- (c) A battery in a battery-containing product that is not intended or designed to be easily removeable from the battery-containing product.

**“Damaged and defective batteries”** means batteries that have been damaged or identified by the manufacturer as being defective for safety reasons, or that have the potential of producing a dangerous evolution of heat, fire, or short circuit.

**“Demonstrable costs”** means costs that a local government incurs as a result of a local government facility serving as a collection site under an approved battery stewardship plan minus any permitting or licensing fees associated with that collection site paid to a local government by the battery stewardship organization. Demonstrable costs are negotiated between a local government and a battery stewardship organization and may include:

- (a) Labor costs associated with sorting collected batteries;
- (b) Labor and material costs associated with packaging collected batteries for transport;
- (c) Transportation and consolidation of batteries from satellite sites;
- (d) Storage containers unless they are provided directly by the battery stewardship organization;
- (e) Transportation to a battery stewardship organization’s vendor, if cost affective;
- (f) Recycling costs for batteries collected at collection events; and
- (g) Overhead costs agreed to between the local government and battery stewardship organization.

**“Easily removable”** means designed by the manufacturer to be removable by the user of the product with no more than commonly used household tools.

**“Ecology”** means the Washington department of ecology.

**“Emergency response incident”** means a battery-related incident that poses an urgent or immediate threat to public safety or environmental health requiring emergency response.

**“Environmentally sound management practices”** means practices that:

- (a) Comply with all applicable laws and rules to protect workers, public health, and the environment;

- (b) Provide for adequate recordkeeping, tracking, and documenting of the fate of materials within the state and beyond; and
- (c) Include comprehensive liability coverage for the battery stewardship organization, including environmental liability coverage that is commercially practicable.

**"Final disposition"** means the final processing of a collected battery to produce usable end products, at the point where the battery has been reduced to its constituent parts, reusable portions made available for use, and any residues handled as wastes in accordance with applicable law.

**"Fiscal year"** means the twelve-month period between July 1 to June 30.

**"Geographically isolated community"** means a community that is separated from other communities by terrain and lacks sufficient public transportation options such that the community's access to the services of neighboring communities is limited to the extent that it is either infeasible or impractical.

**"Large format battery"** means:

- (a) A rechargeable battery that weighs more than 25 pounds or has a rating of more than 2,000 watt-hours; or
- (b) A primary battery that weighs more than 25 pounds.

**"Medium format battery"** means:

- (a) A rechargeable battery weighing more than 11 pounds or has a rating of more than 300 watt-hours, or both, and no more than 25 pounds and has a rating of no more than 2,000 watt-hours; or
- (b) A primary battery weighing more than 4.4 pounds but not more than 25 pounds.

**"Plan amendment"** means a portion of a plan previously approved or rejected by the department that has been revised.

**"Primary battery"** means a battery that is not capable of being recharged.

**"Portable battery"** means:

- (a) A rechargeable battery weighing no more than 11 pounds and has a rating of no more than 300 watt-hours;
- (b) A primary battery weighing no more than 4.4 pounds.

**"Primary battery"** means a battery that is not capable of being recharged.

**"Producer"** means a person that:

- (a) Manufactures a covered battery that is sold under the brand of the manufacturer;
- (b) Owns a brand that sells a covered battery;
- (c) If there is no person to which (a) and (b) of this definition applies, the producer is a person that manufactures, sells, offers for sale, distributes, or imports into the state a battery-containing product that is packaged with a covered battery.

- (d) If there is no person to which (a) through (c) of this definition applies, the producer is a person that licenses or trademarks a covered battery;
- (e) If there is no person described in (a) through (d) of this definition, the producer is a person that imports a covered battery into the United States;

**"Program"** means a program implemented by a battery stewardship organization consistent with an approved battery stewardship plan.

**"Rechargeable battery"** means a battery that contains one or more voltaic or galvanic cells, electrically connected to produce electric energy, designed to be recharged.

**"Recycling efficiency rate"** means the ratio of the weight of covered battery components and materials recycled by a program operator from covered batteries to the weight of those covered batteries collected by the program operator.

**"Regulated generator"** is a generator as defined in WAC 173-303-040.

**"Retailer"** means a person who offers covered batteries or battery-containing products for sale at retail through any means including, but not limited to, sales outlets, catalogs, or an online marketplace to a customer or business.

**"Urban area"** means an area delineated by the United States census bureau, based on a minimum threshold of 2,000 housing units or 5,000 people, as of January 1, 2023.

