

E2SSB 5144 - H COMM AMD

By Committee on Environment & Energy

NOT ADOPTED 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. For this provision to apply, such
18 a producer of covered batteries that are included in a battery-
19 containing product must provide written certification of that
20 membership to both the producer of the covered battery-containing
21 product and the battery stewardship organization of which the battery
22 producer is a member.

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

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

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

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

- 38 (a) Combustion;
- 39 (b) Incineration;
- 40 (c) Energy generation;

1 (d) Fuel production; or

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

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

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

13 (20) "Urban area" means an area delineated by the United States
14 census bureau, based on a minimum threshold of 2,000 housing units or
15 5,000 people, as of January 1, 2023.

16 NEW SECTION. **Sec. 3.** REQUIREMENT THAT PRODUCERS IMPLEMENT A
17 STEWARDSHIP PLAN. (1) Beginning January 1, 2027, each producer
18 selling, making available for sale, or distributing covered batteries
19 or battery-containing products in or into the state of Washington
20 shall participate in an approved Washington state battery stewardship
21 plan through participation in and appropriate funding of a battery
22 stewardship organization.

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

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

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

1 product is made available for retail sale, a producer or brand of
2 covered battery or battery-containing product sold by the retailer as
3 being a participant in an approved plan or the implementer of an
4 approved plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (h) A description of the method to establish and administer a
39 means for fully funding the program in a manner that equitably
40 distributes the program's costs among the producers that are part of

1 the battery stewardship organization. For producers that elect to
2 meet the requirements of this chapter individually, without joining a
3 battery stewardship organization, a description of the proposed
4 method to establish and administer a means for fully funding the
5 program;

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

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

19 (k) A description of the criteria to be used in the program to
20 determine whether an entity may serve as a collection site for
21 discarded batteries under the program;

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

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

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

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

39 (n) Details how the program will achieve a recycling efficiency
40 rate, calculated consistent with section 10 of this act, of at least

1 60 percent for rechargeable batteries and at least 70 percent for
2 primary batteries; and

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

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

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

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

21 (c) No less than every five years.

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

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

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

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

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

37 (5) No earlier than five years after the initial approval of a
38 plan, the department may require a battery stewardship organization
39 to submit a revised plan, which may include improvements to the
40 collection site network or increased expenditures dedicated to

1 education and outreach if the approved plan has not met the
2 performance goals under section 6 of this act.

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

- 9 (a) The rate of battery collection for recycling in Washington;
10 (b) The recycling efficiency of the program; and
11 (c) Public awareness of the program.

12 (2) The performance goals established in each battery stewardship
13 plan must include, but are not limited to:

- 14 (a) Target collection rates;
15 (b) Target recycling efficiency rates of at least 60 percent for
16 rechargeable batteries and at least 70 percent for primary batteries;
17 and

18 (c) Goals for public awareness, convenience, and accessibility
19 that meet or exceed the minimum requirements established in section 8
20 of this act.

21 NEW SECTION. **Sec. 7.** STEWARDSHIP PROGRAM COMPONENTS—FUNDING.

22 (1) Each battery stewardship organization must ensure adequate
23 funding is available to fully implement approved battery stewardship
24 plans, including the implementation of aspects of the plan
25 addressing:

- 26 (a) Battery collection, transporting, and processing;
27 (b) Education and outreach;
28 (c) Program evaluation; and
29 (d) Payment of the administrative fees to the department under
30 section 11 of this act.

31 (2) A battery stewardship organization implementing a battery
32 stewardship plan on behalf of producers must develop, and continually
33 improve over the years of program implementation, a system to collect
34 charges from participating producers to cover the costs of plan
35 implementation in an environmentally sound and socially just manner
36 that encourages the use of design attributes that reduce the
37 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) Each battery stewardship organization is responsible for
10 all costs of participating covered battery collection,
11 transportation, processing, education, administration, agency
12 reimbursement, recycling, and end-of-life management in accordance
13 with the battery management hierarchy and environmentally sound
14 management practices.

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

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

21 (4)(a) A battery stewardship organization must reimburse local
22 governments for demonstrable costs, as defined by rules adopted by
23 the department, incurred as a result of a local government facility
24 or solid waste handling facility serving as a collection site for a
25 program including, but not limited to, associated labor costs and
26 other costs associated with accessibility and collection site
27 standards such as storage.

