

---

**ENGROSSED SECOND SUBSTITUTE SENATE BILL 5144**

---

**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Stanford, Nguyen, Cleveland, Frame, Hasegawa, Hunt, Keiser, Kuderer, Lovelett, Nobles, Pedersen, Rolfes, Valdez, and C. Wilson)

READ FIRST TIME 02/24/23.

1       AN ACT Relating to providing for responsible environmental  
2 management of batteries; amending RCW 43.21B.110 and 43.21B.300;  
3 adding a new section to chapter 82.04 RCW; adding a new chapter to  
4 Title 70A RCW; creating a new section; and prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

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

20       (4) Jurisdictions around the world have successfully implemented  
21 battery stewardship laws that have helped address the challenges

1 posed by the end-of-life management of batteries. Because it is  
2 difficult for customers to differentiate between types and  
3 chemistries of batteries, it is the best practice for battery  
4 stewardship programs to collect all battery types and chemistries.  
5 Furthermore, it is appropriate for larger batteries used in emerging  
6 market sectors such as electric vehicles, solar power arrays, and  
7 data centers, to be managed to ensure environmentally positive  
8 outcomes similar to those achieved by a battery stewardship program,  
9 both because of the potential economic value of large batteries used  
10 for these purposes and the anticipated profusion of these larger  
11 batteries as these market sectors mature.

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

15 (1) (a) "Battery-containing product" means a product that contains  
16 or is packaged with rechargeable or primary batteries that are  
17 covered batteries.

18 (b) A "battery-containing product" does not include a covered  
19 electronic product under an approved plan implemented under chapter  
20 70A.500 RCW.

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

23 (a) Waste prevention and reduction;

24 (b) Reuse, when reuse is appropriate;

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

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

30 (3) "Battery stewardship organization" means a producer that  
31 directly implements a battery stewardship plan required under this  
32 chapter or a nonprofit organization designated by a producer or group  
33 of producers to implement a battery stewardship plan required under  
34 this chapter.

35 (4) "Collection rate" means a percentage, by weight, that a  
36 battery stewardship organization collects that is calculated by  
37 dividing the total weight of primary and rechargeable batteries  
38 collected during a calendar year by the average annual weight of  
39 primary and rechargeable batteries that were estimated to have been

1 sold in the state by all producers participating in an approved  
2 battery stewardship plan during the previous three calendar years.

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

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

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

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

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

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

14 (v) A battery in a battery-containing product that is not  
15 intended or designed to be easily removable from the battery-  
16 containing product.

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

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

21 (8) "Environmentally sound management practices" means practices  
22 that: (a) Comply with all applicable laws and rules to protect  
23 workers, public health, and the environment; (b) provide for adequate  
24 recordkeeping, tracking, and documenting of the fate of materials  
25 within the state and beyond; and (c) include comprehensive liability  
26 coverage for the battery stewardship organization, including  
27 environmental liability coverage that is commercially practicable.

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

33 (10) "Large format battery" means a rechargeable battery that  
34 weighs more than 25 pounds or has a rating of more than 2,000 watt-  
35 hours and a primary battery that weighs more than 25 pounds.

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

38 (a) For rechargeable batteries, a battery weighing more than 11  
39 pounds or has a rating of more than 300 watt-hours, or both, and no

1 more than 25 pounds and has a rating of no more than 2,000 watt-  
2 hours;

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

5 (12) "Portable battery" means the following primary or  
6 rechargeable covered batteries:

7 (a) For rechargeable batteries, a battery weighing no more than  
8 11 pounds and has a rating of no more than 300 watt-hours;

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

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

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

17 (i) For covered batteries:

18 (A) If the battery is sold under the brand of the battery  
19 manufacturer, the producer is the person that manufactures the  
20 battery;

21 (B) If the battery is sold under a retail brand or under a brand  
22 owned by a person other than the manufacturer, the producer is the  
23 brand owner;

24 (C) If there is no person to which (a)(i)(A) or (B) of this  
25 subsection applies, the producer is the person that is the licensee  
26 of a brand or trademark under which the battery is used in a  
27 commercial enterprise, sold, offered for sale, or distributed in or  
28 into this state, whether or not the trademark is registered in this  
29 state;

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

35 (E) If there is no person described in (a)(i)(A) through (D) of  
36 this subsection with a commercial presence within the state, the  
37 producer is the person who first distributes the battery in or into  
38 this state.

