

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5144

68th Legislature
2023 Regular Session

Passed by the Senate April 14, 2023
Yeas 40 Nays 6

President of the Senate

Passed by the House April 6, 2023
Yeas 57 Nays 40

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5144** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5144

AS AMENDED BY THE HOUSE

Passed Legislature - 2023 Regular Session

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 the previous calendar year by the average annual
39 weight of primary and rechargeable batteries that were estimated to

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

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

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

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

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

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

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

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

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

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

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

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

34 (10) "Large format battery" means:

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

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

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

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

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

7 (12) "Portable battery" means the following primary or
8 rechargeable covered batteries:

9 (a) For rechargeable batteries, a battery weighing no more than
10 11 pounds and has a rating of no more than 300 watt-hours;

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

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

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

19 (i) For covered batteries:

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

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

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

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

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

1 (ii) For covered battery-containing products:

2 (A) If the battery-containing product is sold under the brand of

3 the product manufacturer, the producer is the person that

4 manufactures the product;

5 (B) If the battery-containing product is sold under a retail

6 brand or under a brand owned by a person other than the manufacturer,

7 the producer is the brand owner;

8 (C) If there is no person to which (a)(ii)(A) or (B) of this

9 subsection applies, the producer is the person that is the licensee

10 of a brand or trademark under which the product is used in a

11 commercial enterprise, sold, offered for sale, or distributed in or

12 into this state, whether or not the trademark is registered in this

13 state;

14 (D) If there is no person described in (a)(ii)(A) through (C) of

15 this subsection within the United States, the producer is the person

16 who is the importer of record for the product into the United States

17 for use in a commercial enterprise that sells, offers for sale, or

18 distributes the product in this state;

19 (E) If there is no person described in (a)(ii)(A) through (D) of

20 this subsection with a commercial presence within the state, the

21 producer is the person who first sells, offers for sale, or

22 distributes the product in or into this state;

23 (F) A producer does not include any person who only manufactures,

24 sells, offers for sale, distributes, or imports into the state a

25 battery-containing product if the only batteries used by the battery-

26 containing product are supplied by a producer that has joined a

27 registered battery stewardship organization as the producer for that

28 covered battery under this chapter. Such a producer of covered

29 batteries that are included in a battery-containing product must

30 provide written certification of that membership to both the producer

31 of the covered battery-containing product and the battery stewardship

32 organization of which the battery producer is a member.

33 (b) A person is the "producer" of a covered battery or covered

34 battery-containing product sold, offered for sale, or distributed in

35 or into this state, as defined in (a) of this subsection, except

36 where another party has contractually accepted responsibility as a

37 responsible producer and has joined a registered battery stewardship

38 organization as the producer for that covered battery or covered

39 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 area" means an area delineated by the United States
25 census bureau, based on a minimum threshold of 2,000 housing units or
26 5,000 people, as of January 1, 2023.

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

29 (1) Each producer selling, making available for sale, or
30 distributing covered batteries or battery-containing products in or
31 into the state of Washington shall participate in an approved
32 Washington state battery stewardship plan through participation in
33 and appropriate funding of a battery stewardship organization; and

34 (2) A producer that does not participate in a battery stewardship
35 organization and battery stewardship plan may not sell covered
36 batteries or battery-containing products covered by this chapter in
37 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, distribute, or
4 otherwise make available for sale a covered battery or battery-
5 containing product unless the producer of the covered battery or
6 battery-containing product certifies to the retailer that the
7 producer participates in a battery stewardship organization whose
8 plan has been approved by the 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 sites for a stewardship program operated by a battery
20 stewardship organization. Retailers that serve as a collection site
21 must comply with the requirements for collection sites, consistent
22 with section 8 of this act.

