

Cirba Solutions

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 "Annual Reports" and "Quarterly Updates" in Washington's Battery Stewardship Program under Chapter 173-905 WAC.

1. Annual Reports

Legislative Mandate

The annual reporting requirements outlined in the proposed rule aim to create transparency and ensure accountability within battery stewardship programs. Cirba Solutions supports these goals but suggests clarifications and additions to optimize reporting accuracy and operational feasibility.

Program Operation

- **Recommendation:** Specify the definition of "best available technologies" (BAT). We recommend including a standardized metric or threshold for BAT, along with a framework to allow for evolving technology.
- **Recommendation:** Specify the definition of "recycling efficiency rate" by clearly stating that the ratio is "inbound" material of covered battery components and materials recycled by a program operator over "recovered" weight of those covered batteries collected by the program operator, if that is the intent of the calculation. Evaluate the recycling efficiency rates at the plant/company level to avoid discrepancies among organizations may also need to be considered. In addition, U.S. imperial measurement is recommended to ensure all weights submitted are consistent.
- **Comment:** By defining BAT and recycling efficiency expectations, the department can create uniformity in program operations. This standardization will support battery stewardship organizations, in adopting and reporting consistent recycling practices, allowing Ecology to compare and track improvements across years. We also recommend that BAT definitions allow for the adoption of emerging technologies without the need for immediate legislative/regulatory amendments, fostering innovation and reducing legislative lag. Additionally, being able to calculate recycling efficiency rate at the plant/company level will allow BSO's to report and improve operations.

Independent Financial Assessment and Financial Statement

- **Recommendation:** To streamline cross-state reporting for organizations that manage multiple battery stewardship programs, we suggest that Ecology permit consolidated financial statements that include state-specific breakdowns, as stated. Additionally, we recommend that independent financial assessments only be required if there are significant financial variances or any identified compliance issues.
- **Comment:** Consolidated financial reporting, broken down by individual states, aligns with current practices across several state EPR programs, enhancing efficiency and reducing duplicative effort. The periodic independent financial assessments should be limited to instances of substantive financial change to avoid imposing undue costs, especially as these assessments may necessitate engagement with third-party auditors, increasing operational expenses for organizations.
- **Recommendation:** For transparency of program costs and consistency of expectations, recommend including an outline of the State's incurred costs be provided to any participating BSO, to include wages covered with a stipulation of hours spent on program and other costs associated with administering the provisions of this regulation.

Collection Site Information

- **Recommendation:** Clearly outline the required level of detail for data collection at each site. This should include specifying latitude and longitude to be within a certain percentage of accuracy (e.g. +/- 5%) without excessive precision and detailing when website links are necessary. We further suggest that Ecology consider an alternative reporting method for sites with high seasonal fluctuation, allowing them to average collections over peak and off-peak times.
- **Recommendation:** Include specific required level for battery chemistry reporting, such as including categories for rechargeable and primary batteries. Then suggest detailing the sub-chemistries within those areas to show the percentage that makes up the totality of the collection. Suggest including main sub-chemistries such as lithium-ion, lead acid, nickel metal-hydride, nickel cadmium, and other for rechargeable and lithium primary, alkaline button/coin cells, and other for primary,

- **Comment:** Providing detailed reporting standards ensures each collection site's data is consistent and reduces ambiguity in reporting. Averaging for seasonally variable sites allows for more representative data, capturing typical collection rates without skewing overall numbers due to seasonal spikes. This flexibility in data reporting will facilitate smoother implementation and compliance across varied collection site types.

Facility Information and Violations Summary

- **Recommendation:** Provide clear guidance on the types of violations that must be reported. We suggest limiting this to environmental when first responders are required and labor violations directly relevant to battery handling and recycling, as well as specifying a three-year review period. Clarify the protocol for reporting any legal infractions and whether historical violations should be re-submitted in annual reports each year.
- **Comment:** Detailed guidance will help organizations report compliance consistently and transparently, reflecting only pertinent legal information without overburdening the reporting process. Limiting the violation reporting timeframe ensures relevant, current information while avoiding penalization for outdated or resolved issues.

Progress on Performance Goals

- **Recommendation:** Consider introducing interim milestones leading up to full performance goals, providing organizations with a phased approach to meeting compliance standards. For example, implementing a 50% target by year one, with incremental increases to full compliance within three years.
- **Comment:** Phased performance targets afford stewardship programs time to make adjustments and develop infrastructure gradually, supporting longer-term sustainability. A multi-year review at interim checkpoints would also allow Ecology to analyze program effectiveness and recalibrate goals as needed.

2. Quarterly Updates

Legislative Mandate

Cirba Solutions supports the proposed quarterly update meetings, as they encourage transparency and allow Ecology to monitor the progress and challenges faced by battery stewardship organizations more closely. We suggest additional detail to ensure that these updates meet regulatory expectations without overburdening reporting systems.

Producer Participation

- **Recommendation:** Specify that producers must be notified formally upon joining or leaving the program, including a suggested template for these notices to be submitted quarterly. Additionally, require verification of each producer's compliance, such as submitting declarations or a certification from the battery stewardship organization that all listed producers meet program requirements.
- **Comment:** Standardizing the format and content of producer notices supports Ecology's oversight by ensuring consistency in reporting. Including compliance verification helps ensure each producer's participation aligns with Washington's EPR goals and enables efficient tracking of producer turnover, essential for program continuity and integrity.

Collection Site and Transporter Updates

- **Recommendation:** Define reporting criteria for temporary site suspensions to include a minimum notice period for suspensions exceeding 30 days. This will ensure Ecology receives timely updates while providing flexibility for short-term or emergency closures. For transporters, we recommend a threshold for reporting changes, for example, only if they constitute a material portion (e.g., 20% or more) of the program's transportation capacity.
- **Comment:** Establishing specific thresholds for reporting ensures that updates focus on substantial changes, maintaining Ecology's oversight of critical logistical elements while avoiding unnecessary administrative load. Defining criteria for extended suspensions will help capture only relevant information, preventing minor disruptions from unduly impacting quarterly updates.

Battery-Related Incidents

- **Recommendation:** Allow flexibility in the reporting timeframe for battery-related incidents that require extended investigation. We suggest a preliminary report within 30 days and a follow-up final report within 90 days of the incident resolution.
- **Comment:** By setting preliminary and final report timelines, Ecology can receive timely information on battery-related incidents without compromising the quality of the data provided. Extended timeframes for incident reports will support thorough investigations, ensuring a comprehensive understanding of incident causes and resolutions and fostering a safer, more resilient battery recycling infrastructure.

