

WSR 24-07-084

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 23-09—Filed March 19, 2024, 7:33 a.m.]

Subject of Possible Rule Making: Chapter 173-905 WAC, Battery stewardship program. The department of ecology (ecology) is writing rules to clarify definitions, plan requirements, and annual reporting requirements; set the agency fee to cover oversight costs of the program; and establish battery management standards. Other topics ecology will address with rule making include, but are not limited to, setting performance targets and goals, determining local government handling costs, and clarifying battery labeling requirements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 70A.555 RCW, Batteries—Environmental stewardship.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 70A.555 RCW, requires ecology to adopt rules. This new law creates an extend producer responsibility (EPR) program that will increase opportunity for people to recycle unwanted batteries. Battery stewardship organizations must submit plans to ecology describing how the program will operate. Beginning January 1, 2027, producers selling covered batteries into Washington must participate in an approved battery stewardship plan and fund the program.

With this rule making, ecology intends to clarify battery management requirements so that battery stewardship organizations can submit plans that comply with the law.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Environmental Protection Agency (EPA) is currently engaged in rule making to improve the management and recycling of lithium batteries nationwide. Their rule proposal will establish universal waste standards specifically tailored for lithium batteries, separate from the existing general battery universal waste category. Ecology will consult the EPA when developing the battery rule to ensure consistency in state and federal battery management regulations.

Process for Developing New Rule: Ecology will follow the standard process for the adoption of rules under the Administrative Procedure Act (chapter 34.05 RCW).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Chris Fredley, Department of Ecology, Solid Waste Management Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 564-233-1615, for Washington relay service or TTY call 711 or 877-833-6341, email batterystewardship@ecy.wa.gov, website <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-905>; sign up to receive email notices https://public.govdelivery.com/accounts/WAECY/subscriber/new?topic_id=WAECY_303.

Additional comments: Interested parties can stay informed about the rule making and public involvement opportunities as described above. Ecology will extend an offer for government-to-government consultation with tribal governments during each phase of rule development.

Ecology will conduct an environmental justice assessment in accordance with RCW 70A.02.060 as a part of this rule making.

March 19, 2024

Peter Lyon
Solid Waste Management Program Manager