## WAC 173-905-100 Plan Review Fee and Administrative Fee.

- (1) **Legislative mandate.** Each battery stewardship organization shall pay annual fees to Ecology to cover Ecology's administrative costs related to implementing the battery stewardship program authorized under chapter 70A.555 RCW.
- (2) **Plan review fee.** A one-time plan review fee is required and separate from the annual administrative fee. Payment in an amount determined by Ecology is due from each stewardship organization at the time of plan submittal. There is no fee for submitting a plan revision or amendment.
  - (a) The plan review fee will be posted on Ecology's website. The fee will cover costs of staff hours, including salaries and benefits required by law to be paid to, or on behalf of, employees. Other costs incurred as a direct result of Ecology staff working on the plan including, for example, costs of: Travel related to plan review, printing and publishing of documents about the plan, and other work, contracted or otherwise, associated with plan review and approval, as necessary.
- (3) **Administrative fee:** Beginning May 1, 2026, each stewardship organization must pay an annual fee to Ecology. The fee will be due each year on July 1.
  - (a) Ecology will base the annual fee on administrative costs from the previous calendar year.
  - (b) The total administrative fee amount may be adjusted biennially by the fiscal growth factor (FGF) as calculated under chapter 43.135 RCW (FeeFGF).
  - (c) If there is only one approved plan, that battery stewardship organization is responsible for the entire fee.
  - (d) In the case of multiple approved plans, the fee will be allocated in proportion to the market share a plan represents. Ecology will base market share information on data provided by a battery stewardship organization and any available national market share data.
    - (i) By April 1 each year, a battery stewardship organization may submit to Ecology information on the total pounds reported sold by their participating producers for the previous calendar year that can be used by Ecology to determine aggregated market share of the battery stewardship organization.
    - (ii) If it does not receive aggregated market share data, Ecology will calculate the market share estimate using available data.
- (4) **Responsible Battery Management Account:** Fees paid under this section must be deposited into the responsible battery management account created in RCW 70A.555.120.C



## WAC 173-905-110 Education and outreach

- (1) Each battery stewardship organization shall carry out promotional activities in support of plan implementation that are conceptually, linguistically, and culturally accurate for the communities served including:
  - (a) The development and maintenance of a website and a toll-free number with information about the program;
  - (b) The development and distribution of the education and outreach materials that will be used to inform consumers about the restriction on the disposal of covered batteries and provide information on how to properly dispose of covered batteries.
  - (c) Distribution of periodic press releases and articles;
  - (d) Placement of advertisements for use on social media or other relevant media platforms;
- (2) Each battery stewardship organization shall provide to each collection site used by the program:
  - (a) Consumer-focused educational promotional materials;
  - (b) Safety information related to covered battery collection activities to the operator of each collection site, including appropriate protocols to reduce risks of spills or fires and response protocols in the event of a spill or fire; and
  - (c) Educational materials for the management of recalled batteries, which are not intended to be part of collection as provided under RCW 70A.555.070, to help facilitate transportation and processing of recalled batteries.
- (3) A battery stewardship organization shall make education materials 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.
- (4) A battery stewardship organization may seek reimbursement from the producer of the recalled battery for expenses incurred in the collection, transportation, or processing of those batteries.
- (5) Upon request by a retailer, the battery stewardship organization must provide the retailer educational materials describing collection opportunities for batteries.
- (6) If multiple battery stewardship organizations are implementing plans approved by the department, the battery stewardship organizations shall coordinate in carrying out their education and outreach responsibilities under this section and must include in their annual reports to the department under RCW 70A.555.090 a summary of their coordinated education and outreach efforts.
- (7) During the first year of program implementation and every five years thereafter, each battery stewardship organization must carry out a survey of public awareness regarding the requirements of the program established under this chapter, including the provisions of RCW 70A.555.140.

## WAC 173-905-120 Formation of a new battery stewardship organization

- (1) Nothing under this chapter may be construed to limit a producer or group of producers from designating or otherwise forming a new battery stewardship organization at any time.
- (2) A new battery stewardship organization that forms after July 1, 2027 shall:
  - (a) Submit a plan that meets the requirements under WAC 173-905-400 to Ecology for review and approval;
  - (b) Fully implement an approved plan within 6 months of receiving notice of plan approval from Ecology. Fully implemented means the criteria established under WAC 173-905-440(2) have been met;
  - (c) Notify any prospective participating producers that they may not sell covered batteries in or into Washington unless they are participating in approved plan;
  - (d) Notify any prospective participating producers already participating in a battery stewardship program with an approved plan of their obligation to continue to participate in their current plan until the new battery stewardship organization has an approved plan;
  - (e) Comply with all other applicable requirements under this chapter.


## WAC 173-905-200 Role of Retailers

- (1) Beginning July 1, 2027, a retailer may not sell, offer for sale, distribute, or otherwise make available for sale a covered battery or battery-containing product unless the producer of the covered battery or battery-containing product certifies to the retailer that the producer participates in a battery stewardship organization with an approved plan;
- (2) Beginning January 1, 2028, a retailer may not sell, offer for sale, distribute, or otherwise make available for sale a large format battery, covered battery or battery-containing product unless the producer of the covered battery or battery-containing product certifies to the retailer that the batteries are marked consistent with the requirements of WAC 173-905-310.
- (3) A retailer selling or offering covered batteries or battery-containing products for sale in Washington is in compliance with subsections (1) and (2) of this section if the producer of the batteries or battery-containing products is a certified producer listed on Ecology's website.
- (4) A retailer selling or offering covered batteries or battery-containing products for sale in Washington may provide information to consumers regarding available end-of-life management options for covered batteries collected by the battery stewardship organization.
- (5) Retailers are not required to make retail locations available to serve as collection sites for a battery stewardship program. Retailers that serve as a collection site must comply with the requirements for collection sites, consistent with RCW 70A.555.070.
- (6) Retailers may not charge a specific point-of-sale fee to consumers to cover the administrative or operational costs of the battery stewardship program.

