



Feedback on Washington State's Proposed Battery Stewardship Program Rule 173-905

Submitted by Cirba Solutions

Cirba Solutions provides the following detailed feedback and recommendations on the Final Rule Chapter 173-905 WAC as posted on Department of Ecology Website.

WAC 173-905-020 Applicability

Comment: This Chapter is unclear if it also applies to any person that processes batteries for recycling? As it is written it may not apply to any processor of batteries.

Recommendation: Add (7) Any person who processes covered batteries for a battery stewardship organization.

WAC 173-905-030 Definitions

"Collection rate"

Comment: Other states included collections outside a stewardship organization into the reporting process. This would be similar to capturing fluorescent light bulbs collected and processed outside the EPR program being included in reporting process to capture all the activity that is happening around a product. Local governments are allowed to collect outside of stewardship organizations. Also, regulated entities that collect batteries under WAC 173-905-510 (1)(b) there is no requirement that they report batteries that they recycle. Lastly, small businesses have no prohibition to use mail in programs to recycle batteries that they generate. The batteries that they recycle could and should be included in the collection rate.

Recommendation: Change to the following:

"Collection rate" means a percentage that is calculated by dividing the total weight of primary or rechargeable batteries collected by **or reported to** a battery stewardship organization during the previous calendar year by the average annual weight of primary or rechargeable batteries, respectively, that were estimated to have been sold in the state by all producers participating in an approved battery stewardship plan during the previous three calendar years.

"Environmentally sound management practices"

Clarification: Requesting clarification regarding: does (C) extend to all contractors within the battery stewardship organization such as collectors and processors or only the battery stewardship organization itself? Would contractors need to have the same if not more insurance than the battery stewardship organization?

"Final disposition"

Clarification: The words final disposition are never used in the rule, requesting clarification on why is it defined here?

Recommendation: Change to "Final Processing"

"Recycling efficiency rate (RER)"

Comment: What about including batteries collected outside the program and processed within the program? Would they be considered as part of the recycling efficiency rate.



Recommendation: Change to the following:

"Recycling efficiency rate" means the ratio of the weight, in pounds, of covered battery components and materials recycled from covered batteries to the weight, in pounds, of those covered batteries collected by **or reported to** the battery stewardship organization.

Clarification: At what point in the recycling process should the stewardship organization count material being recycled. The definition of recycling states "recycling" means transforming or remanufacturing waste materials into usable or marketable materials...." Would the intermediate processor who might crush and sort batteries into usable materials report RER or is it the refiner that might receive the usable materials from the intermediate processor?

Potential new definition - Generation point. Would it be beneficial to define generation point for batteries. For example, if a distribution hub located in WA for a retailer brings in batteries from another distribution hub located outside WA are those batteries covered? Another example: if a consumer from Stateline, Idaho brings batteries to a community drop off event in Spokane are they considered reimbursable?

WAC 173-905-100 Pay administrative and plan review fee.

Comment: The two scenarios laid out in the rule leave out the possibility that actual costs are below what the department's administrative fee charged to a battery stewardship organization might be. If that is the case, will a battery stewardship organization be reimbursed for the difference?

Recommendation: Change to the following:

(a) The department will annually determine the base plan review fee and will post the fee on its website. If the actual cost of review exceeds the base plan review fee, the department will charge an additional per-hour fee to cover the additional cost. **If the actual cost is below the plan review fee the department shall reimburse the battery stewardship organization for the difference.**

WAC 173-905-120 Plan contents.

Clarification: In (1)(g) there is a reference to other collectors. What does that mean? Does it mean other stewardship organizations or does it mean battery collectors outside the stewardship organization. This opens up the whole issue of collections outside the stewardship organization and how they are handled.

Clarification: (4) Performance goals. (c) Is an overall recycling efficiency rate no longer required? By chemistry do you really mean by rechargeable and primary or are you looking for further delineation of say rechargeable into lithium-ion, NiMH, NiCd, etc.

Clarification: (10) Local government coordination. (b) this again opens up question referred above in (1)(g) and out of program collections. To what end is a battery stewardship organization supposed to coordinate with local governments who are not part of the program? Does this mean that they would be due reimbursable costs? Is it to get the batteries? Is it to report the batteries collected?

WAC 173-905-130 Submit a plan.

Clarification: (1) & (2) if a battery stewardship organization does not include medium format batteries in the plan submitted by 7/1/26 but does so before 1/1/28 is it considered a new plan with a new plan submittal fee or is it considered a plan amendment?

Recommendation: Change to the following:

(2) Plan for managing medium format batteries. By January 1, 2028, each battery stewardship organization shall submit to the department a plan that covers the collection, transport, and processing of medium format batteries if the approved plan does not already include medium format batteries. **A battery stewardship organization that has an approved plan for portable batteries may submit a plan amendment at any time prior to January 1, 2028, without having to submit a new plan for medium format batteries.**

WAC 173-905-140 Implement an approved plan.

Clarification: (4) Not clear what this means. If a producer decides to implement a program on its own does it have to wait until after January 1, 2028, to begin implementation or is it first approved gets first mover status and everyone else needs to wait?

WAC 173-905-150 Submit annual reports.

Clarification: (4) Collection site information requires extensive data on a site, without clear understanding of why all of that information is needed and is duplicated on the stewardship organization's website.

Recommendation: Suggest the request be limited to name and address of site and weight of batteries collected if available.

Clarification: (5)(g) How is the recycling efficiency rate to be reported – by chemistry or overall? The law does not require recycling efficiency rate by facility to be reported only overall by the battery stewardship organization. There is no direction as to how this would be calculated by facility and is only for the material collected/processed for the battery stewardship organization or overall facility level? It may be difficult to calculate out the battery stewardship only material. In addition, it is unclear if this should be done at the intermediate processor level or at the refiner level.

Clarification: (5)(h) Are alleged violations to be included? Are violations working through investigation and/or negotiation stage to be reported or only final ones?

WAC 173-905-400 Maintain a web page.

Clarification: (2) (c) Is the department to upload approved plans or submitted plans?

Recommendation: Change to the following:

(c) **Approved plans** and **approved plan** amendments submitted to the department;

Clarification: (2) (d) Is the department to upload annual reports submitted or annual reports submitted and approved?

Recommendation: Change to the following:

(d) **Approved a** annual reports submitted to the department;

Clarification: (4) Others in the supply chain may have confidential information as well. How is their information to be kept confidential by the department? For example, if a battery processor is required to submit to the stewardship organization how it calculates its recycling efficiency rate, confidential information may be involved.

WAC 173-905-420 Review an annual report.

Clarification: Under the scenarios in this section, there is no clear indication if a report is approved. Recommend that there should be a requirement of the department to notify the battery stewardship organization when an annual report is deemed approved.

Recommendation: Add the following:

(3) The department shall notify the battery stewardship organization as soon as possible after determining that its report is in compliance.

WAC 173-905-520 Collection site procedures, safety, and training.

Recommendation: there should be some level of priority by the battery stewardship organization given to the types and volume of batteries collected to determine the risk, then address the need of emergency supplies appropriately.

Recommendation: Change to the following:

(4) Battery stewardship organizations shall provide each collection site with emergency supplies and decontamination equipment appropriate for **the amount and type of** battery collection and handling **done by that site.**