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

32 (5) A retailer selling or offering covered batteries or battery-
33 containing products for sale in Washington may provide information,
34 provided to the retailer by the battery stewardship organization,
35 regarding available end-of-life management options for covered
36 batteries collected by the battery stewardship organization. The
37 information that a battery stewardship organization must make
38 available to retailers for voluntary use by retailers must include,
39 but is not limited to, in-store signage, written materials, and other
40 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, or within six months of the adoption of rules under section
9 11 of this act, whichever comes later, each battery stewardship
10 organization must submit a plan for covered portable batteries to the
11 department for approval. Within 24 months of the date of the initial
12 adoption of rules under this chapter by the department, each battery
13 stewardship organization must submit a plan for covered medium format
14 batteries to the department for approval. A battery stewardship
15 organization may submit a plan at any time to the department for
16 review and approval. The department must review and may approve a
17 plan based on whether it contains and adequately addresses the
18 following components:

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

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

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

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

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

1 (f) Lists promotional activities to be undertaken, and the
2 identification of consumer awareness goals and strategies that the
3 program will employ to achieve these goals after the program begins
4 to be implemented;

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

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

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

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

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

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

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

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

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

13 (n) Details how the program will achieve a recycling efficiency
14 rate, calculated consistent with section 10 of this act, of at least
15 60 percent for rechargeable batteries and at least 70 percent for
16 primary batteries;

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

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

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

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

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

38 (c) No less than every five years.

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

4 (a) When proposing changes to the performance goals under section
5 6 of this act based on the up-to-date experience of the program;

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

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

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

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

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

28 (a) The rate of battery collection for recycling in Washington;

29 (b) The recycling efficiency of the program; and

30 (c) Public awareness of the program.

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

33 (a) Target collection rates;

34 (b) Target recycling efficiency rates of at least 60 percent for
35 rechargeable batteries and at least 70 percent for primary batteries;
36 and

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

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

2 (1) Each battery stewardship organization must ensure adequate
3 funding is available to fully implement approved battery stewardship
4 plans, including the implementation of aspects of the plan
5 addressing:

6 (a) Battery collection, transporting, and processing;

7 (b) Education and outreach;

8 (c) Program evaluation; and

9 (d) Payment of the administrative fees to the department under
10 section 11 of this act.

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

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

21 (b) Encourage the use of recycled content;

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

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

26 (3) (a) Except for costs incurred by a local government or local
27 government facility exercising the authority specified in section
28 8(4)(c) of this act, each battery stewardship organization is
29 responsible for all costs of participating covered battery
30 collection, transportation, processing, education, administration,
31 agency reimbursement, recycling, and end-of-life management in
32 accordance with the battery management hierarchy and environmentally
33 sound management practices.

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

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

1 (4) (a) Except for costs incurred by a local government or local
2 government facility exercising the authority granted by section
3 8(4) (c) of this act, a battery stewardship organization must
4 reimburse local governments for demonstrable costs, as defined by
5 rules adopted by the department, incurred as a result of a local
6 government facility or solid waste handling facility serving as a
7 collection site for a program including, but not limited to,
8 associated labor costs and other costs associated with accessibility
9 and collection site standards such as storage.

10 (b) Except as to the costs of containers and other materials and
11 services requirements addressed by a local government or local
12 government facility exercising the authority granted by section
13 8(4) (c) of this act, a battery stewardship organization shall at a
14 minimum provide collection sites with appropriate containers for
15 covered batteries subject to its program, training, signage, safety
16 guidance, and educational materials, at no cost to the collection
17 sites.

18 (c) A battery stewardship organization must include in its
19 battery stewardship plan a template of the service agreement and any
20 other forms, contracts, or other documents for use in distribution of
21 reimbursements. The service agreement template must be developed with
22 local government input. The entities seeking or receiving
23 reimbursement from the battery stewardship organization are not
24 required to use the template agreement included in the program plan
25 and are not limited to the terms of the template agreement included
26 in the program plan.

