

E2SSB 5144 - H COMM AMD

By Committee on Appropriations

ADOPTED AND ENGROSSED 04/06/2023

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** INTENT. The legislature finds that:

4 (1) It is in the public interest of the citizens of Washington to
5 encourage the recovery and reuse of materials, such as metals, that
6 replace the output of mining and other extractive industries.

7 (2) Without a dedicated battery stewardship program, battery user
8 confusion regarding proper disposal options will continue to persist.

9 (3) Ensuring the proper handling, recycling, and end-of-life
10 management of used batteries prevents the release of toxic materials
11 into the environment and removes materials from the waste stream
12 that, if mishandled, may present safety concerns to workers, such as
13 by igniting fires at solid waste handling facilities. For this
14 reason, batteries should not be placed into commingled recycling
15 containers or disposed of via traditional garbage collection
16 containers.

17 (4) Jurisdictions around the world have successfully implemented
18 battery stewardship laws that have helped address the challenges
19 posed by the end-of-life management of batteries. Because it is
20 difficult for customers to differentiate between types and
21 chemistries of batteries, it is the best practice for battery
22 stewardship programs to collect all battery types and chemistries.
23 Furthermore, it is appropriate for larger batteries used in emerging
24 market sectors such as electric vehicles, solar power arrays, and
25 data centers, to be managed to ensure environmentally positive
26 outcomes similar to those achieved by a battery stewardship program,
27 both because of the potential economic value of large batteries used
28 for these purposes and the anticipated profusion of these larger
29 batteries as these market sectors mature.

1 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
2 section apply throughout this chapter unless the context clearly
3 requires otherwise.

4 (1) (a) "Battery-containing product" means a product that contains
5 or is packaged with rechargeable or primary batteries that are
6 covered batteries.

7 (b) A "battery-containing product" does not include a covered
8 electronic product under an approved plan implemented under chapter
9 70A.500 RCW.

10 (2) "Battery management hierarchy" means a management system of
11 covered batteries prioritized in descending order as follows:

12 (a) Waste prevention and reduction;

13 (b) Reuse, when reuse is appropriate;

14 (c) Recycling, as defined in this chapter; and

15 (d) Other means of end-of-life management, which may only be
16 utilized after demonstrating to the department that it is not
17 feasible to manage the batteries under the higher priority options in
18 (a) through (c) of this subsection.

19 (3) "Battery stewardship organization" means a producer that
20 directly implements a battery stewardship plan required under this
21 chapter or a nonprofit organization designated by a producer or group
22 of producers to implement a battery stewardship plan required under
23 this chapter.

24 (4) "Collection rate" means a percentage, by weight, that a
25 battery stewardship organization collects that is calculated by
26 dividing the total weight of primary and rechargeable batteries
27 collected during the previous calendar year by the average annual
28 weight of primary and rechargeable batteries that were estimated to
29 have been sold in the state by all producers participating in an
30 approved battery stewardship plan during the previous three calendar
31 years.

32 (5) (a) "Covered battery" means a portable battery or, beginning
33 January 1, 2029, a medium format battery.

34 (b) "Covered battery" does not include:

35 (i) A battery contained within a medical device, as specified in
36 Title 21 U.S.C. Sec. 321(h) as it existed as of the effective date of
37 this section, that is not designed and marketed for sale or resale
38 principally to consumers for personal use;

39 (ii) A battery that contains an electrolyte as a free liquid;

40 (iii) A lead acid battery weighing greater than 11 pounds;

1 (iv) A battery subject to the provisions of RCW 70A.205.505
2 through 70A.205.530; and

3 (v) A battery in a battery-containing product that is not
4 intended or designed to be easily removable from the battery-
5 containing product.

6 (6) "Department" means the department of ecology.

7 (7) "Easily removable" means designed by the manufacturer to be
8 removable by the user of the product with no more than commonly used
9 household tools.

10 (8) "Environmentally sound management practices" means practices
11 that: (a) Comply with all applicable laws and rules to protect
12 workers, public health, and the environment; (b) provide for adequate
13 recordkeeping, tracking, and documenting of the fate of materials
14 within the state and beyond; and (c) include comprehensive liability
15 coverage for the battery stewardship organization, including
16 environmental liability coverage that is commercially practicable.

17 (9) "Final disposition" means the final processing of a collected
18 battery to produce usable end products, at the point where the
19 battery has been reduced to its constituent parts, reusable portions
20 made available for use, and any residues handled as wastes in
21 accordance with applicable law.

22 (10) "Large format battery" means:

23 (a) A rechargeable battery that weighs more than 25 pounds or has
24 a rating of more than 2,000 watt-hours; or

25 (b) A primary battery that weighs more than 25 pounds.

26 (11) "Medium format battery" means the following primary or
27 rechargeable covered batteries:

28 (a) For rechargeable batteries, a battery weighing more than 11
29 pounds or has a rating of more than 300 watt-hours, or both, and no
30 more than 25 pounds and has a rating of no more than 2,000 watt-
31 hours;

32 (b) For primary batteries, a battery weighing more than 4.4
33 pounds but not more than 25 pounds.

34 (12) "Portable battery" means the following primary or
35 rechargeable covered batteries:

36 (a) For rechargeable batteries, a battery weighing no more than
37 11 pounds and has a rating of no more than 300 watt-hours;

38 (b) For primary batteries, a battery weighing no more than 4.4
39 pounds.

1 (13) "Primary battery" means a battery that is not capable of
2 being recharged.

3 (14)(a) "Producer" means the following person responsible for
4 compliance with requirements under this chapter for a covered battery
5 or battery-containing product sold, offered for sale, or distributed
6 in or into this state:

7 (i) For covered batteries:

8 (A) If the battery is sold under the brand of the battery
9 manufacturer, the producer is the person that manufactures the
10 battery;

11 (B) If the battery is sold under a retail brand or under a brand
12 owned by a person other than the manufacturer, the producer is the
13 brand owner;

14 (C) If there is no person to which (a)(i)(A) or (B) of this
15 subsection applies, the producer is the person that is the licensee
16 of a brand or trademark under which the battery is used in a
17 commercial enterprise, sold, offered for sale, or distributed in or
18 into this state, whether or not the trademark is registered in this
19 state;

20 (D) If there is no person described in (a)(i)(A) through (C) of
21 this subsection within the United States, the producer is the person
22 who is the importer of record for the battery into the United States
23 for use in a commercial enterprise that sells, offers for sale, or
24 distributes the battery in this state;

25 (E) If there is no person described in (a)(i)(A) through (D) of
26 this subsection with a commercial presence within the state, the
27 producer is the person who first sells, offers for sale, or
28 distributes the battery in or into this state.

29 (ii) For covered battery-containing products:

30 (A) If the battery-containing product is sold under the brand of
31 the product manufacturer, the producer is the person that
32 manufactures the product;

33 (B) If the battery-containing product is sold under a retail
34 brand or under a brand owned by a person other than the manufacturer,
35 the producer is the brand owner;

36 (C) If there is no person to which (a)(ii)(A) or (B) of this
37 subsection applies, the producer is the person that is the licensee
38 of a brand or trademark under which the product is used in a
39 commercial enterprise, sold, offered for sale, or distributed in or

1 into this state, whether or not the trademark is registered in this
2 state;

3 (D) If there is no person described in (a)(ii)(A) through (C) of
4 this subsection within the United States, the producer is the person
5 who is the importer of record for the product into the United States
6 for use in a commercial enterprise that sells, offers for sale, or
7 distributes the product in this state;

8 (E) If there is no person described in (a)(ii)(A) through (D) of
9 this subsection with a commercial presence within the state, the
10 producer is the person who first sells, offers for sale, or
11 distributes the product in or into this state;

12 (F) A producer does not include any person who only manufactures,
13 sells, offers for sale, distributes, or imports into the state a
14 battery-containing product if the only batteries used by the battery-
15 containing product are supplied by a producer that has joined a
16 registered battery stewardship organization as the producer for that
17 covered battery under this chapter. Such a producer of covered
18 batteries that are included in a battery-containing product must
19 provide written certification of that membership to both the producer
20 of the covered battery-containing product and the battery stewardship
21 organization of which the battery producer is a member.

