

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 "Retailer Requirements", "Education and Outreach Requirements", "Reimbursing Demonstrable Cost," and "Collection Outside of Program" in Washington's Battery Stewardship Program under Chapter 173-905 WAC.

1. Role of Retailer

Recommendation: Clarify that retailers in certain situations may be a producer if they sell batteries under their own store brand.

Recommendation: Clarify that retailers as well as any collection site whether in or outside a stewardship program must meet certain requirements to handle batteries in a safe manner that doesn't endanger the public.

Recommendation: Clarify that a retailer cannot sell a battery or battery-containing product until it receives certification from the producer that it is in compliance in the form of a letter signed by a person authorized by the producer to sign such a letter.

Comment: While this section is about collection it needs to be clarified that retailers can be producers as well. Retailers and any collection site also must be certified by BSO to safely handle batteries. Additionally, certification from a producer could be in the form of letter but must be signed by an authorized representative who can bind the company.

2. Education and Outreach

Legislative Mandate

Each battery stewardship organization must carry out education and outreach activities in support of the stewardship plan implementation. Cirba Solutions supports these goals but suggests clarifications and additions to optimize promotional activities.

- **Recommendation:** Design the education and outreach program around specific outcomes rather than specific actions.
- **Recommendation:** Better define what the state wants out of surveying (i.e. statistically significant to statewide geography and also to regionalization).

Plan Content

- **Recommendation:** Focus program goals on the concentration of geographic area and battery type as not every location necessarily needs the same information, at the same frequency. Educational materials for both consumers and retailers should include how to identify damaged batteries.
- **Recommendation:** Reduce the requirement to implement each of the education and outreach promotion activities that is currently at least once per quarter.
- **Comment:** Focusing on program outcomes rather than specific actions will make a more robust and innovative program. There will always be some activities happening so reporting what happens each timeframe/quarter rather than having to implement **each** activity every quarter will allow for consistency of reporting while reducing undue burden.

Reporting

- **Recommendation:** Clearly outline if there is any reporting other than the annual report.
- **Comment:** There are annual report requirements and survey requirements (once every 5 years) and other activities to be reported. Focus should be on outcomes of the programs.

3. Reimbursing Demonstrable Costs

Legislative Mandate

Cirba Solutions supports the reimbursement of local governments for demonstrable costs, as defined by rules adopted by the department, incurred as a result of a local government facility or solid waste handling facility serving as a collection site for a program including, but not limited to, associated labor costs and other costs associated with accessibility and collection site standards such as storage.

Demonstrable Costs

- **Recommendation:** Clarify exactly what costs are reimbursable.
- **Comment:** The law states labor and other costs associated with accessibility and collection site standards such as storage. But what other costs will be allowed? Will overhead and indirect costs be allowed. Having a standard will make contracts easier and consistent.

Contracts

- **Recommendation:** As a way to streamline the process, create a state contract that municipalities can participate in/use.
Comment: Some states allow the state to negotiate a contract for e-waste recycling and/or purchasing of various commodities. This kind of process will allow for a standard contract that municipalities can use. This contract could be with multiple BSOs which would allow for cost sharing between BSOs.

4. Collection Outside of Program

Legislative Mandate

Cirba Solutions supports the requirements that effective July 1, 2027, the only way to dispose of a portable battery (and medium format on July 1, 2029) is through one of the methods proscribed in RCW 70A.555.140 1a-c. This allows BSOs to build a robust collection system and keep the batteries out of the normal recycling and solid waste collection streams.

Collection Outside of Program

- **Recommendation:** All collection outside the program (RCW 70A.555.140 1b-c) should be required to either report the weight of batteries disposed of, by what method, and where the materials were sent.
- **Comment:** This will allow the BSO to keep track of batteries that are handled by regulated entities and/or local governments to ensure that they are managed properly. The BSO should be able to report these batteries in their annual report and report any violators to the state.
- **Recommendation:** Clarify that any collections of covered batteries in the state must be under 1 of 3 ways (RCW 70A.555.140 1a-c) and any batteries collected outside of those ways must still follow all the rules and regulations outlined in this chapter. Also clarify that while there is no mandate that a retailer or municipal collection site be part of a stewardship organization per se, there are education requirements placed on the collection site and the BSO is responsible for providing that info. If not part of the BSO program a site would not benefit from that opportunity.
- **Comment:** : There are a significant number of entities that operate mail-in programs for materials including batteries. Where does this leave them? The intent of the law is to remove batteries from improper disposal streams and have them handled in the most efficient and appropriate manner. If there are many batteries handled outside of the approved plan, then those programs should be required to report batteries collected, disposal/recycling method, by whom, to the BSOs.