28 (b) A battery stewardship organization shall at a minimum provide
29 collection sites with appropriate containers for covered batteries
30 subject to its program, training, signage, safety guidance, and
31 educational materials, at no cost to the collection sites.

32 (c) A battery stewardship organization must include in its
33 battery stewardship plan a template of the service agreement and any
34 other forms, contracts, or other documents for use in distribution of
35 reimbursements. The service agreement template must be developed with
36 local government input. The entities seeking or receiving
37 reimbursement from the battery stewardship organization are not
38 required to use the template agreement included in the program plan
39 and are not limited to the terms of the template agreement included
40 in the program plan.

1 NEW SECTION. **Sec. 8.** STEWARDSHIP PROGRAM COMPONENTS—COLLECTION

2 AND MANAGEMENT REQUIREMENTS. (1) Battery stewardship organizations
3 implementing a battery stewardship plan must provide for the
4 collection of all covered batteries, including all chemistries and
5 brands of covered batteries, on a free, continuous, convenient,
6 visible, and accessible basis to any person, business, government
7 agency, or nonprofit organization. Except as provided in subsection
8 (2)(b) of this section, each battery stewardship plan must allow any
9 person, business, government agency, or nonprofit organization to
10 discard each chemistry and brand of covered battery at each
11 collection site that counts towards the satisfaction of the
12 collection site criteria in subsection (3) of this section.

13 (2)(a) For each collection site utilized by the program, each
14 battery stewardship organization must provide suitable collection
15 containers for covered batteries that are segregated from other solid
16 waste or make mutually agreeable alternative arrangements for the
17 collection of batteries at the site. The location of collection
18 containers at each collection site used by the program must be within
19 view of a responsible person and must be accompanied by signage made
20 available to the collection site by the battery stewardship
21 organization that informs customers regarding the end-of-life
22 management options for batteries provided by the collection site
23 under this chapter. Each collection site must adhere to the
24 operations manual and other safety information provided to the
25 collection site by the battery stewardship organization.

26 (b) Medium format batteries may only be collected at household
27 hazardous waste collection sites or other sites that are staffed by
28 persons who are certified to handle and ship hazardous materials
29 under federal regulations adopted by the United States department of
30 transportation pipeline and hazardous materials safety
31 administration.

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

35 (ii) Each battery stewardship organization must provide for
36 collection of damaged and defective batteries in each county of the
37 state, either through collection sites or collection events with
38 qualified staff as specified in (c)(i) of this subsection. Collection
39 events should be provided periodically throughout the year where
40 practicable, but must be provided at least once per year at a

1 minimum, in each county in which there are not permanent collection
2 sites providing for the collection of damaged and defective
3 batteries.

4 (iii) As used in this subsection, "damaged and defective
5 batteries" means batteries that have been damaged or identified by
6 the manufacturer as being defective for safety reasons, that have the
7 potential of producing a dangerous evolution of heat, fire, or short
8 circuit, as referred to in 49 C.F.R. Sec. 173.185(f) as of January 1,
9 2023, or as updated by the department by rule to maintain consistency
10 with federal standards.

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

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

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

33 (ii) The establishment of collection sites that are accessible
34 and convenient to overburdened communities identified by the
35 department under chapter 70A.02 RCW, in an amount that is roughly
36 proportional to the number and population of overburdened communities
37 identified by the department under chapter 70A.02 RCW relative to the
38 population or size of the state as a whole;

39 (iii) At least one permanent collection site for portable
40 batteries in addition to those required in (b) (i) of this subsection

1 for every 30,000 residents of each urban area in this state. For the
2 purposes of compliance with this subsection (3)(b)(iii), a battery
3 stewardship organization and the department may rely upon new or
4 updated designations of urban locations by the United States census
5 bureau that are determined by the department to be similar to the
6 definition of urban areas in section 2 of this act;

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

10 (v) Service to areas without a permanent collection site,
11 including service to island and geographically isolated communities
12 without a permanent collection site.

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

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

17 (ii) Reasonable geographic dispersion of collection sites
18 throughout the state;

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

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

25 (v) Service to areas without a permanent collection site,
26 including service to island and geographically isolated communities.
27 A battery stewardship organization must ensure that there is a
28 collection site or annual collection event in each county of the
29 state. Collection events should be provided periodically throughout
30 the year where practicable, but must be provided at least once per
31 year at a minimum in each county in which there are not permanent
32 collection sites providing for the collection of damaged and
33 defective batteries.