22 (b) A person is the "producer" of a covered battery or covered
23 battery-containing product sold, offered for sale, or distributed in
24 or into this state, as defined in (a) of this subsection, except
25 where another party has contractually accepted responsibility as a
26 responsible producer and has joined a registered battery stewardship
27 organization as the producer for that covered battery or covered
28 battery-containing product under this chapter.

29 (15) "Program" means a program implemented by a battery
30 stewardship organization consistent with an approved battery
31 stewardship plan.

32 (16) "Rechargeable battery" means a battery that contains one or
33 more voltaic or galvanic cells, electrically connected to produce
34 electric energy, designed to be recharged.

35 (17) "Recycling" means transforming or remanufacturing waste
36 materials into usable or marketable materials for use other than:

- 37 (a) Combustion;
- 38 (b) Incineration;
- 39 (c) Energy generation;
- 40 (d) Fuel production; or

1 (e) Beneficial reuse in the construction and operation of a solid
2 waste landfill, including use of alternative daily cover.

3 (18) "Recycling efficiency rate" means the ratio of the weight of
4 covered battery components and materials recycled by a program
5 operator from covered batteries to the weight of those covered
6 batteries collected by the program operator.

7 (19) "Retailer" means a person who sells covered batteries or
8 battery-containing products in or into this state or offers or
9 otherwise makes available covered batteries or battery-containing
10 products to a customer, including other businesses, for use by the
11 customer in this state.

12 (20) "Urban area" means an area delineated by the United States
13 census bureau, based on a minimum threshold of 2,000 housing units or
14 5,000 people, as of January 1, 2023.

15 NEW SECTION. **Sec. 3.** REQUIREMENT THAT PRODUCERS IMPLEMENT A
16 STEWARDSHIP PLAN. Beginning January 1, 2027:

17 (1) Each producer selling, making available for sale, or
18 distributing covered batteries or battery-containing products in or
19 into the state of Washington shall participate in an approved
20 Washington state battery stewardship plan through participation in
21 and appropriate funding of a battery stewardship organization; and

22 (2) A producer that does not participate in a battery stewardship
23 organization and battery stewardship plan may not sell covered
24 batteries or battery-containing products covered by this chapter in
25 or into Washington.

26 NEW SECTION. **Sec. 4.** ROLE OF RETAILERS. (1) Beginning July 1,
27 2027, for portable batteries, and July 1, 2029, for medium format
28 batteries, a retailer may not sell, offer for sale, distribute, or
29 otherwise make available for sale a covered battery or battery-
30 containing product unless the producer of the covered battery or
31 battery-containing product certifies to the retailer that the
32 producer participates in a battery stewardship organization whose
33 plan has been approved by the department.

34 (2) A retailer is in compliance with the requirements of
35 subsection (1) of this section and is not subject to penalties under
36 section 12 of this act as long as the website made available by the
37 department under section 11 of this act lists, as of the date a
38 product is made available for retail sale, a producer or brand of

1 covered battery or battery-containing product sold by the retailer as
2 being a participant in an approved plan or the implementer of an
3 approved plan.

4 (3) Retailers of covered batteries or battery-containing products
5 are not required to make retail locations available to serve as
6 collection sites for a stewardship program operated by a battery
7 stewardship organization. Retailers that serve as a collection site
8 must comply with the requirements for collection sites, consistent
9 with section 8 of this act.

10 (4) A retailer may not sell, offer for sale, distribute, or
11 otherwise make available for sale covered batteries, unless those
12 batteries are marked consistent with the requirements of section 14
13 of this act. A producer of a battery-containing product containing a
14 covered battery must certify to the retailers of their product that
15 the battery contained in the battery-containing product is marked
16 consistent with the requirements of section 14 of this act. A
17 retailer may rely on this certification for purposes of compliance
18 under this subsection.

19 (5) A retailer selling or offering covered batteries or battery-
20 containing products for sale in Washington may provide information,
21 provided to the retailer by the battery stewardship organization,
22 regarding available end-of-life management options for covered
23 batteries collected by the battery stewardship organization. The
24 information that a battery stewardship organization must make
25 available to retailers for voluntary use by retailers must include,
26 but is not limited to, in-store signage, written materials, and other
27 promotional materials that retailers may use to inform customers of
28 the available end-of-life management options for covered batteries
29 collected by the battery stewardship organization.

30 (6) Retailers, producers, or battery stewardship organizations
31 may not charge a specific point-of-sale fee to consumers to cover the
32 administrative or operational costs of the battery stewardship
33 organization or the battery stewardship program.

34 NEW SECTION. **Sec. 5.** STEWARDSHIP PLAN COMPONENTS. (1) By July
35 1, 2026, or within six months of the adoption of rules under section
36 11 of this act, whichever comes later, each battery stewardship
37 organization must submit a plan for covered portable batteries to the
38 department for approval. Within 24 months of the date of the initial
39 adoption of rules under this chapter by the department, each battery

1 stewardship organization must submit a plan for covered medium format
2 batteries to the department for approval. A battery stewardship
3 organization may submit a plan at any time to the department for
4 review and approval. The department must review and may approve a
5 plan based on whether it contains and adequately addresses the
6 following components:

7 (a) Lists and provides contact information for each producer,
8 battery brand, and battery-containing product brand covered in the
9 plan;

10 (b) Proposes performance goals, consistent with section 6 of this
11 act, including establishing performance goals for each of the next
12 three upcoming calendar years of program implementation;

13 (c) Describes how the battery stewardship organization will make
14 retailers aware of their obligation to sell only covered batteries
15 and battery-containing products of producers participating in an
16 approved plan;

17 (d) Describes the education and communications strategy being
18 implemented to effectively promote participation in the approved
19 covered battery stewardship program and provide the information
20 necessary for effective participation of consumers, retailers, and
21 others;

22 (e) Describes how the battery stewardship organization will make
23 available to retailers, for voluntary use, in-store signage, written
24 materials, and other promotional materials that retailers may use to
25 inform customers of the available end-of-life management options for
26 covered batteries collected by the battery stewardship organization;

27 (f) Lists promotional activities to be undertaken, and the
28 identification of consumer awareness goals and strategies that the
29 program will employ to achieve these goals after the program begins
30 to be implemented;

31 (g) Includes collection site safety training procedures related
32 to covered battery collection activities at collection sites,
33 including appropriate protocols to reduce risks of spills or fires
34 and response protocols in the event of a spill or fire, and a
35 protocol for safe management of damaged batteries that are returned
36 to collection sites;

37 (h) Describes the method to establish and administer a means for
38 fully funding the program in a manner that equitably distributes the
39 program's costs among the producers that are part of the battery
40 stewardship organization. For producers that elect to meet the

1 requirements of this chapter individually, without joining a battery
2 stewardship organization, the plan must describe the proposed method
3 to establish and administer a means for fully funding the program;

4 (i) Describes the financing methods used to implement the plan,
5 consistent with section 7 of this act, including how producer fees
6 and fee modulation will incorporate design for recycling and resource
7 conservation as objectives, and a template reimbursement agreement,
8 developed in consultation with local governments and other program
9 stakeholders;