27 NEW SECTION. **Sec. 8.** STEWARDSHIP PROGRAM COMPONENTS—COLLECTION
28 AND MANAGEMENT REQUIREMENTS. (1) Battery stewardship organizations
29 implementing a battery stewardship plan must provide for the
30 collection of all covered batteries, including all chemistries and
31 brands of covered batteries, on a free, continuous, convenient,
32 visible, and accessible basis to any person, business, government
33 agency, or nonprofit organization. Except as provided in subsection
34 (2) (b) of this section, each battery stewardship plan must allow any
35 person, business, government agency, or nonprofit organization to
36 discard each chemistry and brand of covered battery at each
37 collection site that counts towards the satisfaction of the
38 collection site criteria in subsection (3) of this section.

1 (2) (a) Except for local government collection described in
2 subsection (4) (c) of this section, for each collection site utilized
3 by the program, each battery stewardship organization must provide
4 suitable collection containers for covered batteries that are
5 segregated from other solid waste or make mutually agreeable
6 alternative arrangements for the collection of batteries at the site.
7 The location of collection containers at each collection site used by
8 the program must be within view of a responsible person and must be
9 accompanied by signage made available to the collection site by the
10 battery stewardship organization that informs customers regarding the
11 end-of-life management options for batteries provided by the
12 collection site under this chapter. Each collection site must adhere
13 to the operations manual and other safety information provided to the
14 collection site by the battery stewardship organization.

15 (b) Medium format batteries may only be collected at household
16 hazardous waste collection sites or other sites that are staffed by
17 persons who are certified to handle and ship hazardous materials
18 under federal regulations adopted by the United States department of
19 transportation pipeline and hazardous materials safety
20 administration.

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

24 (ii) Each battery stewardship organization must provide for
25 collection of damaged and defective batteries in each county of the
26 state, either through collection sites or collection events with
27 qualified staff as specified in (c) (i) of this subsection. Collection
28 events should be provided periodically throughout the year where
29 practicable, but must be provided at least once per year at a
30 minimum, in each county in which there are not permanent collection
31 sites providing for the collection of damaged and defective
32 batteries.

33 (iii) As used in this subsection, "damaged and defective
34 batteries" means batteries that have been damaged or identified by
35 the manufacturer as being defective for safety reasons, that have the
36 potential of producing a dangerous evolution of heat, fire, or short
37 circuit, as referred to in 49 C.F.R. Sec. 173.185(f) as of January 1,
38 2023, or as updated by the department by rule to maintain consistency
39 with federal standards.

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

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

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

23 (ii) The establishment of collection sites that are accessible
24 and convenient to overburdened communities identified by the
25 department under chapter 70A.02 RCW, in an amount that is roughly
26 proportional to the number and population of overburdened communities
27 identified by the department under chapter 70A.02 RCW relative to the
28 population or size of the state as a whole;

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

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

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

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

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

8 (ii) Reasonable geographic dispersion of collection sites
9 throughout the state;

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

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

16 (v) Service to areas without a permanent collection site,
17 including service to island and geographically isolated communities.
18 A battery stewardship organization must ensure that there is a
19 collection site or annual collection event in each county of the
20 state. Collection events should be provided periodically throughout
21 the year where practicable, but must be provided at least once per
22 year at a minimum in each county in which there are not permanent
23 collection sites providing for the collection of damaged and
24 defective batteries.

25 (4) (a) Battery stewardship programs must use existing public and
26 private waste collection services and facilities, including battery
27 collection sites that are established through other battery
28 collection services, transporters, consolidators, processors, and
29 retailers, where cost-effective, mutually agreeable, and otherwise
30 practicable.

31 (b) (i) Battery stewardship programs must use as a collection site
32 for covered batteries any retailer, wholesaler, municipality, solid
33 waste management facility, or other entity that meets the criteria
34 for collection sites in the approved plan, upon the submission of a
35 request by the entity to the battery stewardship organization to
36 serve as a collection site.