39 (ii) For covered battery-containing products:

1 (A) If the battery-containing product is sold under the brand of  
2 the product manufacturer, the producer is the person that  
3 manufactures the product;

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

7 (C) If there is no person to which (a)(ii)(A) or (B) of this  
8 subsection applies, the producer is the person that is the licensee  
9 of a brand or trademark under which the product is used in a  
10 commercial enterprise, sold, offered for sale, or distributed in or  
11 into this state, whether or not the trademark is registered in this  
12 state;

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

18 (E) If there is no person described in (a)(ii)(A) through (D) of  
19 this subsection with a commercial presence within the state, the  
20 producer is the person who first distributes the product in or into  
21 this state;

22 (F) A producer does not include any person who only manufactures,  
23 sells, offers for sale, distributes, or imports into the state a  
24 battery-containing product if the only batteries used by the battery-  
25 containing product are supplied by a producer that has joined a  
26 registered battery stewardship organization as the producer for that  
27 covered battery under this chapter. Such a producer of covered  
28 batteries that are included in a battery-containing product must  
29 provide written certification of that membership to both the producer  
30 of the covered battery-containing product and the battery stewardship  
31 organization of which the battery producer is a member.

32 (b) A person is the "producer" of a covered battery or covered  
33 battery-containing product sold, offered for sale, or distributed in  
34 or into this state, as defined in (a) of this subsection, except  
35 where another party has contractually accepted responsibility as a  
36 responsible producer and has joined a registered battery stewardship  
37 organization as the producer for that covered battery or covered  
38 battery-containing product under this chapter.

1 (15) "Program" means a program implemented by a battery  
2 stewardship organization consistent with an approved battery  
3 stewardship plan.

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

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

9 (a) Combustion;

10 (b) Incineration;

11 (c) Energy generation;

12 (d) Fuel production; or

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

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

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

24 (20) "Urban cluster" means areas of population density of 2,500  
25 to 50,000, as defined by the United States census bureau as of  
26 January 1, 2021.

27 (21) "Urbanized area" means areas of high population density with  
28 populations of 50,000 or greater, as defined by the United States  
29 census bureau as of January 1, 2021.

30 NEW SECTION. **Sec. 3.** REQUIREMENT THAT PRODUCERS IMPLEMENT A  
31 STEWARDSHIP PLAN. (1) Beginning January 1, 2027, each producer  
32 selling covered batteries or battery-containing products in or into  
33 the state of Washington shall participate in an approved Washington  
34 state battery stewardship plan through participation in and  
35 appropriate funding of a battery stewardship organization.

36 (2) A producer that does not participate in a battery stewardship  
37 organization and battery stewardship plan may not sell covered  
38 batteries or battery-containing products covered by this chapter in  
39 or into Washington.

1        NEW SECTION.    **Sec. 4.**    ROLE OF RETAILERS. (1) Beginning July 1,  
2 2027, for portable batteries, and July 1, 2029, for medium format  
3 batteries, a retailer may not sell, offer for sale, or otherwise make  
4 available for sale a covered battery or battery-containing product  
5 unless the producer of the covered battery or battery-containing  
6 product certifies to the retailer that the producer participates in a  
7 battery stewardship organization whose plan has been approved by the  
8 department.

9        (2) A retailer is in compliance with the requirements of  
10 subsection (1) of this section and is not subject to penalties under  
11 section 12 of this act as long as the website made available by the  
12 department under section 11 of this act lists, as of the date a  
13 product is made available for retail sale, a producer or brand of  
14 covered battery or battery-containing product sold by the retailer as  
15 being a participant in an approved plan or the implementer of an  
16 approved plan.

17        (3) Retailers of covered batteries or battery-containing products  
18 are not required to make retail locations available to serve as  
19 collection locations for a stewardship program operated by a battery  
20 stewardship organization. Retailers that serve as a collection  
21 location must comply with the requirements for collection locations,  
22 consistent with section 8 of this act.

23        (4) A retailer may not sell, offer for sale, or otherwise make  
24 available for sale covered batteries, unless those batteries are  
25 marked consistent with the requirements of section 14 of this act. A  
26 producer of a battery-containing product containing a covered battery  
27 must certify to the retailers of their product that the battery  
28 contained in the battery-containing product is marked consistent with  
29 the requirements of section 14 of this act. A retailer may rely on  
30 this certification for purposes of compliance under this subsection.

31        (5) A retailer selling or offering covered batteries or battery-  
32 containing products for sale in Washington may provide information,  
33 provided to the retailer by the battery stewardship organization,  
34 regarding available end-of-life management options for covered  
35 batteries collected by the battery stewardship organization. The  
36 information that a battery stewardship organization must make  
37 available to retailers for voluntary use by retailers must include,  
38 but is not limited to, in-store signage, written materials, and other  
39 promotional materials that retailers may use to inform customers of

1 the available end-of-life management options for covered batteries  
2 collected by the battery stewardship organization.