10 (j) Describes how the program will collect all covered battery
11 chemistries and brands on a free, continuous, convenient, visible,
12 and accessible basis, and consistent with the requirements of section
13 8 of this act, including a description of how the statewide
14 convenience standard will be met and a list of collection sites,
15 including the address and latitude and longitude of collection sites;

16 (k) Describes the criteria to be used in the program to determine
17 whether an entity may serve as a collection site for discarded
18 batteries under the program;

19 (l) Establishes collection goals for each of the first three
20 years of implementation of the battery stewardship plan that are
21 based on the estimated total weight of primary and rechargeable
22 covered batteries that have been sold in the state in the previous
23 three calendar years by the producers participating in the battery
24 stewardship plan;

25 (m) Identifies proposed brokers, transporters, processors, and
26 facilities to be used by the program for the final disposition of
27 batteries and how collected batteries will be managed in:

28 (i) An environmentally sound and socially just manner at
29 facilities operating with human health and environmental protection
30 standards that are broadly equivalent to or better than those
31 required in the United States and other countries that are members of
32 the battery stewardship organization for economic cooperation and
33 development; and

34 (ii) A manner consistent with the battery management hierarchy,
35 including how each proposed facility used for the final disposition
36 of batteries will recycle or otherwise manage batteries;

37 (n) Details how the program will achieve a recycling efficiency
38 rate, calculated consistent with section 10 of this act, of at least
39 60 percent for rechargeable batteries and at least 70 percent for
40 primary batteries;

1 (o) Proposes goals for increasing public awareness of the
2 program, including subgoals applicable to public awareness of the
3 program in vulnerable populations and overburdened communities
4 identified by the department under chapter 70A.02 RCW, and describes
5 how the public education and outreach components of the program under
6 section 9 of this act will be implemented; and

7 (p) Specifies procedures to be employed by a local government
8 seeking to coordinate with a battery stewardship organization
9 pursuant to section 8(4)(c) of this act.

10 (2) If required by the department, a battery stewardship
11 organization must submit a new plan to the department for approval:

12 (a) If there are significant changes to the methods of
13 collection, transport, or end-of-life management of covered batteries
14 under section 8 of this act that are not provided for in the plan.
15 The department may, by rule, identify the types of significant
16 changes that require a new plan to be submitted to the department for
17 approval. For purposes of this subsection, adding or removing a
18 processor or transporter under the plan is not considered a
19 significant change that requires a plan resubmittal;

20 (b) To address the novel inclusion of medium format batteries or
21 large format batteries as covered batteries under the plan; and

22 (c) No less than every five years.

23 (3) If required by the department, a battery stewardship
24 organization must provide plan amendments to the department for
25 approval:

26 (a) When proposing changes to the performance goals under section
27 6 of this act based on the up-to-date experience of the program;

28 (b) When there is a change to the method of financing plan
29 implementation under section 7 of this act. This does not include
30 changes to the fees or fee structure established in the plan; or

31 (c) When adding or removing a processor or transporter, as part
32 of a quarterly update submitted to the department.

33 (4) As part of a quarterly update, a battery stewardship
34 organization must notify the department after a producer begins or
35 ceases to participate in a battery stewardship organization. The
36 quarterly update submitted to the department must also include a
37 current list of the producers and brands participating in the plan.

38 (5) No earlier than five years after the initial approval of a
39 plan, the department may require a battery stewardship organization
40 to submit a revised plan, which may include improvements to the

1 collection site network or increased expenditures dedicated to
2 education and outreach if the approved plan has not met the
3 performance goals under section 6 of this act.

4 NEW SECTION. **Sec. 6.** STEWARDSHIP PROGRAM COMPONENTS—PERFORMANCE
5 GOALS. (1) Each battery stewardship plan must include performance
6 goals that measure, on an annual basis, the achievements of the
7 program. Performance goals must take into consideration technical
8 feasibility and economic practicality in achieving continuous,
9 meaningful progress in improving:

- 10 (a) The rate of battery collection for recycling in Washington;
 - 11 (b) The recycling efficiency of the program; and
 - 12 (c) Public awareness of the program.
- 13 (2) The performance goals established in each battery stewardship
14 plan must include, but are not limited to:
- 15 (a) Target collection rates;
 - 16 (b) Target recycling efficiency rates of at least 60 percent for
17 rechargeable batteries and at least 70 percent for primary batteries;
18 and
 - 19 (c) Goals for public awareness, convenience, and accessibility
20 that meet or exceed the minimum requirements established in section 8
21 of this act.

22 NEW SECTION. **Sec. 7.** STEWARDSHIP PROGRAM COMPONENTS—FUNDING.
23 (1) Each battery stewardship organization must ensure adequate
24 funding is available to fully implement approved battery stewardship
25 plans, including the implementation of aspects of the plan
26 addressing:

- 27 (a) Battery collection, transporting, and processing;
 - 28 (b) Education and outreach;
 - 29 (c) Program evaluation; and
 - 30 (d) Payment of the administrative fees to the department under
31 section 11 of this act.
- 32 (2) A battery stewardship organization implementing a battery
33 stewardship plan on behalf of producers must develop, and continually
34 improve over the years of program implementation, a system to collect
35 charges from participating producers to cover the costs of plan
36 implementation in an environmentally sound and socially just manner
37 that encourages the use of design attributes that reduce the
38 environmental impacts of covered batteries, such as through the use

1 of eco-modulated fees. Examples of fee structures that meet the
2 requirements of this subsection include using eco-modulated fees to:

3 (a) Encourage designs intended to facilitate reuse and recycling;

4 (b) Encourage the use of recycled content;

5 (c) Discourage the use of problematic materials that increase
6 system costs of managing covered batteries; and

7 (d) Encourage other design attributes that reduce the
8 environmental impacts of covered batteries.

9 (3) (a) Except for costs incurred by a local government or local
10 government facility exercising the authority specified in section
11 8(4) (c) of this act, each battery stewardship organization is
12 responsible for all costs of participating covered battery
13 collection, transportation, processing, education, administration,
14 agency reimbursement, recycling, and end-of-life management in
15 accordance with the battery management hierarchy and environmentally
16 sound management practices.

17 (b) Each battery stewardship organization must meet the
18 collection goals as specified in section 5 of this act.

19 (c) A battery stewardship organization is not authorized to
20 reduce or cease collection, education and outreach, or other
21 activities implemented under an approved plan based on achievement of
22 program performance goals.

23 (4) (a) Except for costs incurred by a local government or local
24 government facility exercising the authority granted by section
25 8(4) (c) of this act, a battery stewardship organization must
26 reimburse local governments for demonstrable costs, as defined by
27 rules adopted by the department, incurred as a result of a local
28 government facility or solid waste handling facility serving as a
29 collection site for a program including, but not limited to,
30 associated labor costs and other costs associated with accessibility
31 and collection site standards such as storage.

32 (b) Except as to the costs of containers and other materials and
33 services requirements addressed by a local government or local
34 government facility exercising the authority granted by section
35 8(4) (c) of this act, a battery stewardship organization shall at a
36 minimum provide collection sites with appropriate containers for
37 covered batteries subject to its program, training, signage, safety
38 guidance, and educational materials, at no cost to the collection
39 sites.

1 (c) A battery stewardship organization must include in its
2 battery stewardship plan a template of the service agreement and any
3 other forms, contracts, or other documents for use in distribution of
4 reimbursements. The service agreement template must be developed with
5 local government input. The entities seeking or receiving
6 reimbursement from the battery stewardship organization are not
7 required to use the template agreement included in the program plan
8 and are not limited to the terms of the template agreement included
9 in the program plan.