34 (4)(a) Battery stewardship programs must use existing public and
35 private waste collection services and facilities, including battery
36 collection sites that are established through other battery
37 collection services, transporters, consolidators, processors, and
38 retailers, where cost-effective, mutually agreeable, and otherwise
39 practicable.

1 (b) (i) Battery stewardship programs must use as a collection site
2 for covered batteries any retailer, wholesaler, municipality, solid
3 waste management facility, or other entity that meets the criteria
4 for collection sites in the approved plan, upon the submission of a
5 request by the entity to the battery stewardship organization to
6 serve as a collection site.

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

22 (c) An entity that operates a temporary collection event for a
23 stewardship program may retain collected materials if the collected
24 materials are collected, transported, and processed at the expense of
25 the entity and in a manner that meet the standards established for
26 the battery stewardship organization in the plan approved by the
27 department, including processing of collected materials at a facility
28 approved under the battery stewardship organization plan. An entity
29 that retains collected materials must report, to the battery
30 stewardship organization, information necessary for the battery
31 stewardship organization to fulfill its reporting obligations under
32 section 10 of this act. A battery stewardship organization may count
33 materials collected by an entity under this subsection (4) (c) towards
34 the achievement of performance requirements established in section 6
35 of this act.

36 (d) A local government facility may collect batteries through a
37 collection site or temporary collection event that is not a
38 collection site or event under the program implemented by a battery
39 stewardship organization. A local government facility that collects
40 covered batteries under this subsection must collect each chemistry

1 and brand of covered battery at its collection site or sites, and
2 must collect, transport, and process collected materials in a manner
3 that meets the standards established for the battery stewardship
4 organization in the plan approved by the department. A local
5 government facility that collects materials at a collection site or
6 temporary collection event operating outside of a battery stewardship
7 program must report, to a battery stewardship organization,
8 information necessary for the battery stewardship organization to
9 fulfill its reporting obligations under section 10 of this act. A
10 battery stewardship organization may count materials collected by a
11 local government facility under this subsection (4)(d) towards the
12 achievement of performance requirements established in section 6 of
13 this act.

14 (e) A battery stewardship organization may suspend or terminate a
15 collection site or service that does not adhere to the collection
16 site criteria in the approved plan and that poses an immediate health
17 and safety concern.

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

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

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

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

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

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

31 (6) Batteries collected by the program must be managed consistent
32 with the battery management hierarchy. Lower priority end-of-life
33 battery management options on the battery management hierarchy may be
34 used by a program only when a battery stewardship organization
35 documents to the department that all higher priority battery
36 management options on the battery management hierarchy are not
37 technologically feasible or economically practical.

38 NEW SECTION. **Sec. 9.** STEWARDSHIP PROGRAM COMPONENTS—EDUCATION
39 AND OUTREACH REQUIREMENTS. (1) Each battery stewardship organization

1 must carry out promotional activities in support of plan
2 implementation including, but not limited to, the development:

3 (a) And maintenance of a website;

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

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

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

11 (e) And distribution of collection site safety training
12 procedures that are in compliance with state law to collection sites
13 to help ensure proper management of covered batteries at collection
14 sites; and

15 (f) And implementation of outreach and educational resources
16 targeted to overburdened communities and vulnerable populations
17 identified by the department under chapter 70A.02 RCW that are
18 conceptually, linguistically, and culturally accurate for the
19 communities served and reach the state's diverse ethnic populations,
20 including through meaningful consultation with communities that bear
21 disproportionately higher levels of adverse environmental and social
22 justice impacts.

23 (2) Each battery stewardship organization must provide:

24 (a) Consumer-focused educational promotional materials to each
25 collection site used by the program and accessible by customers of
26 retailers that sell covered batteries or battery-containing products;
27 and

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

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

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

1 (4) Upon request by a retailer, the battery stewardship
2 organization must provide the retailer educational materials
3 describing collection opportunities for batteries.

4 (5) If multiple battery stewardship organizations are
5 implementing plans approved by the department, the battery
6 stewardship organizations must coordinate in carrying out their
7 education and outreach responsibilities under this section and must
8 include in their annual reports to the department under section 10 of
9 this act a summary of their coordinated education and outreach
10 efforts.

