

Cirba Solutions

Please find full comments in attached file. Thank you!

Date July 30, 2024

Re: Battery Stewardship Program Rulemaking Comments

Summary of Recommended Points of Clarification

1. **Collection and Management Requirements:** Clarification about certification for handling hazardous materials and EPA directions for Universal waste; clarify training procedures and address transportation challenges for small format batteries.
2. **Damaged Battery Collection:** Clarification on training standards for handling damaged batteries; suggest aligning language with federal regulations for safety.
3. **Battery Management Hierarchy:** Clarification on criteria for battery management feasibility; recommend defining “reuse” with specific standards and parameters.
4. **Environmentally Sound Management Practices:** Clarification on liability coverage for stakeholders.
5. **Recycling Definition:** Clarification on when material is considered recycled and if further definitions are needed; suggest detailing recycling processes.
6. **Performance Goals:** Clarification on adjusting performance goals for feasibility; propose changing recycling efficiency rate targets for primary batteries.
7. **Collection Rates:** Clarification on collection rate calculation and tracking batteries; recommend separate reporting for batteries and battery-containing products.
8. **Recycling Efficiency Rate:** Clarification on when material is recycled and calculation methods; suggest facility-level calculations for overall rate.
9. **Reporting Requirements:** Clarification on defining recycled material and calculation methods; suggest detailed facility reporting and segregating rechargeable and non-rechargeable batteries.

General Collection Requirements

Bill Language

Sec. 8., Stewardship Program Components - Collection and Management Requirements

- (b) Medium format batteries may only be collected at household hazardous waste collection sites or other sites that are staffed by persons who are certified to handle and ship hazardous materials under federal regulations adopted by the United States department of transportation pipeline and hazardous materials safety administration.

Recommended Points of Clarification:

- We recommend clarifying what governing body will be used to oversee training procedures. Potential language could read, “Certified staff entities that have created collection site safety training procedures related to covered battery collection activities at collection sites, including appropriate protocols (as indicated by the EPA) to reduce risks



of spills or fires and response protocols in the event of a spill or fire, and a protocol for safe management of damaged batteries that are returned to collection sites”

- We recommend clarifying which entity certifies the personnel to handle and ship hazardous materials, and if there are specific entities or qualifications required for this certification.
- Additionally, we recommend addressing the transportation challenges that are faced concerning small format, high wattage batteries that do not fall under fully regulated categories

Damaged Battery Collection

Bill Language

Sec. 8., Stewardship Program Components - Collection and Management Requirements

- (c) (i) Damaged and defective batteries are intended to be collected at collection sites staffed by persons trained to handle and ship those batteries.

Recommended Points of Clarification:

- We recommend adding language to RCW 70A.555.070, 2(C) to reference federal regulations adopted by the US Department of Transportation’s Pipeline and Hazardous Materials Safety Administration. This should align with RCW 70A.555.070, 2(B), which covers medium format batteries collected at HHW sites with certified personnel.

Battery Management Hierarchy

Bill Language

Sec. 2., Definitions

- (2) "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.

Recommended Points of Clarification:

- We recommend further defining the word “reuse” by establishing standards and criteria including:
 - Viability parameters for reused batteries.
 - Qualifications and testing requirements.
 - Appropriate applications for reuse.

- Assignment of liability for reused batteries.
- We recommend clarifying the specific criteria and evidence required to demonstrate as outlined in (2)(d) that it is not feasible to manage batteries under higher priority options (a) through (c).
- Additionally, we recommend clarifying How this information should be presented, and to whom.

Environmentally Sound Management Practices

Bill Language

Sec. 2., Definitions

- (8) "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.

Recommended Points of Clarification:

- Clarify if the comprehensive liability coverage requirement applies to all stakeholders in the supply chain, or just the battery stewardship organization.
- Clarify if there will be specific definitions or minimum requirements for liability coverage, and if so, what areas this coverage might include.