10 NEW SECTION. **Sec. 8.** STEWARDSHIP PROGRAM COMPONENTS—COLLECTION
11 AND MANAGEMENT REQUIREMENTS. (1) Battery stewardship organizations
12 implementing a battery stewardship plan must provide for the
13 collection of all covered batteries, including all chemistries and
14 brands of covered batteries, on a free, continuous, convenient,
15 visible, and accessible basis to any person, business, government
16 agency, or nonprofit organization. Except as provided in subsection
17 (2)(b) of this section, each battery stewardship plan must allow any
18 person, business, government agency, or nonprofit organization to
19 discard each chemistry and brand of covered battery at each
20 collection site that counts towards the satisfaction of the
21 collection site criteria in subsection (3) of this section.

22 (2)(a) Except for local government collection described in
23 subsection (4)(c) of this section, for each collection site utilized
24 by the program, each battery stewardship organization must provide
25 suitable collection containers for covered batteries that are
26 segregated from other solid waste or make mutually agreeable
27 alternative arrangements for the collection of batteries at the site.
28 The location of collection containers at each collection site used by
29 the program must be within view of a responsible person and must be
30 accompanied by signage made available to the collection site by the
31 battery stewardship organization that informs customers regarding the
32 end-of-life management options for batteries provided by the
33 collection site under this chapter. Each collection site must adhere
34 to the operations manual and other safety information provided to the
35 collection site by the battery stewardship organization.

36 (b) Medium format batteries may only be collected at household
37 hazardous waste collection sites or other sites that are staffed by
38 persons who are certified to handle and ship hazardous materials
39 under federal regulations adopted by the United States department of

1 transportation pipeline and hazardous materials safety
2 administration.

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

6 (ii) Each battery stewardship organization must provide for
7 collection of damaged and defective batteries in each county of the
8 state, either through collection sites or collection events with
9 qualified staff as specified in (c) (i) of this subsection. Collection
10 events should be provided periodically throughout the year where
11 practicable, but must be provided at least once per year at a
12 minimum, in each county in which there are not permanent collection
13 sites providing for the collection of damaged and defective
14 batteries.

15 (iii) As used in this subsection, "damaged and defective
16 batteries" means batteries that have been damaged or identified by
17 the manufacturer as being defective for safety reasons, that have the
18 potential of producing a dangerous evolution of heat, fire, or short
19 circuit, as referred to in 49 C.F.R. Sec. 173.185(f) as of January 1,
20 2023, or as updated by the department by rule to maintain consistency
21 with federal standards.

22 (3) (a) Each battery stewardship organization implementing a
23 battery stewardship plan shall ensure statewide collection
24 opportunities for all covered batteries. Battery stewardship
25 organizations shall coordinate activities with other program
26 operators, including covered battery collection and recycle programs
27 and electronic waste recyclers, with regard to the proper management
28 or recycling of collected covered batteries, for purposes of
29 providing the efficient delivery of services and avoiding unnecessary
30 duplication of effort and expense. Statewide collection opportunities
31 must be determined by geographic information modeling that considers
32 permanent collection sites. A program may rely, in part, on
33 collection events to supplement the permanent collection services
34 required in (a) and (b) of this subsection. However, only permanent
35 collection services specified in (a) and (b) of this subsection
36 qualify towards the satisfaction of the requirements of this
37 subsection.

38 (b) For portable batteries, each battery stewardship organization
39 must provide statewide collection opportunities that include, but are
40 not limited to, the provision of:

1 (i) At least one permanent collection site for portable batteries
2 within a 15 mile radius for at least 95 percent of Washington
3 residents;

4 (ii) The establishment of collection sites that are accessible
5 and convenient to overburdened communities identified by the
6 department under chapter 70A.02 RCW, in an amount that is roughly
7 proportional to the number and population of overburdened communities
8 identified by the department under chapter 70A.02 RCW relative to the
9 population or size of the state as a whole;

10 (iii) At least one permanent collection site for portable
11 batteries in addition to those required in (b)(i) of this subsection
12 for every 30,000 residents of each urban area in this state. For the
13 purposes of compliance with this subsection (3)(b)(iii), a battery
14 stewardship organization and the department may rely upon new or
15 updated designations of urban locations by the United States census
16 bureau that are determined by the department to be similar to the
17 definition of urban areas in section 2 of this act;

18 (iv) Collection opportunities for portable batteries at special
19 locations where batteries are often spent and replaced, such as
20 supervised locations at parks with stores and campgrounds; and

21 (v) Service to areas without a permanent collection site,
22 including service to island and geographically isolated communities
23 without a permanent collection site.

24 (c) For medium format batteries, a battery stewardship
25 organization must provide statewide collection opportunities that
26 include, but are not limited to, the provision of:

27 (i) At least 25 permanent collection sites in Washington;

28 (ii) Reasonable geographic dispersion of collection sites
29 throughout the state;

30 (iii) A collection site in each county of at least 200,000
31 persons, as determined by the most recent population estimate of the
32 office of financial management;

33 (iv) The establishment of collection sites that are accessible to
34 public transit and that are convenient to overburdened communities
35 identified by the department under chapter 70A.02 RCW; and

36 (v) Service to areas without a permanent collection site,
37 including service to island and geographically isolated communities.
38 A battery stewardship organization must ensure that there is a
39 collection site or annual collection event in each county of the
40 state. Collection events should be provided periodically throughout

1 the year where practicable, but must be provided at least once per
2 year at a minimum in each county in which there are not permanent
3 collection sites providing for the collection of damaged and
4 defective batteries.

5 (4) (a) Battery stewardship programs must use existing public and
6 private waste collection services and facilities, including battery
7 collection sites that are established through other battery
8 collection services, transporters, consolidators, processors, and
9 retailers, where cost-effective, mutually agreeable, and otherwise
10 practicable.

11 (b) (i) Battery stewardship programs must use as a collection site
12 for covered batteries any retailer, wholesaler, municipality, solid
13 waste management facility, or other entity that meets the criteria
14 for collection sites in the approved plan, upon the submission of a
15 request by the entity to the battery stewardship organization to
16 serve as a collection site.

17 (ii) Battery stewardship programs must use as a site for a
18 collection event for covered batteries any retailer, wholesaler,
19 municipality, solid waste management facility, or other entity that
20 meets the criteria for collection events in the approved plan, upon
21 the submission of a request by the entity to the battery stewardship
22 organization to serve as a site for a collection event. A signed
23 agreement between a battery stewardship organization and the entity
24 requesting to hold a collection event must be established at least 60
25 days prior to any collection of covered batteries under a stewardship
26 program. All costs associated with collection events initiated by an
27 entity other than a battery stewardship organization are the sole
28 responsibility of the entity unless otherwise agreed upon by a
29 battery stewardship organization. A collection event under this
30 subsection (4) (b) (ii) must allow any person to discard each chemistry
31 and brand of covered battery at the collection event.

32 (c) (i) A local government facility may collect batteries at its
33 own expense through a collection site or temporary collection event
34 that is not a collection site or event under the program implemented
35 by a battery stewardship organization. A local government facility
36 that collects covered batteries under this subsection must, in
37 accordance with procedures set forth in battery stewardship
38 organization plans approved by the department:

1 (A) Notify battery stewardship organizations of the local
2 government facility's decision to operate a collection site that is
3 not a collection site under a program established under this chapter;

4 (B) Collect each chemistry and brand of covered battery at its
5 collection site or sites;

6 (C) Collect, sort, and package collected materials in a manner
7 that meets the standards established in a battery stewardship
8 organization plan approved by the department;

9 (D) Either provide the collected batteries to the battery
10 stewardship organization in lawful transportation containers for it
11 to transfer the collected batteries at a processing facility the
12 battery stewardship organization has approved, or transport to, or
13 arrange for the transportation of collected batteries for processing
14 at a facility that a battery stewardship organization has approved
15 under a plan approved by the department.