11 (6) During the first year of program implementation and every
12 five years thereafter, each battery stewardship organization must
13 carry out a survey of public awareness regarding the requirements of
14 the program established under this chapter, including the provisions
15 of section 15 of this act. Each battery stewardship organization must
16 share the results of the public awareness surveys with the
17 department.

18 NEW SECTION. **Sec. 10.** REPORTING REQUIREMENTS. (1) By June 1,
19 2028, and each June 1st thereafter, each battery stewardship
20 organization must submit an annual report to the department covering
21 the preceding calendar year of battery stewardship plan
22 implementation. The report must include:

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

27 (b) A summary financial statement documenting the financing of a
28 battery stewardship organization's program and an analysis of program
29 costs and expenditures, including an analysis of the program's
30 expenses, such as collection, transportation, recycling, education,
31 and administrative overhead. The summary financial statement must be
32 sufficiently detailed to provide transparency that funds collected
33 from producers as a result of their activities in Washington are
34 spent on program implementation in Washington. Battery stewardship
35 organizations implementing similar battery stewardship programs in
36 multiple states may submit a financial statement including all
37 covered states, as long as the statement breaks out financial
38 information pertinent to Washington;

- 1 (c) The weight, by chemistry, of covered batteries collected
2 under the program;
- 3 (d) The weight of materials recycled from covered batteries
4 collected under the program, in total, and by method of battery
5 recycling;
- 6 (e) A calculation of the recycling efficiency rates, as measured
7 consistent with subsection (2) of this section;
- 8 (f) For each facility used for the final disposition of
9 batteries, a description of how the facility recycled or otherwise
10 disposed of batteries and battery components;
- 11 (g) The weight and chemistry of batteries sent to each facility
12 used for the final disposition of batteries. The information in this
13 subsection (1)(g) may be approximated for program operations in
14 Washington based on extrapolations of national or regional data for
15 programs in operation in multiple states;
- 16 (h) The collection rate achieved under the program, including a
17 description of how this collection rate was calculated;
- 18 (i) The estimated aggregate sales, by weight and chemistry, of
19 batteries and batteries contained in or with battery-containing
20 products sold in Washington by participating producers for each of
21 the previous three calendar years;
- 22 (j) A description of the manner in which the collected batteries
23 were managed and recycled, including a discussion of best available
24 technologies and the recycling efficiency rate;
- 25 (k) A description of education and outreach efforts supporting
26 plan implementation including, but not limited to, a summary of
27 education and outreach provided to consumers, collection sites,
28 manufacturers, distributors, and retailers by the program operator
29 for the purpose of promoting the collection and recycling of covered
30 batteries, a description of how that education and outreach met the
31 requirements of section 9 of this act, samples of education and
32 outreach materials, a summary of coordinated education and outreach
33 efforts with any other battery stewardship organizations implementing
34 a plan approved by the department, and a summary of any changes made
35 during the previous calendar year to education and outreach
36 activities;
- 37 (l) A list of all collection sites and accompanying latitude and
38 longitude data and an address for each listed site, and an up-to-date
39 map indicating the location of all collection sites used to implement

1 the program, with links to appropriate websites where there are
2 existing websites associated with a site;

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

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

8 (o) An evaluation of the effectiveness of education and outreach
9 activities.

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

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

17 (a) Whether the facility is located domestically, in an
18 organization for economic cooperation and development country, or in
19 a country that meets organization for economic cooperation and
20 development operating standards; and

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

24 (4) If a battery stewardship organization has disposed of covered
25 batteries through energy recovery, incineration, or landfilling during
26 the preceding calendar year of program implementation, the annual
27 report must specify the steps that the battery stewardship
28 organization will take to make the recycling of covered batteries
29 cost-effective, where possible, or to otherwise increase battery
30 recycling rates achieved by the battery stewardship organization.

31 (5) A producer or battery stewardship organization that submits
32 information or records to the department under this chapter may
33 request that the information or records be made available only for
34 the confidential use of the department, the director of the
35 department, or the appropriate division of the department. The
36 director of the department must consider the request and if this
37 action is not detrimental to the public interest and is otherwise in
38 accordance with the policies and purposes of chapter 43.21A RCW, the
39 director must grant the request for the information to remain
40 confidential as authorized in RCW 43.21A.160.