## WAC 173-905-300 Participation in a battery stewardship program

- (1) Beginning January 1, 2027, each producer selling, making available for sale, or distributing a covered portable battery or a battery-containing product with a portable battery in or into the state of Washington shall participate in, and appropriately fund, a battery stewardship organization;
- (2) Beginning January 1, 2029, each producer selling, making available for sale, or distributing a covered medium battery or a battery-containing product with a medium format battery in or into the state of Washington shall participate in, and appropriately fund, a battery stewardship organization;
- (3) A producer intending to cease participation in a battery stewardship organization shall provide written notice to their battery stewardship organization no later than 30 days before ceasing participation. This notice must include:
  - (a) The producer's name and any associated brands;
  - (b) The date the producer will cease participation; and
  - (c) The reason the producer is ceasing participation.
- (4) A producer that does not comply with the requirements under this section may not sell covered batteries or battery-containing products in or into Washington.

## WAC 173-905-310 Marking batteries

- (1) **Applicability.** The requirements of this section apply to producers that sell, distribute, or offer for sale in or into Washington:
  - (a) Large format batteries;
  - (b) Covered batteries; or
  - (c) Battery-containing products;
- (2) **Marking requirements.**
  - (a) Beginning January 1, 2028, a producer shall place their brand on the battery identifying the producer of the battery;
  - (b) Beginning January 1, 2030, a producer shall place the following marks on their batteries:
    - (i) A crossed-out wheeled bin to indicate the battery should not be disposed of as household waste; and  

    - (ii) The elemental names or elemental symbols from the periodic table for the primary constituents of both the anode and cathode materials.
  - (c) All marks required in this section must be permanent, clearly visible, and legible.
- (3) **Exceptions.** The requirements described in (2)(a) of this section do not apply to batteries:
  - (a) Less than one-half inch in diameter; or
  - (b) With no surface whose length exceeds one-half inch.
- (4) **Certification.** Producers of battery containing products shall certify their compliance with this section to its customers, or to the retailer if the retailer is not the customer, that the requirements of this section have been met. This certification requirement shall be met by producers using the following process:
  - (a) Producers shall certify their compliance with this section to the stewardship organization they participate in, or if they are not participating in a stewardship organization, they shall report directly to Ecology.
  - (b) Each battery stewardship organization shall provide a list of its participating producers that have certified their compliance with this section on its annual report submitted to Ecology under WAC 173-905-450.
  - (c) Ecology will post the list of certified producers on its public website.
  - (d) A producer that meets the requirements under this subsection is in compliance with the certification requirement under RCW 70A.555.130(2).

## WAC 173-905-400 Plan Contents

A proposed battery stewardship plan must include the following components:

- (1) **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) A list of transporter or contractors to be used by the program for collecting batteries from the collection sites and relevant information for each including:
    - (i) Company name;
    - (ii) Name of a contact person;
    - (iii) Physical address of the company;
    - (iv) Email address and phone number for the contact person; and
    - (v) A list of all applicable solid or hazardous waste registrations or permits.
  - (b) A list of facilities to be used by the program for final disposition of batteries and relevant information for each facility including:
    - (i) Company name;
    - (ii) Name of a contact person;
    - (iii) Physical address of the company;
    - (iv) Email address and phone number for the contact person; and
    - (v) A list of all applicable solid or hazardous waste registrations or permits applicable to the facility that pertain to the processing of batteries or components of batteries at the facility's locations.
  - (c) A description of the recycling process to be used for each type of battery chemistry that the battery stewardship organization anticipates collecting;
  - (d) A list of the criteria the battery stewardship organization will use to evaluate the economic and technical feasibility of recycling the components of discarded batteries;
  - (e) A description of how the battery stewardship organization will routinely monitor all handling, transporting, and processing companies to ensure they are operating in compliance with all applicable laws and rules.
  - (f) A description of how the battery stewardship organization will conduct end-of-life handling for batteries or battery components that cannot be recycled.
  - (g) 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.
- (2) **Covered producers and brands.** Information of producers of batteries and their brands, including:
  - (a) A list of producers covered in the plan;
  - (b) A list of battery brands and battery-containing product brands covered in the plan; and
  - (c) Information for a contact person of each member producer of the battery stewardship organization including name, mailing address, phone number, and email address.
- (3) **Collection Sites.** Information about the collection site network including:

- (a) A list of collection sites and site information, including the site name, physical address, phone number, latitude and longitude, and information for a contact person at the site such as the person's name and email address, provided in Microsoft Excel or a program of compatible file format;
  - (b) A description of the criteria the battery stewardship organization will use to determine whether an entity may serve as a collection site;
  - (c) A description of the types of collection containers that will be used at collection sites that allow for segregation from other solid waste;
  - (d) 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;
  - (e) A copy of signage or labels to be placed on or near collection containers providing specific instructions to customers disposing of batteries;
  - (f) A description of how damaged and defective batteries will be collected, to include safe and legal collection, handling, and shipment of batteries by the collection sites, ensuring that each collection site is aware of and adheres to applicable laws and regulations and safety practices for the collections, handling, and shipment of batteries;
  - (g) A description of methods for hosting collection events to supplement permanent collection services, including proposed locations, frequency, and outreach efforts;
  - (h) A description of How the battery stewardship organization will 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;
  - (i) A description of the process for decommissioning collection sites that would allow any batteries collected by a decommissioned site to be shipped to the proper facilities for recycling;
  - (j) 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;
  - (k) A description of how the battery stewardship organization will meet the statewide convenience standards established in RCW 70A.555.070.
- (4) **Performance goals.** A description of performance goals for each of the first three years of implementation of the plan, consistent with RCW 70A.555.050. For each performance goal, the plan must describe how progress towards the goal will be measured including:
- (a) 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;
  - (b) Target collection rates for covered primary batteries, which should be calculated by dividing the total weight of covered primary batteries collected during the previous calendar year by the estimated average annual weight of covered primary batteries sold in or into Washington in the previous three calendar years by all producers participating in an approved plan.
  - (c) Target collection rates for covered rechargeable batteries, which should be calculated by dividing the total weight of covered rechargeable batteries collected during the previous calendar year by the estimated average annual weight of covered rechargeable batteries sold in or into Washington in the previous three calendar years by all producers participating in an approved plan.

- (d) 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 for covered batteries by chemistry including a description of the method for calculating recycling efficiency;
  - (e) Goals for public awareness, education, and outreach including:
    - (i) A metric for measuring the percentage of people in Washington who know how to recycle covered batteries through program collection sites; and
    - (ii) A description of how progress in increasing public awareness will be measured, such as through surveys or polls conducted on an annual basis;
  - (f) Metrics that meet or exceed the minimum convenience and accessibility requirements established in RCW 70A.555.070 including:
    - (i) For portable batteries, an evaluation of the percentage of Washington residents that live within 15-miles of a permanent collection site.
    - (ii) For medium batteries, the counties in Washington that have a collection site for medium batteries.
    - (iii) A goal for the number of covered battery collection sites that will be accessible to overburdened communities identified by Ecology.
    - (iv) A goal for the number of portable battery collection sites established at special locations including, but not limited to:
      - (A) Campgrounds
      - (B) Parks with stores
      - (C) Fire stations
      - (D) Homeless shelters
      - (E) Aid organizations
      - (F) Donation centers
      - (G) Schools
      - (H) Solid waste facilities
    - (v) A goal for the number of covered battery collection sites established on islands or in geographically isolated communities.
- (5) **Education and Outreach.** A description of the communications strategy the battery stewardship organization will use to promote the program to consumers, retailers, and others. The plan must include:
- (a) 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;
  - (b) Sample materials to be 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;
  - (c) Sample promotional materials such as flyers or social media posts to achieve consumer awareness goals that communicate:
    - (i) That the program provides free collection of covered primary and rechargeable batteries
    - (ii) Guidance for safe handling of covered batteries; and



- (iii) Information on how to find collection sites.
  - (d) A description of how the battery stewardship organization will identify target audiences and appropriate outreach for those audiences, including through television or radio, news media, public service announcements, mailing, emails, online listservs, social media, and newsletters.
  - (e) A description of outreach efforts to specifically target overburdened communities identified by Ecology.
  - (f) A description of how the stewardship organization will document education and outreach efforts.
  - (g) A timeline that includes implementation of each of the education and outreach promotion activities listed under RCW 70A.555.080(1) at least once a quarter.
- (6) **Safety.** A description of the process the battery stewardship organization will use to distribute training procedure information, annually, to collection sites. The plan must also include a copy of all procedural materials that will be distributed to collection sites including protocols for preventing and responding to battery-related incidents.
- (7) **Program Funding.** A description of the methods used to establish and administer a means for fully funding that program that:
- (a) Covers the full implementation of the program, including battery collection, transportation, sorting, and processing; education and outreach; program evaluation; local government reimbursement; and payment of fees to Ecology. and
  - (b) Equitably distributes the program's costs among the producers that are part of the battery stewardship organization.
- (8) **Fee structure.** A description of how the stewardship organization will structure fees to encourage:
- (a) Recyclability or recycling;
  - (b) Use of recycled content; and
  - (c) Other design attributes that reduce the environmental impacts of covered batteries.
- (9) **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:
- (a) Collection costs
  - (b) Transportation costs;
  - (c) Processing costs;
  - (d) Disposition costs, including separate line items for the cost of recycling and other end-of-life handling;
  - (e) Education, outreach and communications costs;
  - (f) Program evaluation costs;
  - (g) Plan review and administrative fees paid to Ecology;
  - (h) Demonstrable costs paid to local governments or local government facilities; and
  - (i) Personnel, general, and other administrative costs.
- (10) **Local Government Coordination.** The plan must describe how the stewardship organization will communicate and coordinate with local governments in implementation of the program including:
- (a) A copy of a template local government reimbursement agreement and how local governments were consulted with in the templates development.