16 (ii) A local government facility that collects materials at a
17 collection site or temporary collection event operating outside of a
18 battery stewardship program must also report, to a battery
19 stewardship organization, information necessary for the battery
20 stewardship organization to fulfill its reporting obligations under
21 section 10 of this act. A battery stewardship organization may count
22 materials collected by a local government facility under this
23 subsection (4)(c) towards the achievement of performance requirements
24 established in section 6 of this act.

25 (d) A battery stewardship organization may suspend or terminate a
26 collection site or service that does not adhere to the collection
27 site criteria in the approved plan or that poses an immediate health
28 and safety concern.

29 (5)(a) Stewardship programs are not required to provide for the
30 collection of battery-containing products.

31 (b) Stewardship programs are not required to provide for the
32 collection of batteries that:

33 (i) Are not easily removable from the product other than by the
34 manufacturer; and

35 (ii) Remain contained in a battery-containing product at the time
36 of delivery to a collection site.

37 (c) Stewardship programs are required to provide for the
38 collection of loose batteries.

1 (d) Stewardship programs are not required to provide for the
2 collection of batteries still contained in covered electronic
3 products under chapter 70A.500 RCW.

4 (6) Batteries collected by the program must be managed consistent
5 with the battery management hierarchy. Lower priority end-of-life
6 battery management options on the battery management hierarchy may be
7 used by a program only when a battery stewardship organization
8 documents to the department that all higher priority battery
9 management options on the battery management hierarchy are not
10 technologically feasible or economically practical.

11 NEW SECTION. **Sec. 9.** STEWARDSHIP PROGRAM COMPONENTS—EDUCATION
12 AND OUTREACH REQUIREMENTS. (1) Each battery stewardship organization
13 must carry out promotional activities in support of plan
14 implementation including, but not limited to, the development:

15 (a) And maintenance of a website;

16 (b) And distribution of periodic press releases and articles;

17 (c) And placement of advertisements for use on social media or
18 other relevant media platforms;

19 (d) Of promotional materials about the program and the
20 restriction on the disposal of covered batteries in section 15 of
21 this act to be used by retailers, government agencies, and nonprofit
22 organizations;

23 (e) And distribution of collection site safety training
24 procedures that are in compliance with state law to collection sites
25 to help ensure proper management of covered batteries at collection
26 sites; and

27 (f) And implementation of outreach and educational resources
28 targeted to overburdened communities and vulnerable populations
29 identified by the department under chapter 70A.02 RCW that are
30 conceptually, linguistically, and culturally accurate for the
31 communities served and reach the state's diverse ethnic populations,
32 including through meaningful consultation with communities that bear
33 disproportionately higher levels of adverse environmental and social
34 justice impacts.

35 (2) Each battery stewardship organization must provide:

36 (a) Consumer-focused educational promotional materials to each
37 collection site used by the program and accessible by customers of
38 retailers that sell covered batteries or battery-containing products;
39 and

1 (b) Safety information related to covered battery collection
2 activities to the operator of each collection site, including
3 appropriate protocols to reduce risks of spills or fires and response
4 protocols in the event of a spill or fire.

5 (3) (a) Each battery stewardship organization must provide
6 educational materials to the operator of each collection site for the
7 management of recalled batteries, which are not intended to be part
8 of collection as provided under section 8 of this act, to help
9 facilitate transportation and processing of recalled batteries.

10 (b) A battery stewardship organization may seek reimbursement
11 from the producer of the recalled battery for expenses incurred in
12 the collection, transportation, or processing of those batteries.

13 (4) Upon request by a retailer, the battery stewardship
14 organization must provide the retailer educational materials
15 describing collection opportunities for batteries.

16 (5) If multiple battery stewardship organizations are
17 implementing plans approved by the department, the battery
18 stewardship organizations must coordinate in carrying out their
19 education and outreach responsibilities under this section and must
20 include in their annual reports to the department under section 10 of
21 this act a summary of their coordinated education and outreach
22 efforts.

23 (6) During the first year of program implementation and every
24 five years thereafter, each battery stewardship organization must
25 carry out a survey of public awareness regarding the requirements of
26 the program established under this chapter, including the provisions
27 of section 15 of this act. Each battery stewardship organization must
28 share the results of the public awareness surveys with the
29 department.

30 NEW SECTION. **Sec. 10.** REPORTING REQUIREMENTS. (1) By June 1,
31 2028, and each June 1st thereafter, each battery stewardship
32 organization must submit an annual report to the department covering
33 the preceding calendar year of battery stewardship plan
34 implementation. The report must include:

35 (a) An independent financial assessment of a program implemented
36 by the battery stewardship organization, including a breakdown of the
37 program's expenses, such as collection, recycling, education, and
38 overhead, when required by the department;

1 (b) A summary financial statement documenting the financing of a
2 battery stewardship organization's program and an analysis of program
3 costs and expenditures, including an analysis of the program's
4 expenses, such as collection, transportation, recycling, education,
5 and administrative overhead. The summary financial statement must be
6 sufficiently detailed to provide transparency that funds collected
7 from producers as a result of their activities in Washington are
8 spent on program implementation in Washington. Battery stewardship
9 organizations implementing similar battery stewardship programs in
10 multiple states may submit a financial statement including all
11 covered states, as long as the statement breaks out financial
12 information pertinent to Washington;

13 (c) The weight, by chemistry, of covered batteries collected
14 under the program;

15 (d) The weight of materials recycled from covered batteries
16 collected under the program, in total, and by method of battery
17 recycling;

18 (e) A calculation of the recycling efficiency rates, as measured
19 consistent with subsection (2) of this section;

20 (f) For each facility used for the final disposition of
21 batteries, a description of how the facility recycled or otherwise
22 disposed of batteries and battery components;

23 (g) The weight and chemistry of batteries sent to each facility
24 used for the final disposition of batteries. The information in this
25 subsection (1)(g) may be approximated for program operations in
26 Washington based on extrapolations of national or regional data for
27 programs in operation in multiple states;

28 (h) The collection rate achieved under the program, including a
29 description of how this collection rate was calculated;

30 (i) The estimated aggregate sales, by weight and chemistry, of
31 batteries and batteries contained in or with battery-containing
32 products sold in Washington by participating producers for each of
33 the previous three calendar years;

34 (j) A description of the manner in which the collected batteries
35 were managed and recycled, including a discussion of best available
36 technologies and the recycling efficiency rate;

37 (k) A description of education and outreach efforts supporting
38 plan implementation including, but not limited to, a summary of
39 education and outreach provided to consumers, collection sites,
40 manufacturers, distributors, and retailers by the program operator

1 for the purpose of promoting the collection and recycling of covered
2 batteries, a description of how that education and outreach met the
3 requirements of section 9 of this act, samples of education and
4 outreach materials, a summary of coordinated education and outreach
5 efforts with any other battery stewardship organizations implementing
6 a plan approved by the department, and a summary of any changes made
7 during the previous calendar year to education and outreach
8 activities;

9 (l) A list of all collection sites and accompanying latitude and
10 longitude data and an address for each listed site, and an up-to-date
11 map indicating the location of all collection sites used to implement
12 the program, with links to appropriate websites where there are
13 existing websites associated with a site;

14 (m) A description of methods used to collect, transport, and
15 recycle covered batteries by the battery stewardship organization;

16 (n) A summary on progress made towards the program performance
17 goals established under section 6 of this act, and an explanation of
18 why performance goals were not met, if applicable; and

19 (o) An evaluation of the effectiveness of education and outreach
20 activities.

21 (2) The weight of batteries or recovered resources from those
22 batteries must only be counted once and may not be counted by more
23 than one battery stewardship organization.