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

7 NEW SECTION. **Sec. 5.** STEWARDSHIP PLAN COMPONENTS. (1) By July  
8 1, 2026, each battery stewardship organization must submit a plan for  
9 covered portable batteries to the department for approval. Within 24  
10 months of the rules adopted by the department, each battery  
11 stewardship organization must submit a plan for covered medium format  
12 batteries to the department for approval. A battery stewardship  
13 organization may submit a plan at any time to the department for  
14 review and approval. The department must review and may approve a  
15 plan based on whether it contains and adequately addresses the  
16 following components:

17 (a) Lists and provides contact information for each producer,  
18 battery brand, and battery-containing product brand covered in the  
19 plan;

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

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

27 (d) Describes the education and communications strategy being  
28 implemented to effectively promote participation in the approved  
29 covered battery stewardship program and provide the information  
30 necessary for effective participation of consumers, retailers, and  
31 others;

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

37 (f) A list of promotional activities to be undertaken, and the  
38 identification of consumer awareness goals and strategies that the



1 program will employ to achieve these goals after the program begins  
2 to be implemented;

3 (g) Includes collection site safety training procedures related  
4 to covered battery collection activities at collection sites,  
5 including appropriate protocols to reduce risks of spills or fires  
6 and response protocols in the event of a spill or fire, and a  
7 protocol for safe management of damaged batteries that are returned  
8 to collection sites;

9 (h) A description of the method to establish and administer a  
10 means for fully funding the program in a manner that equitably  
11 distributes the program's costs among the producers that are part of  
12 the battery stewardship organization. For producers that elect to  
13 meet the requirements of this chapter individually, without joining a  
14 battery stewardship organization, a description of the proposed  
15 method to establish and administer a means for fully funding the  
16 program;

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

23 (j) A description of how the program will collect all covered  
24 battery chemistries and brands on a free, continuous, convenient,  
25 visible, and accessible basis, and consistent with the requirements  
26 of section 8 of this act, including a description of how the  
27 statewide convenience standard will be met and a list of collection  
28 sites, including the address and latitude and longitude of collection  
29 sites;

30 (k) A description of the criteria to be used in the program to  
31 determine whether an entity may serve as a collection location for  
32 discarded batteries under the program;

33 (l) Collection goals for each of the first three years of  
34 implementation of the battery stewardship plan that are based on the  
35 estimated total weight of primary and rechargeable covered batteries  
36 that have been sold in the state in the previous three calendar years  
37 by the producers participating in the battery stewardship plan;

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

1 (i) An environmentally sound and socially just manner at  
2 facilities operating with human health and environmental protection  
3 standards that are broadly equivalent to or better than those  
4 required in the United States and other countries that are members of  
5 the battery stewardship organization for economic cooperation and  
6 development; and

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

10 (n) Details how the program will achieve a recycling efficiency  
11 rate, calculated consistent with section 10 of this act, of at least  
12 60 percent for rechargeable batteries and at least 70 percent for  
13 primary batteries; and

14 (o) Proposes goals for increasing public awareness of the  
15 program, including subgoals applicable to public awareness of the  
16 program in vulnerable populations and overburdened communities  
17 identified by the department under chapter 70A.02 RCW, and describes  
18 how the public education and outreach components of the program under  
19 section 9 of this act will be implemented.

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

22 (a) If there are significant changes to the methods of  
23 collection, transport, or end-of-life management of covered batteries  
24 under section 8 of this act that are not covered by the plan. The  
25 department may, by rule, identify the types of significant changes  
26 that require a new plan to be submitted to the department for  
27 approval. For purposes of this subsection, adding or removing a  
28 processor or transporter under the plan is not considered a  
29 significant change that requires a plan resubmittal;

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

32 (c) No less than every five years.

33 (3) If required by the department, a battery stewardship  
34 organization must provide plan amendments to the department for  
35 approval:

36 (a) When proposing changes to the performance goals under section  
37 6 of this act;

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

1 (c) When adding or removing a processor or transporter, as part  
2 of a quarterly update submitted to the department; or

3 (d) Proposing updated performance goals based upon the to-date  
4 experience of the program, which must be submitted at the time the  
5 second annual report is submitted to the department by a battery  
6 stewardship organization under section 10 of this act and every two  
7 years thereafter.

8 (4) As part of a quarterly update, a battery stewardship  
9 organization must notify the department after a producer begins or  
10 ceases to participate in a battery stewardship organization. The  
11 quarterly update submitted to the department must also include a  
12 current list of the producers and brands participating in the plan.