37 (ii) Battery stewardship programs must use as a site for a
38 collection event for covered batteries any retailer, wholesaler,
39 municipality, solid waste management facility, or other entity that
40 meets the criteria for collection events in the approved plan, upon

1 the submission of a request by the entity to the battery stewardship
2 organization to serve as a site for a collection event. A signed
3 agreement between a battery stewardship organization and the entity
4 requesting to hold a collection event must be established at least 60
5 days prior to any collection of covered batteries under a stewardship
6 program. All costs associated with collection events initiated by an
7 entity other than a battery stewardship organization are the sole
8 responsibility of the entity unless otherwise agreed upon by a
9 battery stewardship organization. A collection event under this
10 subsection (4)(b)(ii) must allow any person to discard each chemistry
11 and brand of covered battery at the collection event.

12 (c)(i) A local government facility may collect batteries at its
13 own expense through a collection site or temporary collection event
14 that is not a collection site or event under the program implemented
15 by a battery stewardship organization. A local government facility
16 that collects covered batteries under this subsection must, in
17 accordance with procedures set forth in battery stewardship
18 organization plans approved by the department:

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

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

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

27 (D) Either provide the collected batteries to the battery
28 stewardship organization in lawful transportation containers for it
29 to transfer the collected batteries at a processing facility the
30 battery stewardship organization has approved, or transport to, or
31 arrange for the transportation of collected batteries for processing
32 at a facility that a battery stewardship organization has approved
33 under a plan approved by the department.

34 (ii) A local government facility that collects materials at a
35 collection site or temporary collection event operating outside of a
36 battery stewardship program must also report, to a battery
37 stewardship organization, information necessary for the battery
38 stewardship organization to fulfill its reporting obligations under
39 section 10 of this act. A battery stewardship organization may count
40 materials collected by a local government facility under this

1 subsection (4)(c) towards the achievement of performance requirements
2 established in section 6 of this act.

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

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

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

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

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

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

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

20 (6) Batteries collected by the program must be managed consistent
21 with the battery management hierarchy. Lower priority end-of-life
22 battery management options on the battery management hierarchy may be
23 used by a program only when a battery stewardship organization
24 documents to the department that all higher priority battery
25 management options on the battery management hierarchy are not
26 technologically feasible or economically practical.

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

31 (a) And maintenance of a website;

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

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

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

1 (e) And distribution of collection site safety training
2 procedures that are in compliance with state law to collection sites
3 to help ensure proper management of covered batteries at collection
4 sites; and

5 (f) And implementation of outreach and educational resources
6 targeted to overburdened communities and vulnerable populations
7 identified by the department under chapter 70A.02 RCW that are
8 conceptually, linguistically, and culturally accurate for the
9 communities served and reach the state's diverse ethnic populations,
10 including through meaningful consultation with communities that bear
11 disproportionately higher levels of adverse environmental and social
12 justice impacts.

13 (2) Each battery stewardship organization must provide:

14 (a) Consumer-focused educational promotional materials to each
15 collection site used by the program and accessible by customers of
16 retailers that sell covered batteries or battery-containing products;
17 and

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

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

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

30 (4) Upon request by a retailer, the battery stewardship
31 organization must provide the retailer educational materials
32 describing collection opportunities for batteries.

33 (5) If multiple battery stewardship organizations are
34 implementing plans approved by the department, the battery
35 stewardship organizations must coordinate in carrying out their
36 education and outreach responsibilities under this section and must
37 include in their annual reports to the department under section 10 of
38 this act a summary of their coordinated education and outreach
39 efforts.

1 (6) During the first year of program implementation and every
2 five years thereafter, each battery stewardship organization must
3 carry out a survey of public awareness regarding the requirements of
4 the program established under this chapter, including the provisions
5 of section 15 of this act. Each battery stewardship organization must
6 share the results of the public awareness surveys with the
7 department.

