
SUBSTITUTE HOUSE BILL 1364

State of Washington

63rd Legislature

2013 Regular Session

By House Environment (originally sponsored by Representatives Tharinger, Zeiger, Moscoso, Crouse, Lias, McCoy, Fitzgibbon, Upthegrove, Maxwell, Morrell, Pollet, and Fey)

READ FIRST TIME 02/20/13.

1 AN ACT Relating to adopting the Washington small rechargeable
2 battery stewardship act; reenacting and amending RCW 43.21B.110 and
3 43.21B.110; adding a new chapter to Title 70 RCW; prescribing
4 penalties; providing an effective date; and providing an expiration
5 date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

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

11 (2) It is desirable to reduce the volume of the solid waste stream
12 and resulting burdens on municipalities;

13 (3) Ensuring the proper handling and recycling of used small
14 rechargeable batteries prevents the release of toxic materials into the
15 environment and removes from the waste stream materials that may
16 present safety concerns if mishandled;

17 (4) It is important to ensure that all entities supplying small
18 rechargeable batteries to users in Washington, whether as stand-alone

1 units or as easily removable components of products, bear the same
2 battery stewardship obligations;

3 (5) Addressing certain existing and future barriers to
4 implementation of voluntary industry programs to collect and recycle
5 used small rechargeable batteries will facilitate these interests, even
6 if doing so may be inconsistent with state or federal laws governing
7 competitive practices.

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

10 (1) "Department" means the department of ecology.

11 (2) "Easily removable" means readily detachable by a consumer with
12 the use of common household tools or without the use of tools.

13 (3) "Multiparty program" means a Washington-only or multistate
14 program that collects used small rechargeable batteries regardless of
15 brand.

16 (4) "Nonenrolled battery" means a used small rechargeable battery
17 that under section 3 of this act must be covered by a qualified
18 program, but as to which no manufacturer or marketer of the battery
19 operated or participated in a qualified program at the time the used
20 battery was collected.

21 (5) "Nonrechargeable battery" means a battery that is not designed
22 to be recharged for repeated use.

23 (6) "Participate" means to appoint an organization to act as an
24 agent to administer a qualified used small rechargeable battery
25 stewardship program and to have that appointment accepted by the
26 qualified program.

27 (7) "Person" means a sole proprietorship, partnership, corporation,
28 nonprofit corporation or organization, limited liability company, firm,
29 association, cooperative, or other legal entity located within or
30 outside Washington.

31 (8) "Place of business" means a location at which a retailer sells
32 or offers for sale small rechargeable batteries or portable
33 rechargeable products to consumers.

34 (9) "Portable rechargeable product" means a product that is
35 packaged with or contains one or more easily removable small
36 rechargeable batteries at the time it is sold or offered for sale, and
37 is not a medical device as defined in RCW 19.210.010.

1 (10) "Portable rechargeable product manufacturer or marketer" means
2 every person that: (a) Manufactures or arranges for the manufacturing
3 of portable rechargeable products sold, offered for sale, or
4 distributed in Washington under a brand name it owns or licenses; (b)
5 packages or arranges for the packaging of portable rechargeable
6 products sold, offered for sale, or distributed in Washington under a
7 brand name it owns or licenses; (c) imports into the United States
8 portable rechargeable products that are sold, offered for sale, or
9 distributed in Washington under a brand name it owns or licenses; or
10 (d) is not a retailer and otherwise makes available to purchasers in
11 Washington portable rechargeable products.

12 (11) "Qualified used small rechargeable battery stewardship
13 program" or "qualified program" means a program for the collection,
14 transportation, recycling, and disposal of used small rechargeable
15 batteries that has been approved by the department under section 5 of
16 this act. A qualified program may be either a retailer program or a
17 multiparty program.

18 (12) "Rechargeable battery steward" means every small rechargeable
19 battery manufacturer or marketer and portable rechargeable product
20 manufacturer or marketer.