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

2 The department must adopt rules as necessary for the purpose of
3 implementing, administering, and enforcing this chapter. The
4 department must by rule establish fees, to be paid annually by a
5 battery stewardship organization, that are adequate to cover the
6 department's full costs of implementing, administering, and enforcing
7 this chapter and allocates costs between battery stewardship
8 organizations, if applicable. If the department adopts rules that
9 require producers of certain large format batteries or other battery
10 categories addressed in sections 16 and 17 of this act to participate
11 in a battery stewardship organization regulated by the department,
12 the department may establish fees to be paid annually by a battery
13 stewardship organization that are adequate to cover the department's
14 full costs of implementing, administering, and enforcing the
15 requirements of this chapter applicable to those batteries. All fees
16 must be based on costs related to implementing, administering, and
17 enforcing this chapter, not to exceed expenses incurred by the
18 department for these activities.

19 (2) The responsibilities of the department in implementing,
20 administering, and enforcing this chapter include, but are not
21 limited to:

22 (a) Reviewing submitted stewardship plans and plan amendments and
23 making determinations as to whether to approve the plan or plan
24 amendment;

25 (i) The department must provide a letter of approval for the plan
26 or plan amendment if it provides for the establishment of a
27 stewardship program that meets the requirements of sections 3 through
28 9 of this act;

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

33 (iii) When a plan or an amendment to an approved plan is
34 submitted under this section, the department shall make the proposed
35 plan or amendment available for public review and comment for at
36 least 30 days;

37 (b) Reviewing annual reports submitted under section 10 of this
38 act within 90 days of submission to ensure compliance with that
39 section;

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

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

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

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

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

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

37 (b) A battery stewardship organization may bring a civil action
38 against a producer of a recalled battery to recover costs associated
39 with handling a recalled battery.

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

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

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

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

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

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

33 (e) Prior to imposing penalties under this section, the
34 department must provide a producer, retailer, or battery stewardship
35 organization with a written warning for the first violation by the
36 producer, retailer, or battery stewardship organization of the
37 requirements of this chapter. The written warning must inform a
38 producer, retailer, or battery stewardship organization that it must
39 participate in an approved plan or otherwise come into compliance
40 with the requirements of this chapter within 30 days of the notice. A

1 producer, retailer, or battery stewardship organization that violates
2 a provision of this chapter after the initial written warning may be
3 assessed a penalty as provided in this subsection.

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

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

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

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

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

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

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

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

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

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

5 NEW SECTION. **Sec. 15.** GENERAL BATTERY DISPOSAL AND COLLECTION
6 REQUIREMENTS. Effective July 1, 2027, for portable batteries and July
7 1, 2029, for medium format batteries, or the first date on which an
8 approved plan begins to be implemented under this chapter by a
9 battery stewardship organization, whichever comes first:

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

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

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

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

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

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

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

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

34 (5) An owner or operator of a solid waste facility may not be
35 found in violation of this section if the facility has posted in a
36 conspicuous location a sign stating that covered batteries must be
37 managed through collection sites established by a battery stewardship
38 organization and are not accepted for disposal.

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

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

10 (a) Large format batteries;

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

13 (c) Batteries contained in medical devices, as specified in Title
14 21 U.S.C. Sec. 360c as it existed as of the effective date of this
15 section; and

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

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

29 (3) The assessment must consider:

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

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

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

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

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

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

16 NEW SECTION. **Sec. 17.** DEPARTMENT OF ECOLOGY RULE MAKING TO
17 REQUIRE THE ESTABLISHMENT OF STEWARDSHIP PROGRAM PARTICIPATION
18 REQUIREMENTS FOR LARGE FORMAT BATTERIES, MEDICAL DEVICES, LEAD ACID
19 BATTERIES, AND BATTERY-CONTAINING PRODUCTS AND THEIR BATTERIES. (1)
20 By January 1, 2030, the department may, but is not required to, adopt
21 rules that require producers of batteries and battery-containing
22 products assessed in section 16 of this act to participate in a
23 stewardship program that achieves environmentally positive outcomes
24 similar to those achieved by a battery stewardship program for medium
25 format and portable batteries. As part of this rule, the department
26 may apply some or all of the provisions of section 15 of this act to
27 these batteries and battery-containing products. Nothing in this
28 subsection restricts the department from adopting or updating rules
29 after January 1, 2030, provided that the department has adopted rules
30 under this section prior to January 1, 2030.