8 NEW SECTION. **Sec. 10.** REPORTING REQUIREMENTS. (1) By June 1,
9 2028, and each June 1st thereafter, each battery stewardship
10 organization must submit an annual report to the department covering
11 the preceding calendar year of battery stewardship plan
12 implementation. The report must include:

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

17 (b) A summary financial statement documenting the financing of a
18 battery stewardship organization's program and an analysis of program
19 costs and expenditures, including an analysis of the program's
20 expenses, such as collection, transportation, recycling, education,
21 and administrative overhead. The summary financial statement must be
22 sufficiently detailed to provide transparency that funds collected
23 from producers as a result of their activities in Washington are
24 spent on program implementation in Washington. Battery stewardship
25 organizations implementing similar battery stewardship programs in
26 multiple states may submit a financial statement including all
27 covered states, as long as the statement breaks out financial
28 information pertinent to Washington;

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

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

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

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

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

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

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

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

15 (k) A description of education and outreach efforts supporting
16 plan implementation including, but not limited to, a summary of
17 education and outreach provided to consumers, collection sites,
18 manufacturers, distributors, and retailers by the program operator
19 for the purpose of promoting the collection and recycling of covered
20 batteries, a description of how that education and outreach met the
21 requirements of section 9 of this act, samples of education and
22 outreach materials, a summary of coordinated education and outreach
23 efforts with any other battery stewardship organizations implementing
24 a plan approved by the department, and a summary of any changes made
25 during the previous calendar year to education and outreach
26 activities;

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

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

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

37 (o) An evaluation of the effectiveness of education and outreach
38 activities.

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

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

8 (a) Whether the facility is located domestically, in an
9 organization for economic cooperation and development country, or in
10 a country that meets organization for economic cooperation and
11 development operating standards; and

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

15 (4) If a battery stewardship organization has disposed of covered
16 batteries through energy recovery, incineration, or landfilling during
17 the preceding calendar year of program implementation, the annual
18 report must specify the steps that the battery stewardship
19 organization will take to make the recycling of covered batteries
20 cost-effective, where possible, or to otherwise increase battery
21 recycling rates achieved by the battery stewardship organization.

22 (5) A producer or battery stewardship organization that submits
23 information or records to the department under this chapter may
24 request that the information or records be made available only for
25 the confidential use of the department, the director of the
26 department, or the appropriate division of the department. The
27 director of the department must consider the request and if this
28 action is not detrimental to the public interest and is otherwise in
29 accordance with the policies and purposes of chapter 43.21A RCW, the
30 director must grant the request for the information to remain
31 confidential as authorized in RCW 43.21A.160.

32 NEW SECTION. **Sec. 11.** FEE AND DEPARTMENT OF ECOLOGY ROLE. (1)
33 The department must adopt rules as necessary for the purpose of
34 implementing, administering, and enforcing this chapter. The
35 department must by rule establish fees, to be paid annually by a
36 battery stewardship organization, that are adequate to cover the
37 department's full costs of implementing, administering, and enforcing
38 this chapter and allocates costs between battery stewardship
39 organizations, if applicable. All fees must be based on costs related

1 to implementing, administering, and enforcing this chapter, not to
2 exceed expenses incurred by the department for these activities.

3 (2) The responsibilities of the department in implementing,
4 administering, and enforcing this chapter include, but are not
5 limited to:

6 (a) Reviewing submitted stewardship plans and plan amendments and
7 making determinations as to whether to approve the plan or plan
8 amendment;

9 (i) The department must provide a letter of approval for the plan
10 or plan amendment if it provides for the establishment of a
11 stewardship program that meets the requirements of sections 3 through
12 9 of this act;

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

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

21 (b) Reviewing annual reports submitted under section 10 of this
22 act within 90 days of submission to ensure compliance with that
23 section;

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

28 (ii) Upon the date the first plan is approved, the department
29 must post on its website a list of producers and their brands for
30 which the department has approved a plan. The department must update
31 the list of producers and brands participating under an approved
32 program plan based on information provided to the department from
33 battery stewardship organizations; and

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

39 (3) Beginning January 1, 2032, and every five years thereafter,
40 after consultation with battery stewardship organizations, the

1 department may by rule increase the minimum recycling efficiency
2 rates established in section 6 of this act based on the most
3 economically and technically feasible processes and methodology
4 available.