- (b) Procedures that a local government collecting covered batteries at its own expense outside of the program must follow to coordinate with a battery stewardship organization.
- (c) Procedures that a local government must follow to coordinate with a battery stewardship organization regarding collection events.
- (d) Procedures that a local government must follow to coordinate with a battery stewardship organization on education and outreach efforts.

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## WAC 173-905-410 Submittal of a plan

- (1) By July 1, 2026, or within six months after the adoption of the rules under this chapter, whichever is later, a battery stewardship organization shall submit a plan to Ecology that covers the collection, transport, and processing of portable batteries. A battery stewardship organization may include medium format batteries on this plan.
- (2) By January 1, 2027, or within twelve months after the adoption of the rules under this chapter, whichever is later, a battery stewardship organization shall submit to Ecology a plan that covers the collection, transport, and processing of medium format batteries if the approved plan does not already include medium format batteries.
- (3) A battery stewardship organization may submit a plan at any time to Ecology for review and approval.
- (4) A battery stewardship organization shall renew an approved plan no later than every five years by resubmitting the plan to Ecology for review and approval.
- (5) Plans should be submitted electronically in both Microsoft Word and pdf format, unless specified otherwise in this chapter.
- (6) At any time, a battery stewardship organization may request information contained in a plan be made available only for the confidential use of Ecology, in accordance with RCW 43.21A.160.
- (7) No earlier than five years after approval of a plan submitted under this section, Ecology 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.

## WAC 173-905-420 Submittal of a plan amendment

- (1) A battery stewardship organization shall submit a plan amendment to Ecology for review and approval when:
  - (a) There is a proposed change to the performance goals based on the up-to-date experience of the program;
  - (b) There is a change to the method of financing plan implementation;
  - (c) There are significant changes in the operation, administration, or implementation of the program that are not addressed in the approved plan.
  - (d) Another battery stewardship organization has a new approved plan.
- (2) Plan amendments should be submitted electronically in both Microsoft Word and pdf format, unless specified otherwise in this chapter.
- (3) There is no fee for submitting a plan amendment.

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## WAC 173-905-430 Review of a plan and plan amendment

- (1) Ecology will post a copy of submitted plans on its website for public review and comment for at least 30 days.
- (2) Within six months of submittal of a plan, or within three months of submittal of a plan amendment, Ecology will determine whether the plan or plan amendment meets the requirements of chapter 70A.555 RCW and this chapter and will issue a decision letter to the battery stewardship organization.
- (3) If Ecology approves the plan or plan amendment, it will:
  - (a) Issue a letter of approval by email; and
  - (b) Post on its website an updated list of producers and brands covered under the approved plan.
- (4) If Ecology rejects the plan or plan amendment:
  - (a) Ecology will issue a letter of disapproval by certified mail. The letter will include the reasons Ecology rejected the plan; and
  - (b) The battery stewardship organization must submit a new or revised plan within 60 days of receipt of the letter of disapproval.
- (5) Ecology may request additional information or clarification during the review of a plan. If Ecology determines that additional information is needed, the stewardship organization shall submit the additional information to Ecology within 60 days of receipt of the notice.
- (6) 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.

## WAC 173-905-440 Implementation of a plan

- (1) Beginning January 1, 2027, or beginning twelve months of adoption of rules under this chapter, whichever is later, each battery stewardship organization shall begin to implement the approved plan;
- (2) By July 1, 2027, or within eighteen months of adoption of rules under this chapter, whichever comes later, each battery stewardship organization shall have fully implemented the approved plan for covered portable batteries. Fully implemented means:
  - (a) The collection convenience criteria established in RCW 70A.555.070 have been met;
  - (b) All collection sites have received proper training, collection containers, signage and educational materials;
  - (c) The battery stewardship organization's website is live, providing information to producers, retailers, collection sites, and consumers about the program;
  - (d) A collection site locator on the battery stewardship organization's website is operational, providing collection site address, hours, phone number, website if applicable, and any special instructions or restrictions specific to the collection site; and
  - (e) The battery stewardship organization has paid all necessary fees to Ecology.
- (3) By January 1, 2029, each battery stewardship organization shall have fully implemented the plan for covered medium format batteries. Full implementation means the criteria established in (2) of this section have been met;
- (4) A battery stewardship organization may only implement an approved plan.