21 (13) "Retailer" means every person who sells or offers to sell
22 small rechargeable batteries, or portable rechargeable products, at
23 retail through any means including, but not limited to, remote
24 offerings such as sales outlets, catalogs, or the internet, but does
25 not include any sale that is a wholesale transaction with a distributor
26 or manufacturer.

27 (14) "Retailer program" means a program operated by a single
28 retailer or single franchisor on behalf of its franchisees that
29 collects used small rechargeable batteries regardless of brand at all
30 retail locations at which the retailer or franchisee sells small
31 rechargeable batteries.

32 (15) "Small rechargeable battery" means one or more voltaic or
33 galvanic cells, electrically connected to produce electric energy and
34 designed to be recharged and weighing less than eleven pounds, or an
35 assembly of small rechargeable batteries in a container that has a
36 single positive and negative connection (commonly known as a battery
37 pack) that weighs less than eleven pounds, but does not include: (a)
38 A battery that is not easily removable or is not intended or designed

1 to be removed from the product, other than by the manufacturer; (b) a
2 battery that contains electrolyte as a free liquid; or (c) a battery or
3 battery pack that employs lead acid technology, unless the battery or
4 battery pack: (i) Is sealed; (ii) contains no liquid electrolyte; and
5 (iii) is intended by its manufacturer or marketer to power a hand-held
6 device or to provide uninterrupted backup electrical power protection
7 for stationary consumer products or stationary office equipment.

8 (16) "Small rechargeable battery manufacturer or marketer" means
9 every person that: (a) Manufactures or arranges for the manufacturing
10 of small rechargeable batteries sold, offered for sale, or distributed
11 in Washington under a brand name it owns or licenses; (b) packages or
12 arranges for the packaging of small rechargeable batteries for sale,
13 offering for sale, or distribution in Washington under a brand name it
14 owns or licenses; (c) imports into the United States small rechargeable
15 batteries that are sold, offered for sale, or distributed in Washington
16 under a brand name it owns or licenses; or (d) is not a retailer and
17 otherwise makes available to purchasers in Washington small
18 rechargeable batteries, whether as stand-alone items or otherwise.

19 NEW SECTION. **Sec. 3.** (1) Except as provided in subsection (2) of
20 this section, by July 1, 2014, any rechargeable battery steward who has
21 a reasonable basis to know that any of the small rechargeable batteries
22 or portable rechargeable products it manufactures or markets are being
23 sold or offered for sale in Washington by retailers who do not operate
24 or participate in a qualified retailer program under section 5 of this
25 act shall either:

26 (a) Operate or participate in a qualified multiparty program or
27 retailer program described in section 5 of this act; or

28 (b) Participate in a qualified multiparty program operated by
29 another person as described in section 7 of this act.

30 (2) This section does not apply to any person, including a
31 telecommunications provider, who markets equipment under a brand it
32 owns that uses small rechargeable batteries that were manufactured by
33 a participant in a qualified used small rechargeable battery
34 stewardship program.

35 NEW SECTION. **Sec. 4.** Any person offering used small rechargeable
36 battery recycling services in Washington shall: (1) Comply with all

1 legal and regulatory requirements applicable to the collection,
2 storage, and transportation of such batteries; and (2) ship all used
3 small rechargeable batteries it collects to lawfully permitted
4 facilities that reuse the batteries as rechargeable power sources,
5 arrange for the reuse of the batteries as rechargeable power sources,
6 or reclaim constituents of the batteries for reuse.

7 NEW SECTION. **Sec. 5.** (1)(a) Any person who seeks to have either
8 a retailer program or a multiparty program approved as a qualified
9 program must submit to the department a plan for that program that
10 meets the requirements of subsections (4) and (5) of this section. The
11 plan must be submitted to the department at least ninety days prior to
12 the date the person intends to begin operating the program as a
13 qualified program. A plan submitted for a retailer program must be
14 accompanied by a fee of ten thousand dollars. A plan submitted for a
15 multiparty program must be accompanied by a fee of twenty thousand
16 dollars. The department must deposit fees collected under this section
17 into the used battery stewardship account created in section 11 of this
18 act.