13 (5) No earlier than five years after the initial approval of a  
14 plan, the department may require a battery stewardship organization  
15 to submit a revised plan, which may include improvements to the  
16 collection site network or increased expenditures dedicated to  
17 education and outreach if the approved plan has not met the  
18 performance goals under section 6 of this act.

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

- 25 (a) The rate of battery collection for recycling in Washington;  
26 (b) The recycling efficiency of the program; and  
27 (c) Public awareness of the program.

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

- 30 (a) Target collection rates;  
31 (b) Target recycling efficiency rates of at least 60 percent for  
32 rechargeable batteries and at least 70 percent for primary batteries;  
33 and

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

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

38 (1) Each battery stewardship organization must ensure adequate

1 funding is available to fully implement approved battery stewardship  
2 plans, including the implementation of aspects of the plan  
3 addressing:

- 4 (a) Battery collection, transporting, and processing;
- 5 (b) Education and outreach;
- 6 (c) Program evaluation; and
- 7 (d) Payment of the administrative fees to the department under  
8 section 11 of this act.

9 (2) A battery stewardship organization implementing a battery  
10 stewardship plan on behalf of producers must develop, and continually  
11 improve over the years of program implementation, a system to collect  
12 charges from participating producers to cover the costs of plan  
13 implementation in an environmentally sound and socially just manner  
14 that encourages the use of design attributes that reduce the  
15 environmental impacts of covered batteries, such as through the use  
16 of eco-modulated fees. Examples of fee structures that meet the  
17 requirements of this subsection include using eco-modulated fees to:

- 18 (a) Encourage designs intended to facilitate reuse and recycling;
- 19 (b) Encourage the use of recycled content;
- 20 (c) Discourage the use of problematic materials that increase  
21 system costs of managing covered products; and
- 22 (d) Encourage other design attributes that reduce the  
23 environmental impacts of covered products.

24 (3) (a) Each battery stewardship organization is responsible for  
25 all costs of participating covered battery collection,  
26 transportation, processing, education, administration, agency  
27 reimbursement, recycling, and end-of-life management in accordance  
28 with the battery management hierarchy and environmentally sound  
29 management practices.

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

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

36 (4) (a) A battery stewardship organization must reimburse local  
37 governments for demonstrable costs, as defined by rules adopted by  
38 the department, incurred as a result of a local government facility  
39 or solid waste handling facility serving as a collection location for  
40 a program including, but not limited to, associated labor costs and

1 other costs associated with accessibility and collection site  
2 standards such as storage.

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

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

16 NEW SECTION. **Sec. 8.** STEWARDSHIP PROGRAM COMPONENTS—COLLECTION  
17 AND MANAGEMENT REQUIREMENTS. (1) Battery stewardship organizations  
18 implementing a battery stewardship plan must provide for the  
19 collection of all covered batteries, including all chemistries and  
20 brands of covered batteries, on a free, continuous, convenient,  
21 visible, and accessible basis to any person, business, government  
22 agency, or nonprofit organization. A fee may not be charged at the  
23 time unwanted covered batteries are delivered or collected for  
24 management. Except as provided in subsection (2)(b) of this section,  
25 each battery stewardship plan must allow any person, business,  
26 government agency, or nonprofit organization to discard each  
27 chemistry and brand of covered battery at each collection site that  
28 counts towards the satisfaction of the collection site criteria in  
29 subsection (3) of this section.

30 (2)(a) For each collection site utilized by the program, each  
31 battery stewardship organization must provide suitable collection  
32 containers for covered batteries that are segregated from other solid  
33 waste or make mutually agreeable alternative arrangements for the  
34 collection of batteries at the site. The location of collection  
35 containers at each collection site used by the program must be within  
36 view of a responsible person and must be accompanied by signage made  
37 available to the collection site by the battery stewardship  
38 organization that informs customers regarding the end-of-life  
39 management options for batteries provided by the collection site

1 under this chapter. Each collection site must adhere to the  
2 operations manual and other safety information provided to the  
3 collection site by the battery stewardship organization.

4 (b) Medium format batteries may only be collected at household  
5 hazardous waste collection locations or other locations that are  
6 staffed by persons who are certified to handle and ship hazardous  
7 materials under federal regulations adopted by the United States  
8 department of transportation pipeline and hazardous materials safety  
9 administration.

10 (c)(i) Damaged and defective batteries are intended to be  
11 collected at collection locations staffed by persons trained to  
12 handle and ship those batteries.

13 (ii) Each battery stewardship organization must provide for  
14 collection of damaged and defective batteries in each county of the  
15 state, either through collection sites or collection events with  
16 qualified staff as specified in (c)(i) of this subsection. Collection  
17 events should be provided periodically throughout the year where  
18 practicable, but must be provided at least once per year at a  
19 minimum.