31 (2) Any rules adopted by the department under this section must
32 require producers of batteries and battery-containing products
33 assessed in section 16 of this act to participate in a stewardship
34 program by no earlier than July 1, 2031.

35 (3) In adopting rules, the department must consider the results
36 of the assessment required under section 16 of this act and involve
37 the expertise of the department's recycling development center
38 created in chapter 70A.240 RCW.

1 (4) The department must delay or exclude categories of batteries
2 or battery-containing products, including categories of large format
3 batteries and batteries that are excluded from the definition of a
4 covered battery in section 2 of this act, based on the results of the
5 assessment required under section 16 of this act, from stewardship
6 program requirements, if the department determines that stewardship
7 program requirements are infeasible for a category of batteries or
8 battery-containing products because:

9 (a) An existing industry or other battery management system
10 exists for the battery or battery-containing product category covered
11 by the assessment in section 16 of this act that currently attains a
12 rate of collection that exceeds 95 percent of the number of that
13 category of batteries sold in Washington each year, and the existing
14 battery management system processes the batteries using
15 environmentally sound management practices; or

16 (b) A delay or exclusion from program participation requirements
17 is necessary to protect human health or the environment.

18 (5) The department must exclude from any rules adopted by the
19 department under this section any large format batteries contained in
20 or originating from electric vehicles if, by July 1, 2030, electric
21 vehicle batteries are managed under state law in a manner that
22 achieves similar outcomes to the program created in this chapter.

23 (6) In addition to the exemptions established in subsections (4)
24 and (5) of this section, the department may exclude producers from
25 some or all of the stewardship program requirements under the rules
26 adopted by the department, based on other factors determined by the
27 department.

28 NEW SECTION. **Sec. 18.** DEPARTMENT OF ECOLOGY RECOMMENDATIONS FOR
29 MANAGEMENT OF ELECTRIC VEHICLE BATTERIES. (1) By November 30, 2023,
30 the department of ecology must submit a report to the appropriate
31 committees of the legislature on preliminary policy recommendations
32 for the collection and management of electric vehicle batteries. By
33 April 30, 2024, the department of ecology must report to the
34 appropriate committees of the legislature on final policy
35 recommendations for the collection and management of electric vehicle
36 batteries.

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

1 (a) Solicit input from representatives of automotive wrecking and
2 salvage yards, solid waste collection and processing companies, local
3 governments, environmental organizations, electric vehicle
4 manufacturers, and any other interested parties; and

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

6 NEW SECTION. **Sec. 19.** ANTITRUST. Producers or battery
7 stewardship organizations acting on behalf of producers that prepare,
8 submit, and implement a battery stewardship program plan pursuant to
9 this chapter and who are thereby subject to regulation by the
10 department are granted immunity from state laws relating to
11 antitrust, restraint of trade, unfair trade practices, and other
12 regulation of trade and commerce, for the limited purpose of
13 planning, reporting, and operating a battery stewardship program,
14 including:

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

18 (2) The determination of the cost and structure of a battery
19 stewardship plan; and

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

22 NEW SECTION. **Sec. 20.** AUTHORITY OF THE UTILITIES AND
23 TRANSPORTATION COMMISSION. Nothing in this chapter changes or limits
24 the authority of the Washington utilities and transportation
25 commission to regulate collection of solid waste, including curbside
26 collection of residential recyclable materials, nor does this chapter
27 change or limit the authority of a city or town to provide the
28 service itself or by contract under RCW 81.77.020.

29 **Sec. 21.** RCW 43.21B.110 and 2022 c 180 s 812 are each amended to
30 read as follows:

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

1 (a) Civil penalties imposed pursuant to RCW 18.104.155,
2 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
3 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
4 70A.65.200, 70A.455.090, section 12 of this act, 76.09.170,
5 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
6 90.56.310, 90.56.330, and 90.64.102.

7 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
8 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
9 70A.245.020, 70A.65.200, section 12 of this act, 86.16.020,
10 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

11 (c) Except as provided in RCW 90.03.210(2), the issuance,
12 modification, or termination of any permit, certificate, or license
13 by the department or any air authority in the exercise of its
14 jurisdiction, including the issuance or termination of a waste
15 disposal permit, the denial of an application for a waste disposal
16 permit, the modification of the conditions or the terms of a waste
17 disposal permit, or a decision to approve or deny an application for
18 a solid waste permit exemption under RCW 70A.205.260.