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

6 (1)(a) A battery stewardship organization implementing an approved
7 plan may bring a civil action or actions to recover costs, damages,
8 and fees, as specified in this section, from a producer who sells or
9 otherwise makes available in Washington covered batteries or battery-
10 containing products not included in an approved plan in violation of
11 the requirements of this chapter. An action under this section may be
12 brought against one or more defendants. An action may only be brought
13 against a defendant producer when the stewardship program incurs
14 costs in Washington, including reasonable incremental administrative
15 and program promotional costs, in excess of \$1,000 to collect,
16 transport, and recycle or otherwise dispose of the covered batteries
17 or battery-containing products of a nonparticipating producer.

18 (b) A battery stewardship organization may bring a civil action
19 against a producer of a recalled battery to recover costs associated
20 with handling a recalled battery.

21 (c) A battery stewardship organization implementing an approved
22 stewardship plan may bring a civil action against another battery
23 stewardship organization that under performs on its battery
24 collection obligations under this chapter by failing to collect and
25 provide for the end-of-life management of batteries in an amount
26 roughly equivalent to costs imposed on the plaintiff battery
27 stewardship organization by virtue of the failures of the defendants,
28 plus legal fees and expenses.

29 (d) The remedies provided in this subsection are in addition to
30 the enforcement authority of the department and do not limit and are
31 not limited by a decision by the department to impose a civil penalty
32 or issue an order under subsection (2) of this section. The
33 department is not required to audit, participate in, or provide
34 assistance to a battery stewardship organization pursuing a civil
35 action authorized under this subsection.

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

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

5 (c) Whenever on the basis of any information the department
6 determines that a person has violated or is in violation of this
7 chapter, the department may issue an order requiring compliance. A
8 person who fails to take corrective action as specified in a
9 compliance order is liable for a civil penalty as provided in (b) of
10 this subsection, without receiving a written warning prescribed in
11 (e) of this subsection.

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

15 (e) Prior to imposing penalties under this section, the
16 department must provide a producer, retailer, or battery stewardship
17 organization with a written warning for the first violation by the
18 producer, retailer, or battery stewardship organization of the
19 requirements of this chapter. The written warning must inform a
20 producer, retailer, or battery stewardship organization that it must
21 participate in an approved plan or otherwise come into compliance
22 with the requirements of this chapter within 30 days of the notice. A
23 producer, retailer, or battery stewardship organization that violates
24 a provision of this chapter after the initial written warning may be
25 assessed a penalty as provided in this subsection.

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

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

32 NEW SECTION. **Sec. 13.** RESPONSIBLE BATTERY MANAGEMENT ACCOUNT.
33 The responsible battery management account is created in the custody
34 of the state treasurer. All receipts from fees paid under this
35 chapter must be deposited in the account. Only the director of the
36 department or the director's designee may authorize expenditures from
37 the account. The account is subject to allotment procedures under
38 chapter 43.88 RCW, but an appropriation is not required for
39 expenditures. Moneys in the account may be used solely by the

1 department for administering, implementing, and enforcing the
2 requirements of this chapter. Funds in the account may not be
3 diverted for any purpose or activity other than those specified in
4 this section.

5 NEW SECTION. **Sec. 14.** MARKING REQUIREMENTS FOR BATTERIES. (1)
6 Beginning January 1, 2028, a producer or retailer may only sell,
7 distribute, or offer for sale in or into Washington a large format
8 battery, covered battery, or battery-containing product that contains
9 a battery that is designed or intended to be easily removable from
10 the product, if the battery is:

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

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

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

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

25 NEW SECTION. **Sec. 15.** GENERAL BATTERY DISPOSAL AND COLLECTION
26 REQUIREMENTS. Effective July 1, 2027, for portable batteries and July
27 1, 2029, for medium format batteries, or the first date on which an
28 approved plan begins to be implemented under this chapter by a
29 battery stewardship organization, whichever comes first:

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

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

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

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

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

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

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

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

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

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

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

31 (a) Large format batteries;

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

34 (c) Batteries contained in medical devices, as specified in Title
35 21 U.S.C. Sec. 360c as it existed as of the effective date of this
36 section that are not designed and marketed for sale or resale
37 principally to consumers for personal use; and

38 (d) Batteries not intended or designed to be easily removed by a
39 customer that are contained in battery-containing products, including

1 medical devices, and in electronic products that are not covered
2 electronic products managed under an approved plan implemented under
3 chapter 70A.500 RCW.