20 (iii) As used in this subsection, "damaged and defective  
21 batteries" means batteries that have been damaged or identified by  
22 the manufacturer as being defective for safety reasons, that have the  
23 potential of producing a dangerous evolution of heat, fire, or short  
24 circuit, as referred to in 49 C.F.R. Sec. 173.185(f) as of January 1,  
25 2023.

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

1 qualify towards the satisfaction of the requirements of this  
2 subsection.

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

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

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

15 (iii) At least one permanent collection site for portable  
16 batteries in addition to those required in (b)(i) of this subsection  
17 for every 30,000 residents of an urbanized area and for every urban  
18 cluster of at least 30,000 residents. For the purposes of compliance  
19 with this subsection (3)(b)(iii), a battery stewardship organization  
20 and the department may rely upon designations of urban locations by  
21 the United States census bureau that are determined by the department  
22 to be similar to the definitions of urbanized area or urban cluster  
23 in section 2 of this act;

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

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

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

32 (i) At least 25 collection sites in Washington;

33 (ii) Reasonable geographic dispersion of collection sites  
34 throughout the state;

35 (iii) A collection location in each county of at least 200,000  
36 persons, as determined by the most recent population estimate of the  
37 office of financial management;

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

1 (v) Service to areas without a permanent collection site,  
2 including service to island and geographically isolated communities.  
3 A battery stewardship organization must ensure that there is a  
4 collection site or annual collection event in each county of the  
5 state. Collection events should be provided periodically throughout  
6 the year where practicable, but must be provided at least once per  
7 year at a minimum.

8 (4) (a) Stewardship programs must use existing public and private  
9 waste collection services and facilities, including battery  
10 collection locations that are established through other battery  
11 collection services, transporters, consolidators, processors, and  
12 retailers, where cost-effective, mutually agreeable, and otherwise  
13 practicable.

14 (b) Stewardship programs must use as a collection site for  
15 portable batteries any retailer, wholesaler, municipality, solid  
16 waste management facility, or other entity that meets the criteria  
17 for collection locations in the approved plan, upon the submission of  
18 a request by the entity to the battery stewardship organization to  
19 serve as a collection site.

20 (c) A battery stewardship organization may suspend or terminate a  
21 collection site or service that does not adhere to the collection  
22 site criteria in the approved plan and that poses an immediate health  
23 and safety concern.

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

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

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

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

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

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

37 (6) Batteries collected by the program must be managed consistent  
38 with the battery management hierarchy. Lower priority end-of-life  
39 battery management options on the battery management hierarchy may be  
40 used by a program only when a battery stewardship organization



1 documents to the department that all higher priority battery  
2 management options on the battery management hierarchy are not  
3 technologically feasible or economically practical.

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

8 (a) And maintenance of a website;

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

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

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

16 (e) And distribution of collection site safety training  
17 procedures that are in compliance with state law to collection sites  
18 to help ensure proper management of covered batteries at collection  
19 locations; and

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

28 (2) Each battery stewardship organization must provide:

29 (a) Consumer-focused educational promotional materials to each  
30 collection location used by the program and accessible by customers  
31 of retailers that sell covered batteries or battery-containing  
32 products; and

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

37 (3) (a) Each battery stewardship organization must provide  
38 educational materials to the operator of each collection site for the  
39 management of recalled batteries, which are not intended to be part

1 of collection as provided under section 8 of this act, to help  
2 facilitate transportation and processing of recalled batteries.

3 (b) A battery stewardship organization may seek reimbursement  
4 from the manufacturer of the recalled battery for expenses incurred  
5 in the collection, transportation, or processing of those batteries.

6 (4) Upon request by a retailer, the battery stewardship  
7 organization must provide the retailer educational materials  
8 describing collection opportunities for batteries.

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

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

23 NEW SECTION. **Sec. 10.** REPORTING REQUIREMENTS. (1) By June 1,  
24 2028, and each June 1st thereafter, each battery stewardship  
25 organization must submit an annual report to the department covering  
26 the preceding calendar year of battery stewardship plan  
27 implementation. The report must include:

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

32 (b) A summary financial statement documenting the financing of a  
33 battery stewardship organization's program and an analysis of program  
34 costs and expenditures, including an analysis of the program's  
35 expenses, such as collection, transportation, recycling, education,  
36 and administrative overhead. The summary financial statement must be  
37 sufficiently detailed to provide transparency that funds collected  
38 from producers as a result of their activities in Washington are  
39 spent on program implementation in Washington. Battery stewardship

