Cirba Solutions

Cirba Solutions comments on draft language.

Cirba Solutions
Battery Management & Materials

Feedback on Washington State's Proposed Battery Stewardship Program Rule

Submitted by Cirba Solutions

Cirba Solutions provides the following detailed feedback and recommendations on the sections "Administrative Fee and Plan Review Fee," "Stewardship Plan Components," "Plan Submittal, Review, and Implementation," and "Collection and Handling Standards" in Washington's Battery Stewardship Program under Chapter 173-905 WAC.

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1. Administrative Fee and Plan Review Fee

Legislative Mandate

The requirement for stewardship organizations to pay an annual fee is understood to cover the administrative costs of implementing the program. Cirba Solutions recommends that the Department of Ecology clarify how these fees will be calculated to ensure transparency. Specifically:

- **Recommendation**: Provide a detailed breakdown of administrative costs and ensure that organizations have a clear understanding of how the funds are allocated.
- **Comment**: The $50,000 one-time plan review fee could be burdensome for smaller organizations or new market entrants. Consider offering a fee schedule based on the size or market share of the organization to encourage participation across a range of stakeholders.

Stewardship Plan Review Fee

The one-time stewardship plan review fee is set at $50,000. Cirba Solutions supports a fee to cover costs to review initial stewardship plans but recommends the following:

- **Recommendation**: Allow for the possibility of fee reductions or waivers for smaller or emerging battery stewardship organizations to avoid discouraging innovation and competition in the market. Additionally, provide a clear rationale for the $50,000 figure and offer organizations a way to contest it if they can demonstrate their administrative burden is lower. Another option would be to allow for smaller/emerging organizations to pay fee over time.

Administrative Fee

Cirba Solutions supports the annual fee starting in 2026. However, clarification is needed regarding how market share data will be gathered, verified, and updated:

- **Recommendation**: Implement a transparent methodology for calculating market share, including standardized data reporting practices. The provision to estimate market share based on available data (if not submitted) should include a clear process for dispute resolution or data verification to avoid discrepancies or unfair calculations.
- **Comment**: The clause that applies any remaining funds from overpayments to future fees should ensure that overpayments are applied proportionally and promptly to avoid carrying forward significant excesses. This also holds true for any underpayments.

Responsible Battery Management Account

Cirba Solutions supports the creation of a Responsible Battery Management Account as created in RCW 555.120, putting guardrails on any opportunity for the funds to be diverted for other purposes. However, to enhance trust in the program:

- **Recommendation**: Provide an annual public report on the expenditures from the Responsible Battery Management Account to demonstrate how the fees are utilized to support the program's goals.

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2. Stewardship Plan Components

Program Operation

Cirba Solutions appreciates the detailed structure for program operations and offers the following feedback:

- **Recommendation**: Ensure the listed contractors, facilities, and transporters are not only vetted for compliance with solid or hazardous waste regulations but also adhere to best practices in environmental sustainability. This will ensure that stewardship organizations and their contractors,

including Cirba Solutions, can maintain high standards of operation while meeting legal obligations.

- **Comment**: The recycling process descriptions must allow for flexibility to accommodate new recycling technologies as they emerge. Cirba Solutions suggests adding language that encourages innovation in recycling processes and allows for amendments to the recycling process component as new methods are developed.

Criteria for Recycling Feasibility

The criteria to evaluate the economic and technical feasibility of recycling are important to consider:

- **Recommendation**: The department should work closely with industry stakeholders, including recyclers like Cirba Solutions, to define these criteria. This collaboration will ensure the metrics are achievable and aligned with industry realities and become the standard by which all programs are judged equally.

Handling and Coordination

Regarding the coordination with other recycling programs, including electronic waste recyclers and local governments:

- **Recommendation**: To prevent overlap, Cirba Solutions suggests creating a centralized platform for all recyclers to coordinate efforts. This would increase efficiency, reduce administrative costs, and enhance compliance tracking. To prevent inconsistencies in local government reimbursements, Cirba suggests Ecology develop a standard reimbursement agreement and template form.