## WAC 173-905-450 Annual reports

By June 1, 2028, and each June 1 thereafter, each battery stewardship organization shall submit an annual report to Ecology for the preceding calendar year of battery stewardship plan implementation with the following information:

- (1) **Program operation.** A description of methods used to collect, transport, and recycle covered batteries by the battery stewardship organization including a discussion of best available technologies and the recycling efficiency rate;
- (2) **Independent financial assessment.** When required by the department, an independent financial assessment of the program, including a breakdown of the program's expenses, such as collection, recycling, education, and overhead;
- (3) **Financial statement.** A summary financial statement documenting the financing of the program and a detailed analysis of program costs, expenses, and expenditures of the program. 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;
- (4) **Collection site information.** A map of all collection sites used by the program and the following information for each collection site:
  - (a) The name of the site;
  - (b) The address of the site;
  - (c) The latitude and longitude of the site;
  - (d) A link to the website associated with the site, if applicable; and
  - (e) The weight of batteries collected annually at the site;
- (5) **Facility information.** The following information for each facility used by the program:
  - (a) The name of the facility;
  - (b) The address of the facility;
  - (c) The weight by chemistry of covered batteries received;
  - (d) The weight of materials recycled;
  - (e) The weight of residuals disposed;
  - (f) A description of the recycling process used;
  - (g) The recycling efficiency rate achieved, if applicable; and
  - (h) A summary of any violations of environmental or labor laws and regulations over the previous three years;
- (6) **Aggregate sales.** 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;
- (7) **Education and outreach.** A summary of education and outreach activities provided by the battery stewardship organization to consumers, collection sites, manufacturers, distributors, and retailers including:
  - (a) A description of how education and outreach activities met the requirements of RCW [70A.555.080](#);
  - (b) Samples of education and outreach materials distributed to consumers, collection sites, manufacturers, distributors, and retailers;

- (c) If there were other battery stewardship organizations implementing an approved plan, a description of how education and outreach activities were coordinated and associated costs were shared with other battery stewardship organizations.
  - (d) A summary of any changes made during the previous calendar year to education and outreach activities;
  - (e) The results of any public awareness surveys conducted during the previous calendar year.
- (8) **Safety training.** A description of the efforts taken by the stewardship organization to provide safety training and distribute safety information to operators of battery collection sites, including the number of trainings provided and a list of locations where trainings were conducted;
- (9) **Marking requirement certifications.** A list of producers that have certified their compliance with the marking requirements under RCW 70A.555.130.
- (10) **Progress on performance goals.** A summary of progress made towards program performance goals and an explanation of why a goal was not met, if applicable. The annual report must include:
- (a) The collection rate achieved by the program and a description of how this collection rate was calculated;
  - (b) The recycling efficiency rates achieved by the program for each of the following:
    - (i) All covered batteries collected by the program;
    - (ii) Primary batteries collected by the program; and
    - (iii) Rechargeable batteries collected by the program.
  - (c) An evaluation of the effectiveness of education and outreach activities;
- (11) **Improving recycling rates.** If a battery stewardship organization disposed of covered batteries through energy recovery, incineration, or landfilling during the preceding calendar year, the annual report must specify the steps that the battery stewardship organization will take to increase battery recycling rates achieved by the program.



## WAC 173-905- 460 Quarterly updates

Beginning January 1, 2028, each battery stewardship organization shall meet with Ecology once each quarter to provide a written and oral update on the program, including:

- (1) Notice of any producers that have started or ended participation in the program in the previous quarter;
- (2) Notice of any civil action the battery stewardship organization has taken against a producer or another battery stewardship organization;
- (3) Notice of any collection sites that have been added, terminated, or suspended in the previous quarter;
- (4) A summary of outreach and education activities that occurred in the previous quarter;
- (5) List of any transporters and processors that have been added to, or dropped from, the program in the previous quarter;
- (6) A list of collection events that occurred in the previous quarter; and
- (7) A summary of battery-related incidents that occurred in the previous quarter, including the location where each incident occurred and the outcome or resolution of each incident;

## WAC 173-905-500 Collection sites and collection events

- (1) **Convenience standards- portable battery collections.** Each battery stewardship organization must provide statewide portable battery collection opportunities that include, but are not limited to, the provision of:
  - (a) At least one permanent collection site for portable batteries within a 15 mile radius for at least 95 percent of Washington residents;
  - (b) The establishment of collection sites that are accessible and convenient to overburdened communities identified by the department under chapter 70A.02 RCW, in an amount that is roughly proportional to the number and population of overburdened communities identified by the department under chapter 70A.02 RCW relative to the population or size of the state as a whole;
  - (c) At least one permanent collection site for portable batteries in addition to those required in (b)(i) of this subsection for every 30,000 residents of each urban area in this state. For the purposes of compliance with this subsection (3)(b)(iii), a battery stewardship organization and the department may rely upon new or updated designations of urban locations by the United States census bureau that are determined by the department to be similar to the definition of urban areas in RCW 70A.555.010;
  - (d) Collection opportunities for portable batteries at special locations where batteries are often spent and replaced, such as supervised locations at parks with stores and campgrounds; and
  - (e) Service to areas without a permanent collection site, including service to island and geographically isolated communities without a permanent collection site.
- (2) **Convenience standards- medium format battery collections.** Each battery stewardship organization must provide statewide collection opportunities that include, but are not limited to, the provision of:
  - (a) At least 25 permanent collection sites in Washington;
  - (b) Reasonable geographic dispersion of collection sites throughout the state;
  - (c) A collection site in each county of at least 200,000 persons, as determined by the most recent population estimate of the office of financial management;
  - (d) The establishment of collection sites that are accessible to public transit and that are convenient to overburdened communities identified by the department under chapter 70A.02 RCW; and
  - (e) Service to areas without a permanent collection site, including service to island and geographically isolated communities. A battery stewardship organization must ensure that there is a collection site or annual collection event in each county of the state. Collection events should be provided periodically throughout the year where practicable, but must be provided at least once per year at a minimum in each county in which there are not permanent collection sites providing for the collection of damaged and defective batteries.
- (3) **Requirement to use existing collection services and facilities.** Battery stewardship programs must use existing public and private waste collection services and facilities, including battery collection sites that are established through other battery collection