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

21 (e) Decisions of local health departments regarding the issuance
22 and enforcement of permits to use or dispose of biosolids under RCW
23 70A.226.090.

24 (f) Decisions of the department regarding waste-derived
25 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
26 decisions of the department regarding waste-derived soil amendments
27 under RCW 70A.205.145.

28 (g) Decisions of local conservation districts related to the
29 denial of approval or denial of certification of a dairy nutrient
30 management plan; conditions contained in a plan; application of any
31 dairy nutrient management practices, standards, methods, and
32 technologies to a particular dairy farm; and failure to adhere to the
33 plan review and approval timelines in RCW 90.64.026.

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

37 (i) Decisions of the department of natural resources, the
38 department of fish and wildlife, and the department that are
39 reviewable under chapter 76.09 RCW, and the department of natural

1 resources' appeals of county, city, or town objections under RCW
2 76.09.050(7).

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

5 (k) Decisions of the department of fish and wildlife to issue,
6 deny, condition, or modify a hydraulic project approval permit under
7 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
8 comply, to issue a civil penalty, or to issue a notice of intent to
9 disapprove applications.

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

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

16 (n) Decisions of the department of ecology that are appealable
17 under RCW 70A.245.020 to set recycled minimum postconsumer content
18 for covered products or to temporarily exclude types of covered
19 products in plastic containers from minimum postconsumer recycled
20 content requirements.

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

22 (2) The following hearings shall not be conducted by the hearings
23 board:

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

26 (b) Hearings conducted by the department pursuant to RCW
27 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
28 70A.15.3110, and 90.44.180.

29 (c) Appeals of decisions by the department under RCW 90.03.110
30 and 90.44.220.

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

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

36 **Sec. 22.** RCW 43.21B.300 and 2022 c 180 s 813 are each amended to
37 read as follows:

38 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
39 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,

1 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, section 12 of this
2 act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
3 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by
4 a notice in writing, either by certified mail with return receipt
5 requested or by personal service, to the person incurring the penalty
6 from the department or the local air authority, describing the
7 violation with reasonable particularity. For penalties issued by
8 local air authorities, within 30 days after the notice is received,
9 the person incurring the penalty may apply in writing to the
10 authority for the remission or mitigation of the penalty. Upon
11 receipt of the application, the authority may remit or mitigate the
12 penalty upon whatever terms the authority in its discretion deems
13 proper. The authority may ascertain the facts regarding all such
14 applications in such reasonable manner and under such rules as it may
15 deem proper and shall remit or mitigate the penalty only upon a
16 demonstration of extraordinary circumstances such as the presence of
17 information or factors not considered in setting the original
18 penalty.

19 (2) Any penalty imposed under this section may be appealed to the
20 pollution control hearings board in accordance with this chapter if
21 the appeal is filed with the hearings board and served on the
22 department or authority 30 days after the date of receipt by the
23 person penalized of the notice imposing the penalty or 30 days after
24 the date of receipt of the notice of disposition by a local air
25 authority of the application for relief from penalty.

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

27 (a) (~~Thirty~~) 30 days after receipt of the notice imposing the
28 penalty;

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

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

34 (4) If the amount of any penalty is not paid to the department
35 within 30 days after it becomes due and payable, the attorney
36 general, upon request of the department, shall bring an action in the
37 name of the state of Washington in the superior court of Thurston
38 county, or of any county in which the violator does business, to
39 recover the penalty. If the amount of the penalty is not paid to the
40 authority within 30 days after it becomes due and payable, the

1 authority may bring an action to recover the penalty in the superior
2 court of the county of the authority's main office or of any county
3 in which the violator does business. In these actions, the procedures
4 and rules of evidence shall be the same as in an ordinary civil
5 action.

