

Chapter 173-331 WAC

VEHICLE BATTERY RECYCLING

WAC

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WAC 173-331-010 Authority and purpose. The department of ecology has been authorized under RCW 70.95.670 to implement and enforce a vehicle battery recycling program. The purpose of this chapter is to establish procedures for implementation and enforcement of RCW 70.95.-610 through 70.95.660, which is designed to accomplish the recycling of used vehicle batteries through a system of exchanging batteries at the point of sale.

[Statutory Authority: RCW 70.95.670. WSR 91-05-020 (Order 90-36), § 173-331-010, filed 2/11/91, effective 3/14/91.]

WAC 173-331-100 Definitions. The following words, terms, and phrases shall, for the purposes of this chapter, have the meanings given below:

(1) The terms wholesale and retail shall have the same meanings provided in Title 82 RCW, Excise taxes. For example, wholesale refers to the sale of vehicle batteries to retail establishments, and retail refers to sale of vehicle batteries that require payment of the retail sales tax.

(2) Authorization means the license issued by the department of licensing and approved by the department of ecology as authorized by RCW 70.95.610.

(3) Business location means the premises where business is conducted.

(4) Core charge means an added charge applied during a retail sale to be refunded to the purchaser when a used battery of equivalent size is offered in exchange.

(5) Department means the department of ecology.

(6) Disposal means to deposit, dump, abandon, or spill any vehicle battery into or on any land, water, solid waste landfill, or solid waste incinerator.

(7) Equivalent size means weighing fifty to one hundred fifty percent of the vehicle battery purchased.

(8) New vehicle battery means any vehicle battery intended for use as an electrical energy storage device.

(9) Original battery installation means any new vehicle or device that requires a vehicle battery to be connected or installed before use is possible.

(10) Replacement vehicle battery means any vehicle battery sold at retail (a) that is not sale of an original battery installation, or (b) without verifiable proof that the buyer needs the battery for an original battery installation.

(2/11/91)

(11) Secondary lead smelter means any facility licensed by a state or federal government to reclaim lead from vehicle batteries.

(12) Unified business identifier service location means:

(a) The field offices of the departments of revenue and labor and industries.

(b) The tax offices of employment security.

(c) The Olympia office of the secretary of state.

(d) The business license service office of the department of licensing.

(13) Used vehicle battery means any vehicle battery intended for reclamation, separate from a vehicle or other installation.

(14) Vehicle battery means any battery used or capable of use, without modification, in any vehicle, truck, mobile home, recreational vehicle, boat, airplane, or utility vehicle, having a core of elemental lead, with the capability to produce six or more volts. For purposes of application of the core charge only, a vehicle battery shall be a replacement battery and the core charge shall not apply to original battery installations.

[Statutory Authority: RCW 70.95.670. WSR 91-05-020 (Order 90-36), § 173-331-100, filed 2/11/91, effective 3/14/91.]

WAC 173-331-200 Posting of retail notices. (1) This section refers to the notices required by RCW 70.95.630(2).

(2) All required notices must be posted in the main vehicle battery display area or other area clearly visible to battery purchasers. Notices must be posted no lower than four feet and no higher than seven feet, level to the floor. Notices must be maintained free of any viewing obstructions.

Note: Notices are available by calling 1-800-RECYCLE.

[Statutory Authority: RCW 70.95.670. WSR 91-05-020 (Order 90-36), § 173-331-200, filed 2/11/91, effective 3/14/91.]

WAC 173-331-210 Optional exemption to the core charge. A retailer is not required to apply a core charge to a battery sale when the buyer submits verifiable proof that the battery is needed for an original battery installation. Verifiable proof shall consist of a voucher issued by the seller of the vehicle or device containing the following:

(1) Title, address, and phone of the retail establishment;

(2) Brief description of the vehicle or device sold with indication that a battery(s) was not included;

(3) Date of issuance;

(4) Name of the purchaser; and

(5) Signature of the sales agent.

Vouchers shall be valid for ninety days following the date of issuance and must be surrendered to the retailer during the battery sale.

[Statutory Authority: RCW 70.95.670. WSR 91-05-020 (Order 90-36), § 173-331-210, filed 2/11/91, effective 3/14/91.]

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WAC 173-331-220 Condition of used batteries. (1) A purchaser must provide a used battery in a fully-capped, unbroken condition to qualify for waiver of the core charge. A retailer may refuse to accept a broken or uncapped battery, or may condition acceptance upon provision of a leak proof, acid resistant container, such as a plastic pail, holding the broken or uncapped battery.

(2) The department shall provide on its 1-800-RECYCLE Hotline a list of recycling outlets available for broken and uncapped batteries.

[Statutory Authority: RCW 70.95.670. WSR 91-05-020 (Order 90-36), § 173-331-220, filed 2/11/91, effective 3/14/91.]

WAC 173-331-300 Conditions for suspending the acceptance requirements. (1) This section refers to the suspension order required by RCW 70.95.650(3).