services, transporters, consolidators, processors, and retailers, where cost-effective, mutually agreeable, and otherwise practicable.

- (4) **Requirement to make qualifying entities collection sites.** Battery stewardship programs must use as a collection site for covered batteries any retailer, wholesaler, municipality, solid waste management facility, or other entity that meets the criteria for collection sites in the approved plan, upon the submission of a request by the entity to the battery stewardship organization to serve as a collection site.
- (5) **Requirement to use qualifying entities as sites for collection events.** Battery stewardship programs must use as a site for a collection event for covered batteries any retailer, wholesaler, municipality, solid waste management facility, or other entity that meets the criteria for collection events in the approved plan, upon the submission of a request by the entity to the battery stewardship organization to serve as a site for a collection event. A signed agreement between a battery stewardship organization and the entity requesting to hold a collection event must be established at least 60 days prior to any collection of covered batteries under a stewardship program. All costs associated with collection events initiated by an entity other than a battery stewardship organization are the sole responsibility of the entity unless otherwise agreed upon by a battery stewardship organization. A collection event must allow any person to discard each chemistry and brand of covered battery at the collection event.
- (6) **Suspension or termination of a site or service.** A battery stewardship organization may suspend or terminate a collection site or service that does not adhere to the collection site criteria in the approved plan or that poses an immediate health and safety concern.
- (7) **Battery management hierarchy.** Batteries collected by the program must be managed consistent with the battery management hierarchy. Lower priority end-of-life battery management options on the battery management hierarchy may be used by a program only when a battery stewardship organization documents to the department that all higher priority battery management options on the battery management hierarchy are not technologically feasible or economically practical.

## WAC 173-905-510 General battery disposal and collection requirements

Effective July 1, 2027, for portable batteries and July 1, 2029, for medium format batteries, or the first date on which an approved plan begins to be implemented under this chapter by a battery stewardship organization, whichever comes first:

- (1) All persons must dispose of unwanted covered batteries through one of the following disposal options:
  - (a) Disposal using the collection sites established by or included in the programs created by this chapter;
  - (b) For covered batteries generated by persons that are regulated generators of covered batteries under federal or state hazardous or solid waste laws, disposal in a manner consistent with the requirements of those laws; or
  - (c) Disposal using local government collection facilities that collect batteries consistent with RCW 70A.555.070(4)(c).
- (2) A fee may not be charged at the time unwanted covered batteries are delivered or collected for management.
- (3) All covered batteries may only be collected, transported, and processed in a manner that meets the standards established for a battery stewardship organization in an approved plan, unless the batteries are being managed as described in subsection (1)(b) or (1)(d) of this section.
- (4) A person may not place covered batteries in waste containers for disposal at incinerators, waste to energy facilities, or landfills.
- (5) A person may not place covered batteries in or on a container for mixed recyclables unless there is a separate location or compartment for the covered battery that complies with local government collection standards or guidelines.
- (6) An owner or operator of a solid waste facility may not be found in violation of this section if the facility has posted in a conspicuous location a sign stating that covered batteries must be managed through collection sites established by a battery stewardship organization and are not accepted for disposal.
- (7) A solid waste collector may not be found in violation of this section for a covered battery placed in a disposal container by the generator of the covered battery.