1 organizations implementing similar battery stewardship programs in  
2 multiple states may submit a financial statement including all  
3 covered states, as long as the statement breaks out financial  
4 information pertinent to Washington;

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

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

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

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

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

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

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

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

29 (k) A description of education and outreach efforts supporting  
30 plan implementation including, but not limited to, a summary of  
31 education and outreach provided to consumers, collection sites,  
32 manufacturers, distributors, and retailers by the program operator  
33 for the purpose of promoting the collection and recycling of covered  
34 batteries, a description of how that education and outreach met the  
35 requirements of section 9 of this act, samples of education and  
36 outreach materials, a summary of coordinated education and outreach  
37 efforts with any other battery stewardship organizations implementing  
38 a plan approved by the department, and a summary of any changes made  
39 during the previous calendar year to education and outreach  
40 activities;

1 (1) A list of all collection locations and accompanying latitude  
2 and longitude data and an address for each listed site, and an up-to-  
3 date map indicating the location of all collection sites used to  
4 implement the program, with links to appropriate websites where there  
5 are existing websites associated with a location;

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

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

11 (o) An evaluation of the effectiveness of education and outreach  
12 activities.

13 (2) The weight of batteries or recovered resources from those  
14 batteries must only be counted once and may not be counted by more  
15 than one producer.

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

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

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

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

34 (5) A producer or battery stewardship organization that submits  
35 information or records to the department under this chapter may  
36 request that the information or records be made available only for  
37 the confidential use of the department, the director of the  
38 department, or the appropriate division of the department. The  
39 director of the department must consider the request and if this  
40 action is not detrimental to the public interest and is otherwise in

1 accordance with the policies and purposes of chapter 43.21A RCW, the  
2 director must grant the request for the information to remain  
3 confidential as authorized in RCW 43.21A.160.

4 NEW SECTION. **Sec. 11.** FEE AND DEPARTMENT OF ECOLOGY ROLE. (1)  
5 The department must adopt rules as necessary for the purpose of  
6 implementing, administering, and enforcing this chapter. The  
7 department must by rule establish fees, to be paid annually by a  
8 battery stewardship organization, that are adequate to cover the  
9 department's full costs of implementing, administering, and enforcing  
10 this chapter and allocates costs between battery stewardship  
11 organizations, if applicable. If the department adopts rules that  
12 require producers of certain large format batteries or other battery  
13 categories addressed in sections 16 and 17 of this act to participate  
14 in a battery stewardship organization regulated by the department,  
15 the department may establish fees to be paid annually by a battery  
16 stewardship organization that are adequate to cover the department's  
17 full costs of implementing, administering, and enforcing the  
18 requirements of this chapter applicable to those batteries. All fees  
19 must be based on costs related to implementing, administering, and  
20 enforcing this chapter, not to exceed expenses incurred by the  
21 department for these activities.

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

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

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

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

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

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

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

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

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

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

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

26 (1)(a) A battery stewardship organization implementing an approved  
27 plan may bring a civil action or actions to recover costs, damages,  
28 and fees, as specified in this section, from a producer who sells or  
29 otherwise makes available in Washington covered batteries, battery-  
30 containing products, or large format batteries not included in an  
31 approved plan in violation of the requirements of this chapter. An  
32 action under this section may be brought against one or more  
33 defendants. An action may only be brought against a defendant  
34 producer when the stewardship program incurs costs in Washington,  
35 including reasonable incremental administrative and program  
36 promotional costs, in excess of \$1,000 to collect, transport, and  
37 recycle or otherwise dispose of the covered batteries, battery-  
38 containing products, or large format batteries of a nonparticipating  
39 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 and 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 responsible battery management account created in  
9 section 13 of this act.

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 activities undertaken  
16 consistent with chapter 70A.--- RCW (the new chapter created in  
17 section 24 of this act) must be deposited in the account. Only the  
18 director of the department or the director's designee may authorize  
19 expenditures from the account. The account is subject to allotment  
20 procedures under chapter 43.88 RCW, but an appropriation is not  
21 required for expenditures. Moneys in the account may be used solely  
22 by the department for administering, implementing, and enforcing the  
23 requirements of this chapter. Funds in the account may not be  
24 diverted for any purpose or activity other than those specified in  
25 this section.