Performance Goals and Collection Metrics

While Cirba Solutions supports the establishment of performance goals, the proposed recycling efficiency rates (60% for rechargeable and 70% for primary batteries) may be challenging:

- **Recommendation**: The department should phase in these targets over several years, allowing organizations time to adjust operations and infrastructure. A performance review after the first three years would provide insight into whether these goals are realistic.
- **Comment**: The department should provide guidelines on how to measure public awareness and recycling efficiency effectively, ensuring that stewardship organizations are not held to unachievable standards.

Collection and Reporting by Chemistry

Cirba supports the requirements to collect and report battery collections and recycling by chemistry however it recommends the term "by chemistry" be defined.

- **Recommendation**: The department should define the term "by chemistry" as it is very broad and there could be an endless number of chemistries and reporting every one could be a case of diminishing returns. Cirba recommends "by chemistry" to include primary and rechargeable batteries. Primary batteries to be broken down into two subcategories - alkaline and lithium metal batteries. Rechargeable batteries to be further broken down as lithium, NiMH, NICd and other,
- **Comment**: The department should provide guidelines on what is meant "by chemistry" so programs can be most efficient in their operations and reporting.

3. Plan Submittal, Review, and Implementation

Plan Submittal and Approval

The submittal of stewardship plans by July 1, 2026, provides a clear timeline for compliance. However:

- **Recommendation**: Cirba Solutions suggests that the department consider allowing early submission of plans for review to identify potential issues before the official deadline. This would give organizations time to adjust their plans without risking non-compliance.
- **Comment**: The ability for a battery stewardship organization to request confidentiality of specific data is supported. However, it's important that the department outlines strict guidelines to ensure that this confidentiality does not interfere with the overall transparency of the program.

Plan Amendments

The requirement for plan amendments when there is a change in performance goals, financing methods, or significant program changes is practical. However:

- **Recommendation**: The department should establish a fast-tracked review process for amendments that address urgent operational changes, particularly in response to new recycling technologies or shifts in market conditions.
- **Comment**: The amendment review process could benefit from the inclusion of an industry advisory panel to ensure that any changes are practical and informed by real-world operational experience.

Plan Implementation

The timeline for plan implementation (starting January 1, 2027) is reasonable. However, Cirba Solutions suggests the following:

- **Recommendation**: Establish mid-point check-ins (e.g., by 2025) to assess the readiness of stewardship organizations to implement their plans. This would help identify any potential barriers to compliance before the official start date.
- **Comment**: Ensure that smaller organizations have access to resources and technical support during the implementation phase to avoid unequal burdens.

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4. Collection and Handling Standards (WAC 173-905-XXX)

General Handling Standards

The requirement to manage collected batteries in accordance with the battery management hierarchy is supported. Cirba Solutions, however, has the following concerns:

- **Recommendation**: Clarify the standards for identifying and handling batteries that meet the definition of "dangerous waste" to ensure consistency with federal hazardous waste regulations (e.g., 49 CFR Part 172). This will ensure that organizations like Cirba Solutions do not face conflicting compliance requirements.
- **Comment**: The prohibition on accepting damaged or defective batteries unless collection sites are specifically trained is critical for safety. Cirba Solutions supports this provision but recommends the department provide standardized training programs to ensure consistent handling across all collection sites.

Damaged and Defective Battery Handling

Cirba Solutions supports the separate handling of damaged and defective batteries but suggests the following:

- **Recommendation**: Establish clear guidelines for determining when batteries are considered "damaged" and provide specific timelines for removing such batteries from collection sites. This will prevent any ambiguity in compliance and promote safety.
- **Comment**: The department should offer grants or subsidies for collection sites to obtain the necessary equipment to store and manage damaged batteries, as the cost of compliance may be high for some sites. It might be cost prohibitive to provide each retail collection with a damaged and defective recycling kit.

Emergency Preparedness and Personnel Training

The emphasis on personnel training and emergency preparedness is commendable:

- **Recommendation**: Ensure that the training requirements align with both state and federal standards for hazardous materials handling. The department should offer periodic reviews of the training materials to incorporate new safety protocols and technologies.
- **Comment**: Cirba Solutions supports the requirement for collection sites to report incidents related to damaged or defective batteries but recommends that the reporting timeframe (14 days) be extended in cases where extensive investigations are needed.

Conclusion

Cirba Solutions is committed to supporting the State of Washington in developing a robust and effective battery recycling program. We appreciate the opportunity to provide feedback on these critical regulatory components and look forward to continued collaboration.