Recycling Definition

Bill Language

Sec. 2., Definitions

- (17) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than:
- (a) Combustion;
 - (b) Incineration;
 - (c) Energy generation;
 - (d) Fuel production; or
 - (e) Beneficial reuse in the construction and operation of a solid waste landfill, including use of alternative daily cover.

Recommended Points of Clarification:

- Clarify at what point in the battery lifecycle is material considered "recycled". Be clear on if this occur when material is delivered to the end-user, or at another step in the process.

Stewardship Program Components - Performance Goals

Bill Language

Sec. 6., Stewardship Program Components - Performance Goals

- (1) Each battery stewardship plan must include performance goals that measure, annually, the program's achievements. 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 70 percent for primary batteries; and
 - (c) Goals for public awareness, convenience, and accessibility that meet or exceed the minimum requirements established in RCW 70A.555.070.

Recommended Points of Clarification:

- Due to primary batteries' range of recycling efficiency rates based on chemistry, we suggest monitoring these rates to understand the mix of batteries coming into the collection and subsequently the recycling stream.

Collection Rates

Bill Language

Sec. 2., Definitions

- (4) "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 ball all producers participating in an approved battery stewardship plan during the previous three calendar years.

Recommended Points of Clarification:

- In the dominator of the equation, suggest clarifying if it is based on last year or the average over the last three years of batteries sold.
- Real-time tracking of covered and non-covered batteries is quite challenging. Suggest an annual audit of inbound batteries at sorting sites to fulfill this requirement.
- Suggest clarifying the units to be reported for weight. Recommendations is for weight to be in pounds (lbs.)

- We recommend tracking this by covered and non-covered categories.
- It was mentioned that the weight of non-batteries is to be excluded in this calculation. We recommend clarifying what “weight of non-batteries” refers to in this context.

Recycling Efficiency Rate

Bill Language

Sec. 2., Definitions

- (18) “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

Recommended Points of Clarification:

- We understand that Ecology intends to rely on the following concepts in the Recycling Efficiency Rate allowing this calculation to:
 - Rely on state definitions of “recycling”
 - Include all covered batteries, not just those sent in for recycling
 - Allow calculations at the facility level, combining each facility’s rates for an overall rate
- Clarify at what point material becomes considered “recycled”.
- Clarify the calculation for determining the Recycling Efficiency Rate at the facility level.
- Clarify whether multiple facilities can be combined to make up a company level.
- Recyclers play different roles throughout the supply chain. Please clarify how collected batteries should be defined in this case.

Reporting Requirements

Bill Language

Sec. 10., Reporting Requirements - Weight of Batteries and Materials

- (c) The weight, by chemistry, of covered batteries collected under the program;
(d) The weight of materials recycled from covered batteries collected under the program, in total, and by method of battery recycling;
(g) The weight and chemistry of batteries sent to each facility used for the final disposition of batteries. The information in this subsection (1)(g) may be approximated for program operations in Washington based on extrapolations of national or regional data for programs in operation in multiple states;

Recommended Points of Clarification:

- It is our understanding that Ecology intends to rely on the following concepts in the formulation of reports -
 - For each sorting facility used, the report should provide:
 - Weight by chemistry of batteries received

- Weight of by chemistry of batteries sent on to recycling
- Weight of any residuals disposed
- For each recycling facility used, the report should provide:
 - Weight by chemistry of batteries received
 - Weight of materials recycled
 - Weight of any residuals disposed
 - A description of the recycling process used
 - The recycling efficiency achieved
 - A weighted overall recycling efficiency rate
- We recommend that reporting for primary and rechargeable batteries be segregated. Additionally, chemistry categories should be defined and listed at the beginning of the report to provide necessary information without introducing unnecessary challenges.
- We recommend that the Vermont standard of reporting requirements be adopted as outlined in the recently adopted Act 152 Sec. 7585 (a)

Performance Goals

Bill Language

Sec. 10., Reporting Requirements - Performance Goals

- (e) A calculation of the recycling efficiency rates, as measured consistent with subsection (2) of this section;
- (h) The collection rate achieved under the program, including a description of how this collection rate was calculated;
- (n) A summary on progress made towards the program performance goals established under this Act, and an explanation of why performance goals were not met, if applicable;

Recommended Points of Clarification:

- We recommend identifying additional performance goals related to recycling facilities beyond RER.