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

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

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

35 (b) Beginning January 1, 2030, marked with proper labeling to  
36 ensure proper collection and recycling, by identifying the chemistry  
37 of the battery and including an indication that the battery should  
38 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.** REQUIREMENT TO USE BATTERY COLLECTION  
9 PROGRAMS. Effective July 1, 2027, for portable batteries and July 1,  
10 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, residents, businesses, and government,  
14 commercial, industrial, and retail facilities, and office buildings  
15 must dispose of unwanted covered batteries through the collection  
16 locations established by or included in the programs created by this  
17 chapter, except commercial, industrial, or government facilities and  
18 programs that utilize other responsible battery management  
19 arrangements that manage batteries in ways substantially similar to  
20 what this chapter requires of battery stewardship organizations.

21 (2) A person may not place covered batteries in waste containers  
22 for disposal at incinerators, waste to energy facilities, or  
23 landfills.

24 (3) A person may not place covered batteries in or on a container  
25 for mixed recyclables unless there is a separate location or  
26 compartment for the covered battery that complies with local  
27 government collection standards or guidelines.

28 (4) An owner or operator of a solid waste facility may not be  
29 found in violation of this section if the facility has posted in a  
30 conspicuous location a sign stating that covered batteries must be  
31 managed through collection locations established by a battery  
32 stewardship organization and are not accepted for disposal.

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

36 NEW SECTION. **Sec. 16.** DEPARTMENT ASSESSMENT OF LARGE FORMAT  
37 BATTERIES, MEDICAL DEVICES, LEAD ACID BATTERIES, AND BATTERY-  
38 CONTAINING PRODUCTS AND THEIR BATTERIES. (1) By July 1, 2027, the

1 department must complete an assessment of the opportunities and  
2 challenges associated with the end-of-life management of batteries  
3 that are not covered batteries, including:

4 (a) Large format batteries;

5 (b) Lead acid batteries that are greater than 11 pounds or are  
6 not subject to the provisions of RCW 70A.205.505 through 70A.205.530;

7 (c) Batteries contained in medical devices, as specified in Title  
8 21 U.S.C. Sec. 360c as it existed as of the effective date of this  
9 section; and

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

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

22 (3) The assessment must consider:

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

25 (b) The current economic value and reuse or recycling potential  
26 of large format batteries or large format battery components and a  
27 summary of studies examining the environmental and equity  
28 implications of displacing demand for new rare earth materials,  
29 critical materials, and other conflict materials through the reuse  
30 and recycling of batteries;

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

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

39 (e) Which criteria of this chapter should apply to batteries and  
40 battery-containing products listed in subsection (1) of this section

1 in a manner that is identical or analogous to the requirements  
2 applicable to covered batteries.

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

6 NEW SECTION. **Sec. 17.** DEPARTMENT OF ECOLOGY RULE MAKING TO  
7 REQUIRE THE ESTABLISHMENT OF STEWARDSHIP PROGRAM PARTICIPATION  
8 REQUIREMENTS FOR LARGE FORMAT BATTERIES, MEDICAL DEVICES, LEAD ACID  
9 BATTERIES, AND BATTERY-CONTAINING PRODUCTS AND THEIR BATTERIES. (1)  
10 By January 1, 2030, the department may, but is not required to, adopt  
11 rules that require producers of batteries and battery-containing  
12 products assessed in section 16 of this act to participate in a  
13 stewardship program that achieves environmentally positive outcomes  
14 similar to those achieved by a battery stewardship program for medium  
15 format and portable batteries. As part of this rule, the department  
16 may apply some or all of the provisions of section 15 of this act to  
17 these batteries and battery-containing products.

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

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

26 (4) The department must delay or exclude categories of batteries  
27 or battery-containing products, including categories of large format  
28 batteries that are excluded from the definition of a covered battery  
29 in section 2 of this act, based on the results of the assessment  
30 required under section 16 of this act, from stewardship program  
31 requirements, if the department determines that stewardship program  
32 requirements are infeasible for a category of batteries or battery-  
33 containing products due to:

34 (a) An existing industry or other battery management system  
35 exists for the battery or battery-containing product category covered  
36 by the assessment in section 16 of this act that currently attains a  
37 rate of collection that exceeds 95 percent of the number of that  
38 category of batteries sold in Washington each year, and the existing

1 battery management system processes the batteries using  
2 environmentally sound management practices; or

3 (b) If delay or exclusion from program participation requirements  
4 is necessary to protect human health or the environment.

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

10 (6) In addition to the exemptions established in subsections (4)  
11 and (5) of this section, the department may exclude producers from  
12 some or all of the stewardship program requirements under the rules  
13 adopted by the department, based on other factors determined by the  
14 department.