24 (3) In addition to the requirements of subsection (1) of this
25 section, with respect to each facility used in the processing or
26 disposition of batteries collected under the program, the battery
27 stewardship organization must report:

28 (a) Whether the facility is located domestically, in an
29 organization for economic cooperation and development country, or in
30 a country that meets organization for economic cooperation and
31 development operating standards; and

32 (b) What facilities processed the batteries, including a summary
33 of any violations of environmental or labor laws and regulations over
34 the previous three years at each facility.

35 (4) If a battery stewardship organization has disposed of covered
36 batteries through energy recovery, incineration, or landfilling during
37 the preceding calendar year of program implementation, the annual
38 report must specify the steps that the battery stewardship
39 organization will take to make the recycling of covered batteries

1 cost-effective, where possible, or to otherwise increase battery
2 recycling rates achieved by the battery stewardship organization.

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

13 NEW SECTION. **Sec. 11.** FEE AND DEPARTMENT OF ECOLOGY ROLE. (1)

14 The department must adopt rules as necessary for the purpose of
15 implementing, administering, and enforcing this chapter. The
16 department must by rule establish fees, to be paid annually by a
17 battery stewardship organization, that are adequate to cover the
18 department's full costs of implementing, administering, and enforcing
19 this chapter and allocates costs between battery stewardship
20 organizations, if applicable. All fees must be based on costs related
21 to implementing, administering, and enforcing this chapter, not to
22 exceed expenses incurred by the department for these activities.

23 (2) The responsibilities of the department in implementing,
24 administering, and enforcing this chapter include, but are not
25 limited to:

26 (a) Reviewing submitted stewardship plans and plan amendments and
27 making determinations as to whether to approve the plan or plan
28 amendment;

29 (i) The department must provide a letter of approval for the plan
30 or plan amendment if it provides for the establishment of a
31 stewardship program that meets the requirements of sections 3 through
32 9 of this act;

33 (ii) If a plan or plan amendment is rejected, the department must
34 provide the reasons for rejecting the plan to the battery stewardship
35 organization. The battery stewardship organization must submit a new
36 plan within 60 days after receipt of the letter of disapproval; and

37 (iii) When a plan or an amendment to an approved plan is
38 submitted under this section, the department shall make the proposed

1 plan or amendment available for public review and comment for at
2 least 30 days;

3 (b) Reviewing annual reports submitted under section 10 of this
4 act within 90 days of submission to ensure compliance with that
5 section;

6 (c)(i) Maintaining a website that lists producers and their
7 brands that are participating in an approved plan, and that makes
8 available to the public each plan, plan amendment, and annual report
9 received by the department under this chapter;

10 (ii) Upon the date the first plan is approved, the department
11 must post on its website a list of producers and their brands for
12 which the department has approved a plan. The department must update
13 the list of producers and brands participating under an approved
14 program plan based on information provided to the department from
15 battery stewardship organizations; and

16 (d) Providing technical assistance to producers and retailers
17 related to the requirements of this chapter and issuing orders or
18 imposing civil penalties authorized under section 12 of this act
19 where the technical assistance efforts do not lead to compliance by a
20 producer or retailer.

21 (3) Beginning January 1, 2032, and every five years thereafter,
22 after consultation with battery stewardship organizations, the
23 department may by rule increase the minimum recycling efficiency
24 rates established in section 6 of this act based on the most
25 economically and technically feasible processes and methodology
26 available.

27 NEW SECTION. **Sec. 12.** PENALTIES AND CIVIL ACTION PROVISIONS.

28 (1)(a) A battery stewardship organization implementing an approved
29 plan may bring a civil action or actions to recover costs, damages,
30 and fees, as specified in this section, from a producer who sells or
31 otherwise makes available in Washington covered batteries or battery-
32 containing products not included in an approved plan in violation of
33 the requirements of this chapter. An action under this section may be
34 brought against one or more defendants. An action may only be brought
35 against a defendant producer when the stewardship program incurs
36 costs in Washington, including reasonable incremental administrative
37 and program promotional costs, in excess of \$1,000 to collect,
38 transport, and recycle or otherwise dispose of the covered batteries
39 or battery-containing products of a nonparticipating producer.

1 (b) A battery stewardship organization may bring a civil action
2 against a producer of a recalled battery to recover costs associated
3 with handling a recalled battery.

4 (c) A battery stewardship organization implementing an approved
5 stewardship plan may bring a civil action against another battery
6 stewardship organization that under performs on its battery
7 collection obligations under this chapter by failing to collect and
8 provide for the end-of-life management of batteries in an amount
9 roughly equivalent to costs imposed on the plaintiff battery
10 stewardship organization by virtue of the failures of the defendants,
11 plus legal fees and expenses.

12 (d) The remedies provided in this subsection are in addition to
13 the enforcement authority of the department and do not limit and are
14 not limited by a decision by the department to impose a civil penalty
15 or issue an order under subsection (2) of this section. The
16 department is not required to audit, participate in, or provide
17 assistance to a battery stewardship organization pursuing a civil
18 action authorized under this subsection.

19 (2) (a) The department may administratively impose a civil penalty
20 on a person who violates this chapter in an amount of up to \$1,000
21 per violation per day.

22 (b) The department may administratively impose a civil penalty of
23 up to \$10,000 per violation per day on a person for repeated
24 violations of this chapter or failure to comply with an order issued
25 under (c) of this subsection.

26 (c) Whenever on the basis of any information the department
27 determines that a person has violated or is in violation of this
28 chapter, the department may issue an order requiring compliance. A
29 person who fails to take corrective action as specified in a
30 compliance order is liable for a civil penalty as provided in (b) of
31 this subsection, without receiving a written warning prescribed in
32 (e) of this subsection.

33 (d) A person who is issued an order or incurs a penalty under
34 this section may appeal the order or penalty to the pollution control
35 hearings board established by chapter 43.21B RCW.

36 (e) Prior to imposing penalties under this section, the
37 department must provide a producer, retailer, or battery stewardship
38 organization with a written warning for the first violation by the
39 producer, retailer, or battery stewardship organization of the
40 requirements of this chapter. The written warning must inform a

1 producer, retailer, or battery stewardship organization that it must
2 participate in an approved plan or otherwise come into compliance
3 with the requirements of this chapter within 30 days of the notice. A
4 producer, retailer, or battery stewardship organization that violates
5 a provision of this chapter after the initial written warning may be
6 assessed a penalty as provided in this subsection.

7 (3) Penalties levied under subsection (2) of this section must be
8 deposited in the model toxics control operating account created in
9 RCW 70A.305.180.

10 (4) No penalty may be assessed on an individual or resident for
11 the improper disposal of covered batteries as described in section 15
12 of this act in a noncommercial or residential setting.

13 NEW SECTION. **Sec. 13.** RESPONSIBLE BATTERY MANAGEMENT ACCOUNT.

14 The responsible battery management account is created in the custody
15 of the state treasurer. All receipts from fees paid under this
16 chapter must be deposited in the account. Only the director of the
17 department or the director's designee may authorize expenditures from
18 the account. The account is subject to allotment procedures under
19 chapter 43.88 RCW, but an appropriation is not required for
20 expenditures. Moneys in the account may be used solely by the
21 department for administering, implementing, and enforcing the
22 requirements of this chapter. Funds in the account may not be
23 diverted for any purpose or activity other than those specified in
24 this section.

25 NEW SECTION. **Sec. 14.** MARKING REQUIREMENTS FOR BATTERIES. (1)

26 Beginning January 1, 2028, a producer or retailer may only sell,
27 distribute, or offer for sale in or into Washington a large format
28 battery, covered battery, or battery-containing product that contains
29 a battery that is designed or intended to be easily removable from
30 the product, if the battery is:

31 (a) Marked with an identification of the producer of the battery,
32 unless the battery is less than one-half inch in diameter or does not
33 contain a surface whose length exceeds one-half inch; and

34 (b) Beginning January 1, 2030, marked with proper labeling to
35 ensure proper collection and recycling, by identifying the chemistry
36 of the battery and including an indication that the battery should
37 not be disposed of as household waste.