4 (2) The department must consult with the department of commerce
5 and interested stakeholders in completing the assessment, including
6 consultation with overburdened communities and vulnerable populations
7 identified by the department under chapter 70A.02 RCW. The assessment
8 must identify any needed adjustments to the stewardship program
9 requirements established in this chapter that are necessary to
10 maximize public health, safety, and environmental benefits, such as
11 battery reuse.

12 (3) The assessment must consider:

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

15 (b) The current economic value and reuse or recycling potential
16 of large format batteries or large format battery components and a
17 summary of studies examining the environmental and equity
18 implications of displacing demand for new rare earth materials,
19 critical materials, and other conflict materials through the reuse
20 and recycling of batteries;

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

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

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

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

36 NEW SECTION. **Sec. 17.** DEPARTMENT OF ECOLOGY RECOMMENDATIONS FOR
37 MANAGEMENT OF ELECTRIC VEHICLE BATTERIES. (1) By November 30, 2023,
38 the department of ecology must submit a report to the appropriate
39 committees of the legislature on preliminary policy recommendations

1 for the collection and management of electric vehicle batteries. By
2 April 30, 2024, the department of ecology must report to the
3 appropriate committees of the legislature on final policy
4 recommendations for the collection and management of electric vehicle
5 batteries.

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

8 (a) Solicit input from representatives of automotive wrecking and
9 salvage yards, solid waste collection and processing companies, local
10 governments, environmental organizations, electric vehicle
11 manufacturers, and any other interested parties; and

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

13 NEW SECTION. **Sec. 18.** ANTITRUST. Producers or battery
14 stewardship organizations acting on behalf of producers that prepare,
15 submit, and implement a battery stewardship program plan pursuant to
16 this chapter and who are thereby subject to regulation by the
17 department are granted immunity from state laws relating to
18 antitrust, restraint of trade, unfair trade practices, and other
19 regulation of trade and commerce, for the limited purpose of
20 planning, reporting, and operating a battery stewardship program,
21 including:

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

25 (2) The determination of the cost and structure of a battery
26 stewardship plan; and

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

29 NEW SECTION. **Sec. 19.** AUTHORITY OF THE UTILITIES AND
30 TRANSPORTATION COMMISSION. Nothing in this chapter changes or limits
31 the authority of the Washington utilities and transportation
32 commission to regulate collection of solid waste, including curbside
33 collection of residential recyclable materials, nor does this chapter
34 change or limit the authority of a city or town to provide the
35 service itself or by contract under RCW 81.77.020.

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

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

8 (a) Civil penalties imposed pursuant to RCW 18.104.155,
9 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
10 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
11 70A.65.200, 70A.455.090, section 12 of this act, 76.09.170,
12 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
13 90.56.310, 90.56.330, and 90.64.102.

14 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
15 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
16 70A.245.020, 70A.65.200, section 12 of this act, 86.16.020,
17 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

18 (c) Except as provided in RCW 90.03.210(2), the issuance,
19 modification, or termination of any permit, certificate, or license
20 by the department or any air authority in the exercise of its
21 jurisdiction, including the issuance or termination of a waste
22 disposal permit, the denial of an application for a waste disposal
23 permit, the modification of the conditions or the terms of a waste
24 disposal permit, or a decision to approve or deny an application for
25 a solid waste permit exemption under RCW 70A.205.260.

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

28 (e) Decisions of local health departments regarding the issuance
29 and enforcement of permits to use or dispose of biosolids under RCW
30 70A.226.090.

31 (f) Decisions of the department regarding waste-derived
32 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
33 decisions of the department regarding waste-derived soil amendments
34 under RCW 70A.205.145.