## WAC 173-905-520 Collection and handling standards

- (1) **Program collection- general handling standards.** The following standards apply to all collection sites for covered batteries:
  - (a) Collected batteries must be managed consistent with the prioritization outlined in the battery management hierarchy as defined in RCW 70A.555.010.
  - (b) Collected batteries exhibiting one or more of the dangerous waste characteristics or criteria identified in WAC 173-303-090 or 173-303-100 must be managed consistent with the standards for universal waste management in WAC 173-303-573.
  - (c) Collection sites must determine whether they meet the definition of a small quantity handler or large quantity handler of universal waste as defined in WAC 173-303-040.
  - (d) Collection sites are prohibited from accepting damaged and defective batteries unless they are staffed by persons trained to handle them in the manner described in (2) of this section.
  - (e) 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:
    - (i) Package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with applicable Department of Transportation regulations in 49 C.F.R. Parts 172 through 180; and
    - (ii) Ensure each of its hazmat employees are trained in accordance with 49 C.F.R. Part 172 Subpart H unless otherwise specified in the US Department of Transportation special permit;
  - (f) Collection sites who discover non-program products or solid waste in a battery collection container must determine if the material is dangerous waste as defined under chapter 173-303 WAC and manage the waste in accordance with applicable regulations.
  - (g) Collected batteries must be stored in accordance with all applicable International, State, and Local Fire Code.
  - (h) Collection sites must ensure proper terminal protection is achieved to meet US Department of Transportation shipping requirements.
  - (i) The battery stewardship organization must provide safety information related to covered battery collection activities to the operator of each collection site, including appropriate protocols to reduce risks of spills or fires and response protocols in the event of a spill or fire in accordance with 70A.555.080(2)(b).
- (2) **Program collection- damaged and defective battery handling standards.** The following standards apply only to collection sites that collect damaged and defective batteries:
  - (a) Damaged and defective batteries must be:
    - (i) Separated from all other batteries.
    - (ii) Stored in a dry environment away from extreme cold and extreme heat.
    - (iii) Stored separately from flammable materials.
    - (iv) Inspected for evidence of swelling, fire, smoke, gas, melting, cracking, corrosion, leakage, or discoloration.
    - (v) In a container labeled as “Damaged/defective battery.”
    - (vi) Promptly sent offsite for recycling or disposal.

(b) Personnel training

- (i) The battery stewardship organization must train collection site employees to accurately identify damaged and defective batteries.
- (ii) 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 otherwise specified in the US Department of Transportation special permit.
- (iii) Collection site employees with initial and annual training on responding to various types of battery-related incidents.
- (iv) Collection sites must establish specific emergency procedures relevant to their site and ensure facility personnel are able to effectively respond to emergencies.

(c) Emergency preparedness

- (i) Collection sites must identify an on-site or on-call emergency contact (e.g. store manager, shift supervisor, environmental health and safety lead) and post signage with their name and telephone number near the battery collection area.
- (ii) The battery stewardship organization must provide collection sites with emergency supplies and decontamination equipment applicable to battery collection activities.

## WAC 173-905-600 Civil actions, violations and penalties.

- (1) **Civil action by a battery stewardship organization.** A battery stewardship organization implementing an approved plan may bring a civil action or actions to recover:
  - (a) Costs, damages, and fees in excess of \$1,000 from a producer who sells or otherwise makes available in Washington covered batteries or battery-containing products not included in an approved plan in violation of the requirements of this chapter and chapter 70A.555 RCW.
  - (b) Costs associated with handling a recalled battery from the producer of the recalled battery.
  - (c) Costs imposed upon the battery stewardship organization from another battery stewardship organization that under performs on its battery collection obligations under this chapter by failing to collect and provide for the end-of-life management of batteries, plus legal fees and expenses.
- (2) **Enforcement action by Ecology.** If Ecology determines that a person violated or is in violation of any of the requirements of RCW 70A.555 or this chapter, the department will issue a written warning or an order requiring compliance.
  - (a) **Written warning.** Ecology will provide a producer, retailer, or battery stewardship organization with a written warning for a first violation of the requirements of RCW 70A.555 or this chapter. Written warnings will be delivered with verified receipt and will inform a violator of the steps they must take to come into compliance with the requirements of this chapter and chapter 70A.555 RCW.
  - (b) **Compliance order.** Whenever based on any information Ecology determines that a person has violated or is in violation of this chapter, it may issue an order to that person requiring compliance either immediately or within a specified period of time. The compliance order will be delivered with verified receipt and will inform a violator of the steps they must take to come into compliance with the requirements of this chapter and chapter 70A.555 RCW. A person who fails to take corrective action as specified in a compliance order is liable for a civil penalty as provided in (3) of this section without receiving a written warning first.
- (3) **Penalty provisions.** Ecology may impose civil penalties for violations of this chapter or chapter 70A.555 RCW as follows:
  - (a) If a person remains in violation after 30 days of receiving a written warning described in (2)(a) of this section, the department may administratively impose a civil penalty in an amount of up to \$1,000 per violation per day for a first violation.
  - (b) If a person remains in violation of the terms of a compliance order as described in (2)(b) of this section, the department will administratively impose a civil penalty in an amount of up to \$1,000 per violation per day for a first violation.
  - (c) If a person fails to comply with an order as described in (2)(b) of this section, the department may impose a civil penalty in an amount up to \$10,000 per violation per day, without first delivering a written warning as described in (1)(a) of this subsection.
  - (d) For repeated violations the department may impose a civil penalty in an amount up to \$10,000 per violation per day.

- (4) **Appeals.** A person who is issued an order or incurs a penalty under this section may appeal the order or penalty to the pollution control hearings board established by chapter [43.21B](#) RCW within 30 days of the date of receipt.

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