(2) When the department deems it necessary, the department shall determine the market price paid for used lead batteries by contacting agents of the secondary smelters historically used to process used vehicle batteries originating in Washington. The department shall determine transportation costs by contacting at least three trucking firms and at least three shipping firms for estimated unit costs to transport batteries to each secondary smelter. If the lowest estimated transportation costs are higher than market price paid for all of the secondary smelters, the department will order a suspension.

(3) The department will notify retailers of any suspension by sending notice to trade organization representatives and other businesses on our vehicle battery program mailing list. (To get on the vehicle battery mailing list call (360) 438-7541.)

[Statutory Authority: RCW 70.95.670. WSR 91-05-020 (Order 90-36), § 173-331-300, filed 2/11/91, effective 3/14/91.]

WAC 173-331-400 Authorization of used battery collectors. (1) This section refers to RCW 70.95.610(1).

(2) Beginning May 1, 1991, any person who collects used vehicle batteries nonincidental to accepting exchanges during sale of new batteries, excluding local governments with approved local hazardous waste plans pursuant to RCW 70.105.220, must have a department approved authorization issued by the department of licensing.

(3) License fees for each business location shall be fifteen dollars annually.

(4) Application forms for a used vehicle battery collector authorization will be available at unified business identifier service locations located throughout the state.

Note: Assistance finding the nearest unified business identifier service is available by calling 1-800-562-8203.

(5) Ecology review of application for authorization as a used vehicle battery collector:

(a) Any application for authorization or reauthorization as a used vehicle battery collector is subject to review and final approval or disapproval by the department of ecology.

(b) The applicant will be notified if the department has evidence that the applicant has failed to comply with environmental regulations affecting the handling, storage, transport, reclamation, or disposal of vehicle batteries. Such failure is

sufficient reason for the department to disapprove or rescind authorization as a vehicle battery collector.

(c) Notification shall be in writing and shall include a statement of the basis for the department's belief that failure to comply has occurred and an indication of the department's intentions regarding authorization.

(d) The applicant may submit to the department comments on the department's intended action and basis for that action. Any comments shall be submitted in writing to the department within fifteen days from date of receipt of the department's notice letter unless the department provides an extension.

(e) After reviewing any comments, the department shall issue a letter notifying the applicant of its decision whether to authorize the applicant as a vehicle battery collector. Such decision may be appealed to the department by written application for review within fifteen days of receipt by the applicant of the department's decision. The department shall issue a notice of its decision on the application for review within fifteen days of the receipt of such application. This notice shall be the department's final decision.

(f) Pursuant to RCW 43.21B.110 (1)(c), the department's final decision is appealable to the pollution control hearings board.

[Statutory Authority: RCW 70.95.670. WSR 91-05-020 (Order 90-36), § 173-331-400, filed 2/11/91, effective 3/14/91.]

WAC 173-331-410 Reporting requirements. (1) Consistent with RCW 70.95.280, persons who collect used vehicle batteries in Washington state and recondition them, reclaim them, or arrange transport of the used batteries to out-of-state locations shall report annually to the department quantities of batteries collected and their destination(s).

Note: Reporting instructions and forms are available by calling 1-800-RECYCLE.

(2) Requests for confidentiality will be honored if the reporting business shows that publication of the information may affect adversely its competitive position and if the department determines that confidentiality is not detrimental to public interest.

[Statutory Authority: RCW 70.95.670. WSR 91-05-020 (Order 90-36), § 173-331-410, filed 2/11/91, effective 3/14/91.]

WAC 173-331-500 Handling of used vehicle batteries. Nothing in this chapter shall exempt wholesalers, retailers, or used battery collectors from the sections pertaining to lead-acid battery handling in the state's dangerous waste regulations, chapter 173-303 WAC, including WAC 173-303-050 (Department of ecology cleanup authority), WAC 173-303-145 (Spills and discharges into the environment), and WAC 173-303-960 (Special powers and authorities of the department). All shall use prudent procedures of handling and storing used vehicle batteries.

[Statutory Authority: RCW 70.95.670. WSR 91-05-020 (Order 90-36), § 173-331-500, filed 2/11/91, effective 3/14/91.]

WAC 173-331-600 Severability. If any provision of this chapter or its application to any person is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

Note: Copies of RCW 70.95.280 and 70.95.610 through 70.95.670, WAC 173-303-050, 173-303-145 and 173-303-960, and additional copies of this chapter, chapter 173-331 WAC, are available from the Department of Ecology, Office of Waste Reduction, Recycling, and Litter Control, Mailstop PV-11, Olympia, WA 98504-8711, (360) 438-7541, 1-800-RECYCLE, 1-800-732-9253.

[Statutory Authority: RCW 70.95.670. WSR 91-05-020 (Order 90-36), § 173-331-600, filed 2/11/91, effective 3/14/91.]