35 (g) Decisions of local conservation districts related to the
36 denial of approval or denial of certification of a dairy nutrient
37 management plan; conditions contained in a plan; application of any
38 dairy nutrient management practices, standards, methods, and
39 technologies to a particular dairy farm; and failure to adhere to the
40 plan review and approval timelines in RCW 90.64.026.

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

4 (i) Decisions of the department of natural resources, the
5 department of fish and wildlife, and the department that are
6 reviewable under chapter 76.09 RCW, and the department of natural
7 resources' appeals of county, city, or town objections under RCW
8 76.09.050(7).

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

11 (k) Decisions of the department of fish and wildlife to issue,
12 deny, condition, or modify a hydraulic project approval permit under
13 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
14 comply, to issue a civil penalty, or to issue a notice of intent to
15 disapprove applications.

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

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

22 (n) Decisions of the department of ecology that are appealable
23 under RCW 70A.245.020 to set recycled minimum postconsumer content
24 for covered products or to temporarily exclude types of covered
25 products in plastic containers from minimum postconsumer recycled
26 content requirements.

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

28 (2) The following hearings shall not be conducted by the hearings
29 board:

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

32 (b) Hearings conducted by the department pursuant to RCW
33 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
34 70A.15.3110, and 90.44.180.

35 (c) Appeals of decisions by the department under RCW 90.03.110
36 and 90.44.220.

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

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

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

6 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
7 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
8 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, section 12 of this
9 act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
10 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by
11 a notice in writing, either by certified mail with return receipt
12 requested or by personal service, to the person incurring the penalty
13 from the department or the local air authority, describing the
14 violation with reasonable particularity. For penalties issued by
15 local air authorities, within 30 days after the notice is received,
16 the person incurring the penalty may apply in writing to the
17 authority for the remission or mitigation of the penalty. Upon
18 receipt of the application, the authority may remit or mitigate the
19 penalty upon whatever terms the authority in its discretion deems
20 proper. The authority may ascertain the facts regarding all such
21 applications in such reasonable manner and under such rules as it may
22 deem proper and shall remit or mitigate the penalty only upon a
23 demonstration of extraordinary circumstances such as the presence of
24 information or factors not considered in setting the original
25 penalty.

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

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

34 (a) (~~Thirty~~) 30 days after receipt of the notice imposing the
35 penalty;

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

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

3 (4) If the amount of any penalty is not paid to the department
4 within 30 days after it becomes due and payable, the attorney
5 general, upon request of the department, shall bring an action in the
6 name of the state of Washington in the superior court of Thurston
7 county, or of any county in which the violator does business, to
8 recover the penalty. If the amount of the penalty is not paid to the
9 authority within 30 days after it becomes due and payable, the
10 authority may bring an action to recover the penalty in the superior
11 court of the county of the authority's main office or of any county
12 in which the violator does business. In these actions, the procedures
13 and rules of evidence shall be the same as in an ordinary civil
14 action.

15 (5) All penalties recovered shall be paid into the state treasury
16 and credited to the general fund except those penalties imposed
17 pursuant to RCW 18.104.155, which shall be credited to the
18 reclamation account as provided in RCW 18.104.155(7), RCW
19 70A.15.3160, the disposition of which shall be governed by that
20 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited
21 to the recycling enhancement account created in RCW 70A.245.100, RCW
22 70A.300.090 and section 12 of this act, which shall be credited to
23 the model toxics control operating account created in RCW
24 70A.305.180, RCW 70A.65.200, which shall be credited to the climate
25 investment account created in RCW 70A.65.250, RCW 90.56.330, which
26 shall be credited to the coastal protection fund created by RCW
27 90.48.390, and RCW 70A.355.070, which shall be credited to the
28 underground storage tank account created by RCW 70A.355.090.

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

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

36 (2) This section is not subject to the requirements of RCW
37 82.32.805 and 82.32.808 and is not subject to an expiration date.

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

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

3 NEW SECTION. **Sec. 24.** SEVERABILITY. If any provision of this
4 act or its application to any person or circumstance is held invalid,
5 the remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

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