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

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

25 (a) Solicit input from representatives of automotive wrecking and  
26 salvage yards, solid waste collection and processing companies, local  
27 governments, environmental organizations, electric vehicle  
28 manufacturers, and any other interested parties; and

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

30 NEW SECTION. **Sec. 19.** ANTITRUST. Producers or battery  
31 stewardship organizations acting on behalf of producers that prepare,  
32 submit, and implement a battery stewardship program plan pursuant to  
33 this chapter and who are thereby subject to regulation by the  
34 department are granted immunity from state laws relating to  
35 antitrust, restraint of trade, unfair trade practices, and other  
36 regulation of trade and commerce, for the limited purpose of  
37 planning, reporting, and operating a battery stewardship program,  
38 including:

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

4 (2) The determination of the cost and structure of a battery  
5 stewardship plan; and

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

8 NEW SECTION. **Sec. 20.** AUTHORITY OF THE UTILITIES AND  
9 TRANSPORTATION COMMISSION. Nothing in this chapter changes or limits  
10 the authority of the Washington utilities and transportation  
11 commission to regulate collection of solid waste, including curbside  
12 collection of residential recyclable materials, nor does this chapter  
13 change or limit the authority of a city or town to provide the  
14 service itself or by contract under RCW 81.77.020.

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

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

24 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
25 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,  
26 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,  
27 70A.65.200, 70A.455.090, 76.09.170, 77.55.440, 78.44.250, 88.46.090,  
28 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102  
29 and chapter 70A.--- RCW (the new chapter created in section 24 of  
30 this act).

31 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
32 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,  
33 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250,  
34 90.48.120, and 90.56.330 and chapter 70A.--- RCW (the new chapter  
35 created in section 24 of this act).

36 (c) Except as provided in RCW 90.03.210(2), the issuance,  
37 modification, or termination of any permit, certificate, or license  
38 by the department or any air authority in the exercise of its

1 jurisdiction, including the issuance or termination of a waste  
2 disposal permit, the denial of an application for a waste disposal  
3 permit, the modification of the conditions or the terms of a waste  
4 disposal permit, or a decision to approve or deny an application for  
5 a solid waste permit exemption under RCW 70A.205.260.

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

8 (e) Decisions of local health departments regarding the issuance  
9 and enforcement of permits to use or dispose of biosolids under RCW  
10 70A.226.090.

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

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

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

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

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

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

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

38 (m) Decisions of an authorized public entity under RCW 79.100.010  
39 to take temporary possession or custody of a vessel or to contest the

1 amount of reimbursement owed that are reviewable by the hearings  
2 board under RCW 79.100.120.

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

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

9 (2) The following hearings shall not be conducted by the hearings  
10 board:

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

13 (b) Hearings conducted by the department pursuant to RCW  
14 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,  
15 70A.15.3110, and 90.44.180.

16 (c) Appeals of decisions by the department under RCW 90.03.110  
17 and 90.44.220.

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

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

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

25 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,  
26 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,  
27 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, 88.46.090,  
28 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102  
29 and chapters 70A.355 and 70A.--- (the new chapter created in section  
30 24 of this act) RCW shall be imposed by a notice in writing, either  
31 by certified mail with return receipt requested or by personal  
32 service, to the person incurring the penalty from the department or  
33 the local air authority, describing the violation with reasonable  
34 particularity. For penalties issued by local air authorities, within  
35 30 days after the notice is received, the person incurring the  
36 penalty may apply in writing to the authority for the remission or  
37 mitigation of the penalty. Upon receipt of the application, the  
38 authority may remit or mitigate the penalty upon whatever terms the  
39 authority in its discretion deems proper. The authority may ascertain

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

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

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

14 (a) Thirty days after receipt of the notice imposing the penalty;

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

18 (c) Thirty days after receipt of the notice of decision of the  
19 hearings board if the penalty is appealed.

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

32 (5) All penalties recovered shall be paid into the state treasury  
33 and credited to the general fund except those penalties imposed  
34 pursuant to RCW 18.104.155, which shall be credited to the  
35 reclamation account as provided in RCW 18.104.155(7), RCW  
36 70A.15.3160, the disposition of which shall be governed by that  
37 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited  
38 to the recycling enhancement account created in RCW 70A.245.100, RCW  
39 70A.300.090, which shall be credited to the model toxics control  
40 operating account created in RCW 70A.305.180, RCW 70A.65.200, which



1 shall be credited to the climate investment account created in RCW  
2 70A.65.250, RCW 90.56.330, which shall be credited to the coastal  
3 protection fund created by RCW 90.48.390, and RCW 70A.355.070, which  
4 shall be credited to the underground storage tank account created by  
5 RCW 70A.355.090.

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

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

13 (2) This section is not subject to the requirements of RCW  
14 82.32.805 and 82.32.808 and is not subject to an expiration date.

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

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

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

--- END ---