Battery Management

Bill Language

Sec. 10., Reporting Requirements - Battery Management

- (f) For each facility used for the final disposition of batteries, a description of how the facility recycled or otherwise disposed of batteries and battery components;
- (j) A description of the manner in which the collected batteries were managed and recycled, including a discussion of the best available technologies and the recycling efficiency rate;
- (m) A description of methods used to collect, transport, and recycle covered batteries by the battery stewardship organization

Recommended Points of Clarification:

- We recommend addressing how confidential information will be handled in reports.
- We recommend including the level of detail required of battery recycling and disposal processes, best available technologies, and recycling efficiency rates.

Additional Facility Reporting

Bill Language

Sec. 10., Reporting Requirements - Additional Facility Reporting

- (3) In addition to the requirements of subsection (1) of this section, with respect to each facility used in the processing or disposition of batteries collected under the program, the battery stewardship organization must report:
- (a) Whether the facility is located domestically, in an organization for economic cooperation and development country, or in a country that meets organization for economic cooperation and development operating standards; and
 - (b) What facilities processed the batteries, including a summary of any violations of environmental or labor laws and regulations over the previous three years at each facility.

Recommended Points of Clarification:

- Clarify how reporting will be completed.
- Recommend including facility location details.

Confidential Business Information

Bill Language

Sec. 10., Reporting Requirements - Confidential Business Information

- (5) A producer or battery stewardship organization that submits information or records to the department under this chapter may request that the information or records be made available only for the confidential use of the department, the director of the department, or the appropriate division of the department. The director of the department must consider the request and if this action is not detrimental to the public interest and is otherwise in accordance with the policies and purposes of chapter 43.21A RCW, the director must grant the request for the information to remain confidential as authorized in RCW 43.21A.160.

Recommended Points of Clarification:

- We recommend clarifying and streamlining the process for facilities to request confidential treatment of information through the Battery Stewardship Organization (BSO) and how the information intends to be handled by the state.

Collection Sites

Bill Language

Sec. 5., Stewardship Plan Components - Collection Sites

- (g) Includes collection site safety training procedures related to covered battery collection activities at collection sites, including appropriate protocols to reduce risks of spills or fires and response protocols in the event of a spill or fire, and a protocol for safe management of damaged batteries that are returned to collection sites;
- (j) Describes how the program will collect all covered battery chemistries and brands on a free, continuous, convenient, visible, and accessible basis, and consistent with the requirements of RCW 70A.555.070, including a description of how the statewide convenience standard will be met and a list of collection sites, including the address and latitude and longitude of collection sites;
- (k) Describes the criteria to be used in the program to determine whether an entity may serve as a collection site for discarded batteries under the program;

Recommended Points of Clarification:

- Recommend ensuring certification to collect/handle medium format batteries, and proper training for handling damaged and defective batteries.
- Clarify descriptions of collection site safety training procedures and requirements for becoming a collection site.
- We recommend consistency with our comments on the section above regarding general collection requirements.

Battery Management

Bill Language

Sec. 10., Reporting Requirements

- (m) Identifies proposed brokers, transporters, processors, and facilities to be used by the program for the final disposition of batteries and how collected batteries will be managed in:
 - (i) An environmentally sound and socially just manner at facilities operating with human health and environmental protection standards that are broadly equivalent to or better than those required in the United States and other countries that are members of the battery stewardship organization for economic cooperation and development; and
 - (ii) A manner consistent with the battery management hierarchy, including how each proposed facility used for the final disposition of batteries will recycle or otherwise manage batteries;

Recommended Points of Clarification:

- We recommend defining "socially just".



- We recommend ensuring that requirements for facility narratives detailing the function and processes for battery management are not duplicative.
- Recommend including how confidential and proprietary information will be protected and not shared.