1 (2) A producer shall certify to its customers, or to the retailer
2 if the retailer is not the customer, that the requirements of this
3 section have been met, as provided in section 4 of this act.

4 (3) The department may amend, by rule, the requirements of
5 subsection (1) of this section to maintain consistency with the
6 labeling requirements or voluntary standards for batteries
7 established in federal law.

8 NEW SECTION. **Sec. 15.** GENERAL BATTERY DISPOSAL AND COLLECTION
9 REQUIREMENTS. Effective July 1, 2027, for portable batteries and July
10 1, 2029, for medium format batteries, or the first date on which an
11 approved plan begins to be implemented under this chapter by a
12 battery stewardship organization, whichever comes first:

13 (1) All persons must dispose of unwanted covered batteries
14 through one of the following disposal options:

15 (a) Disposal using the collection sites established by or
16 included in the programs created by this chapter;

17 (b) For covered batteries generated by persons that are regulated
18 generators of covered batteries under federal or state hazardous or
19 solid waste laws, disposal in a manner consistent with the
20 requirements of those laws; or

21 (c) Disposal using local government collection facilities that
22 collect batteries consistent with section 8(4)(c) of this act.

23 (2)(a) A fee may not be charged at the time unwanted covered
24 batteries are delivered or collected for management.

25 (b) All covered batteries may only be collected, transported, and
26 processed in a manner that meets the standards established for a
27 battery stewardship organization in a plan approved by the
28 department, unless the batteries are being managed as described in
29 subsection (1)(b) of this section.

30 (3) A person may not place covered batteries in waste containers
31 for disposal at incinerators, waste to energy facilities, or
32 landfills.

33 (4) A person may not place covered batteries in or on a container
34 for mixed recyclables unless there is a separate location or
35 compartment for the covered battery that complies with local
36 government collection standards or guidelines.

37 (5) An owner or operator of a solid waste facility may not be
38 found in violation of this section if the facility has posted in a
39 conspicuous location a sign stating that covered batteries must be

1 managed through collection sites established by a battery stewardship
2 organization and are not accepted for disposal.

3 (6) A solid waste collector may not be found in violation of this
4 section for a covered battery placed in a disposal container by the
5 generator of the covered battery.

6 NEW SECTION. **Sec. 16.** DEPARTMENT ASSESSMENT OF LARGE FORMAT
7 BATTERIES, MEDICAL DEVICES, LEAD ACID BATTERIES, AND BATTERY-
8 CONTAINING PRODUCTS AND THEIR BATTERIES. (1) By July 1, 2027, the
9 department must complete an assessment of the opportunities and
10 challenges associated with the end-of-life management of batteries
11 that are not covered batteries, including:

12 (a) Large format batteries;

13 (b) Lead acid batteries that are greater than 11 pounds or are
14 subject to the provisions of RCW 70A.205.505 through 70A.205.530;

15 (c) Batteries contained in medical devices, as specified in Title
16 21 U.S.C. Sec. 360c as it existed as of the effective date of this
17 section that are not designed and marketed for sale or resale
18 principally to consumers for personal use; and

19 (d) Batteries not intended or designed to be easily removed by a
20 customer that are contained in battery-containing products, including
21 medical devices, and in electronic products that are not covered
22 electronic products managed under an approved plan implemented under
23 chapter 70A.500 RCW.

24 (2) The department must consult with the department of commerce
25 and interested stakeholders in completing the assessment, including
26 consultation with overburdened communities and vulnerable populations
27 identified by the department under chapter 70A.02 RCW. The assessment
28 must identify any needed adjustments to the stewardship program
29 requirements established in this chapter that are necessary to
30 maximize public health, safety, and environmental benefits, such as
31 battery reuse.

32 (3) The assessment must consider:

33 (a) The different categories and uses of batteries and battery-
34 containing products listed in subsection (1) of this section;

35 (b) The current economic value and reuse or recycling potential
36 of large format batteries or large format battery components and a
37 summary of studies examining the environmental and equity
38 implications of displacing demand for new rare earth materials,

1 critical materials, and other conflict materials through the reuse
2 and recycling of batteries;

3 (c) The current methods by which unwanted batteries and battery-
4 containing products listed in subsection (1) of this section are
5 managed in Washington and nearby states and provinces;

6 (d) Challenges posed by the potential collection, management, and
7 transport of batteries and battery-containing products listed in
8 subsection (1) of this section, including challenges associated with
9 removing batteries that were not intended or designed to be easily
10 removable from products, other than by the manufacturer; and

11 (e) Which criteria of this chapter should apply to batteries and
12 battery-containing products listed in subsection (1) of this section
13 in a manner that is identical or analogous to the requirements
14 applicable to covered batteries.

15 (4) By October 1, 2027, the department must submit a report to
16 the appropriate committees of the legislature containing the findings
17 of the assessment required in this section.

18 NEW SECTION. **Sec. 17.** DEPARTMENT OF ECOLOGY RECOMMENDATIONS FOR
19 MANAGEMENT OF ELECTRIC VEHICLE BATTERIES. (1) By November 30, 2023,
20 the department of ecology must submit a report to the appropriate
21 committees of the legislature on preliminary policy recommendations
22 for the collection and management of electric vehicle batteries. By
23 April 30, 2024, the department of ecology must report to the
24 appropriate committees of the legislature on final policy
25 recommendations for the collection and management of electric vehicle
26 batteries.

27 (2) In developing the recommendations under subsection (1) of
28 this section, the department of ecology must:

29 (a) Solicit input from representatives of automotive wrecking and
30 salvage yards, solid waste collection and processing companies, local
31 governments, environmental organizations, electric vehicle
32 manufacturers, and any other interested parties; and

33 (b) Examine best practices in other states and jurisdictions.

34 NEW SECTION. **Sec. 18.** ANTITRUST. Producers or battery
35 stewardship organizations acting on behalf of producers that prepare,
36 submit, and implement a battery stewardship program plan pursuant to
37 this chapter and who are thereby subject to regulation by the
38 department are granted immunity from state laws relating to

1 antitrust, restraint of trade, unfair trade practices, and other
2 regulation of trade and commerce, for the limited purpose of
3 planning, reporting, and operating a battery stewardship program,
4 including:

5 (1) The creation, implementation, or management of a battery
6 stewardship organization and any battery stewardship plan regardless
7 of whether it is submitted, denied, or approved;

8 (2) The determination of the cost and structure of a battery
9 stewardship plan; and

10 (3) The types or quantities of batteries being recycled or
11 otherwise managed pursuant to this chapter.

12 NEW SECTION. **Sec. 19.** AUTHORITY OF THE UTILITIES AND
13 TRANSPORTATION COMMISSION. Nothing in this chapter changes or limits
14 the authority of the Washington utilities and transportation
15 commission to regulate collection of solid waste, including curbside
16 collection of residential recyclable materials, nor does this chapter
17 change or limit the authority of a city or town to provide the
18 service itself or by contract under RCW 81.77.020.

19 **Sec. 20.** RCW 43.21B.110 and 2022 c 180 s 812 are each amended to
20 read as follows:

21 (1) The hearings board shall only have jurisdiction to hear and
22 decide appeals from the following decisions of the department, the
23 director, local conservation districts, the air pollution control
24 boards or authorities as established pursuant to chapter 70A.15 RCW,
25 local health departments, the department of natural resources, the
26 department of fish and wildlife, the parks and recreation commission,
27 and authorized public entities described in chapter 79.100 RCW:

28 (a) Civil penalties imposed pursuant to RCW 18.104.155,
29 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
30 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
31 70A.65.200, 70A.455.090, section 12 of this act, 76.09.170,
32 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
33 90.56.310, 90.56.330, and 90.64.102.