6 (5) All penalties recovered shall be paid into the state treasury
7 and credited to the general fund except those penalties imposed
8 pursuant to RCW 18.104.155, which shall be credited to the
9 reclamation account as provided in RCW 18.104.155(7), RCW
10 70A.15.3160, the disposition of which shall be governed by that
11 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited
12 to the recycling enhancement account created in RCW 70A.245.100, RCW
13 70A.300.090 and section 12 of this act, which shall be credited to
14 the model toxics control operating account created in RCW
15 70A.305.180, RCW 70A.65.200, which shall be credited to the climate
16 investment account created in RCW 70A.65.250, RCW 90.56.330, which
17 shall be credited to the coastal protection fund created by RCW
18 90.48.390, and RCW 70A.355.070, which shall be credited to the
19 underground storage tank account created by RCW 70A.355.090.

20 NEW SECTION. **Sec. 23.** A new section is added to chapter 82.04
21 RCW to read as follows:

22 (1) This chapter does not apply to the receipts of a battery
23 stewardship organization formed under chapter 70A.--- RCW (the new
24 chapter created in section 24 of this act) from charges to
25 participating producers under a battery stewardship program as
26 provided in section 7 of this act.

27 (2) This section is not subject to the requirements of RCW
28 82.32.805 and 82.32.808 and is not subject to an expiration date.

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

31 NEW SECTION. **Sec. 24.** CODIFICATION. Sections 1 through 17, 19,
32 and 20 of this act constitute a new chapter in Title 70A RCW.

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

EFFECT: Prohibits fees from being charged at the time of unwanted covered battery collection by any person, and requires that collected batteries be collected, transported, and processed in a manner that meets standards applicable to a battery stewardship organization, instead of those provisions applying only batteries collected under a battery stewardship organization's program;

Requires battery stewardship programs to use as a site for a collection event any entity that meets the criteria in a battery stewardship organization's approved plan, if an entity has an agreement in place with the battery stewardship organization at least 60 days prior to an event;

Provides that an entity initiating a battery collection event must pay for the costs associated with the event unless a battery stewardship organization agrees otherwise, and must allow any brand or chemistry of battery to be discarded at the event;

Authorizes entities that operate temporary collection events for a stewardship program to retain collected materials, provided that collection, transport, and processing standards applicable to the battery stewardship organization are met and provides for entities to report information related to collections from such events, and for a battery stewardship organization to count collected batteries towards performance targets;

Authorizes a local government facility to collect batteries through sites or events outside of the program implemented by the battery stewardship organization, and establishes that: (1) Each chemistry and brand of covered battery must be collected by the local government facility; (2) the batteries must be collected, transported, and processed in a manner that meets the standards applicable to a battery stewardship organization; (3) the local government must report information related to collections to a battery stewardship organization; and (4) a battery stewardship organization may count covered batteries collected in this manner towards program performance goals;

Provides for a battery stewardship organization to submit a plan to the department of ecology (ecology) by the later of July 1, 2026, or within 6 months of the adoption of ecology rules, rather than requiring a plan to be submitted by July 1, 2026, without consideration of the date on which ecology's rules are adopted;

Changes the mechanism for the proposal of updated performance goals by a battery recycling program to provide for updated plans or plan amendments to include any updated performance goals, rather than requiring updated goals to be proposed biennially as part of the annual report;

Deposits penalties paid for violations of battery stewardship program requirements into the model toxics control operating account rather than the new responsible battery management account, into which battery stewardship program fees are also deposited; and

Makes numerous clarifications and logistical specifications related to plan implementation, including: (1) Clarifying the relevant years to be used for the calculation of a program's collection rate; (2) specifying that a producer may include the first person who sells or offers for sale a battery in or into Washington, in addition to a first person who distributes a battery in or into Washington; (3) specifying that restrictions on producers apply to persons making available and distributing covered batteries or battery containing products, in addition to those selling such

products; (4) updating the convenience standards to reference the current urban area definition used by the United States census bureau; (5) standardizing references to "collection sites", rather than interchangeably referencing "collection sites" and "collection locations"; (6) specifying that the department of ecology may adopt rules to update references to federal standards; (7) specifying that certain provisions related to collection of covered batteries apply only to permanent collection sites or to temporary collection events; (8) clarifying that covered batteries that are generated by regulated generators of waste under federal and state hazardous waste or solid waste laws must manage those batteries in a manner consistent with federal and state hazardous waste and solid waste laws; and (9) clarifying that the department of ecology's 2027 assessment of batteries other than covered batteries must include batteries that are not subject to the department of ecology's existing lead acid vehicle battery program and to electronic products that are not covered electronic products under the state's electronic waste management laws.

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