34 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
35 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
36 70A.245.020, 70A.65.200, section 12 of this act, 86.16.020,
37 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

1 (c) Except as provided in RCW 90.03.210(2), the issuance,
2 modification, or termination of any permit, certificate, or license
3 by the department or any air authority in the exercise of its
4 jurisdiction, including the issuance or termination of a waste
5 disposal permit, the denial of an application for a waste disposal
6 permit, the modification of the conditions or the terms of a waste
7 disposal permit, or a decision to approve or deny an application for
8 a solid waste permit exemption under RCW 70A.205.260.

9 (d) Decisions of local health departments regarding the grant or
10 denial of solid waste permits pursuant to chapter 70A.205 RCW.

11 (e) Decisions of local health departments regarding the issuance
12 and enforcement of permits to use or dispose of biosolids under RCW
13 70A.226.090.

14 (f) Decisions of the department regarding waste-derived
15 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
16 decisions of the department regarding waste-derived soil amendments
17 under RCW 70A.205.145.

18 (g) Decisions of local conservation districts related to the
19 denial of approval or denial of certification of a dairy nutrient
20 management plan; conditions contained in a plan; application of any
21 dairy nutrient management practices, standards, methods, and
22 technologies to a particular dairy farm; and failure to adhere to the
23 plan review and approval timelines in RCW 90.64.026.

24 (h) Any other decision by the department or an air authority
25 which pursuant to law must be decided as an adjudicative proceeding
26 under chapter 34.05 RCW.

27 (i) Decisions of the department of natural resources, the
28 department of fish and wildlife, and the department that are
29 reviewable under chapter 76.09 RCW, and the department of natural
30 resources' appeals of county, city, or town objections under RCW
31 76.09.050(7).

32 (j) Forest health hazard orders issued by the commissioner of
33 public lands under RCW 76.06.180.

34 (k) Decisions of the department of fish and wildlife to issue,
35 deny, condition, or modify a hydraulic project approval permit under
36 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
37 comply, to issue a civil penalty, or to issue a notice of intent to
38 disapprove applications.

39 (l) Decisions of the department of natural resources that are
40 reviewable under RCW 78.44.270.

1 (m) Decisions of an authorized public entity under RCW 79.100.010
2 to take temporary possession or custody of a vessel or to contest the
3 amount of reimbursement owed that are reviewable by the hearings
4 board under RCW 79.100.120.

5 (n) Decisions of the department of ecology that are appealable
6 under RCW 70A.245.020 to set recycled minimum postconsumer content
7 for covered products or to temporarily exclude types of covered
8 products in plastic containers from minimum postconsumer recycled
9 content requirements.

10 (o) Orders by the department of ecology under RCW 70A.455.080.

11 (2) The following hearings shall not be conducted by the hearings
12 board:

13 (a) Hearings required by law to be conducted by the shorelines
14 hearings board pursuant to chapter 90.58 RCW.

15 (b) Hearings conducted by the department pursuant to RCW
16 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
17 70A.15.3110, and 90.44.180.

18 (c) Appeals of decisions by the department under RCW 90.03.110
19 and 90.44.220.

20 (d) Hearings conducted by the department to adopt, modify, or
21 repeal rules.

22 (3) Review of rules and regulations adopted by the hearings board
23 shall be subject to review in accordance with the provisions of the
24 administrative procedure act, chapter 34.05 RCW.

25 **Sec. 21.** RCW 43.21B.300 and 2022 c 180 s 813 are each amended to
26 read as follows:

27 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
28 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
29 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, section 12 of this
30 act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
31 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by
32 a notice in writing, either by certified mail with return receipt
33 requested or by personal service, to the person incurring the penalty
34 from the department or the local air authority, describing the
35 violation with reasonable particularity. For penalties issued by
36 local air authorities, within 30 days after the notice is received,
37 the person incurring the penalty may apply in writing to the
38 authority for the remission or mitigation of the penalty. Upon
39 receipt of the application, the authority may remit or mitigate the

1 penalty upon whatever terms the authority in its discretion deems
2 proper. The authority may ascertain the facts regarding all such
3 applications in such reasonable manner and under such rules as it may
4 deem proper and shall remit or mitigate the penalty only upon a
5 demonstration of extraordinary circumstances such as the presence of
6 information or factors not considered in setting the original
7 penalty.

8 (2) Any penalty imposed under this section may be appealed to the
9 pollution control hearings board in accordance with this chapter if
10 the appeal is filed with the hearings board and served on the
11 department or authority 30 days after the date of receipt by the
12 person penalized of the notice imposing the penalty or 30 days after
13 the date of receipt of the notice of disposition by a local air
14 authority of the application for relief from penalty.

15 (3) A penalty shall become due and payable on the later of:

16 (a) (~~(Thirty)~~) 30 days after receipt of the notice imposing the
17 penalty;

18 (b) (~~(Thirty)~~) 30 days after receipt of the notice of disposition
19 by a local air authority on application for relief from penalty, if
20 such an application is made; or

21 (c) (~~(Thirty)~~) 30 days after receipt of the notice of decision of
22 the hearings board if the penalty is appealed.

23 (4) If the amount of any penalty is not paid to the department
24 within 30 days after it becomes due and payable, the attorney
25 general, upon request of the department, shall bring an action in the
26 name of the state of Washington in the superior court of Thurston
27 county, or of any county in which the violator does business, to
28 recover the penalty. If the amount of the penalty is not paid to the
29 authority within 30 days after it becomes due and payable, the
30 authority may bring an action to recover the penalty in the superior
31 court of the county of the authority's main office or of any county
32 in which the violator does business. In these actions, the procedures
33 and rules of evidence shall be the same as in an ordinary civil
34 action.

35 (5) All penalties recovered shall be paid into the state treasury
36 and credited to the general fund except those penalties imposed
37 pursuant to RCW 18.104.155, which shall be credited to the
38 reclamation account as provided in RCW 18.104.155(7), RCW
39 70A.15.3160, the disposition of which shall be governed by that
40 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited

1 to the recycling enhancement account created in RCW 70A.245.100, RCW
2 70A.300.090 and section 12 of this act, which shall be credited to
3 the model toxics control operating account created in RCW
4 70A.305.180, RCW 70A.65.200, which shall be credited to the climate
5 investment account created in RCW 70A.65.250, RCW 90.56.330, which
6 shall be credited to the coastal protection fund created by RCW
7 90.48.390, and RCW 70A.355.070, which shall be credited to the
8 underground storage tank account created by RCW 70A.355.090.

9 NEW SECTION. **Sec. 22.** A new section is added to chapter 82.04
10 RCW to read as follows:

11 (1) This chapter does not apply to the receipts of a battery
12 stewardship organization formed under chapter 70A.--- RCW (the new
13 chapter created in section 23 of this act) from charges to
14 participating producers under a battery stewardship program as
15 provided in section 7 of this act.

16 (2) This section is not subject to the requirements of RCW
17 82.32.805 and 82.32.808 and is not subject to an expiration date.

18 (3) The definitions in section 2 of this act apply throughout
19 this section unless the context clearly requires otherwise.

20 NEW SECTION. **Sec. 23.** CODIFICATION. Sections 1 through 16, 18,
21 and 19 of this act constitute a new chapter in Title 70A RCW.

22 NEW SECTION. **Sec. 24.** SEVERABILITY. If any provision of this
23 act or its application to any person or circumstance is held invalid,
24 the remainder of the act or the application of the provision to other
25 persons or circumstances is not affected."

26 Correct the title.

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