19 (b) The operator of a qualified multiparty program or retailer
20 program must pay to the used battery stewardship account established
21 under section 11 of this act an annual fee, as prescribed in this
22 subsection (1)(b), to cover only the department's costs of
23 administering and enforcing the requirements established by this
24 chapter.

25 (i) The administrative fee for each twelve-month period beginning
26 July 1, 2015, may not exceed fifteen thousand dollars for each
27 qualified program. The department shall determine the fee by April 1,
28 2015, and each April 1st thereafter, and notify qualified program
29 operators. The qualified program operator or operators shall remit
30 payment by June 30, 2015, and each June 30th thereafter.

31 (ii) Any portion of the fee collected that goes unspent must be
32 retained in the used battery stewardship account created in section 11
33 of this act and applied to reduce future payments by qualified
34 programs, proportionally to each program.

35 (iii) The department must show an accounting for how collected fees
36 are spent.

1 (2) The department must acknowledge its receipt of any plan to
2 operate a qualified program within fourteen days of receipt.

3 (3)(a) If the submitted plan includes all of the elements specified
4 in subsections (4) and (5) of this section, the plan must be deemed
5 approved unless the department notifies the person submitting the plan
6 within ninety days of receiving the plan that the plan is incomplete
7 and specifies the elements that are incomplete.

8 (b) If the submitter files a supplemental or revised plan to
9 address the elements identified by the department in (a) of this
10 subsection, the plan must be deemed approved unless the department
11 notifies the person submitting the plan within ninety days of receiving
12 the supplemental or revised plan that the supplemental or revised plan
13 is incomplete and specifies the elements that are incomplete, in which
14 case the plan is deemed denied.

15 (4) A retailer program plan or multiparty program plan submitted to
16 the department must contain the following:

17 (a) The name, address, and contact information for the operator of
18 the qualified program;

19 (b) A description of the qualified program that includes the
20 identification of all sorting and reclamation facilities to be used
21 through final disposition for sorting and reclamation of all used small
22 rechargeable batteries collected;

23 (c) A certification that:

24 (i) All used small rechargeable batteries collected by the plan
25 will be handled by the person submitting the plan in compliance with
26 all applicable laws and rules, and that any used small rechargeable
27 batteries shipped for reclamation by the plan submitter will be shipped
28 only to lawfully permitted facilities;

29 (ii) All contracts with service providers entered into by the
30 submitting person do or will upon their effective date require
31 compliance with all applicable laws and rules;

32 (iii) Any used small rechargeable batteries shipped for reclamation
33 by the service provider will be shipped only to lawfully permitted
34 facilities;

35 (iv) All return acceptance, recycling, and other handling services,
36 including postcollection transportation, described in the plan will be
37 provided free of charge to consumers; and

1 (v) If the plan is approved by the department in accordance with
2 subsection (3) of this section, the plan will be implemented in
3 accordance with the approved plan until such time as the approved plan
4 is amended pursuant to subsections (8) and (9) of this section or
5 terminated pursuant to subsection (10) of this section;

6 (d) Identification of the locations that will be served by the
7 program where Washington residents may take used small rechargeable
8 batteries, and what restrictions, if any, will be imposed on the number
9 of used small rechargeable batteries that may be returned;

10 (e) A description of the process and timeline under which the
11 operator of the qualified program has undertaken the following actions:

12 (i) Solicited public comment on its draft plan, including
13 facilitating workshops and accepting verbal and written testimony; and

14 (ii) Compiled and reviewed all public comments submitted on the
15 draft plan and made appropriate revisions to the plan before finalizing
16 the plan; and

17 (f) The mechanisms by which the program will handle inquiries from
18 consumers.

19 (5) In addition to meeting the requirements of subsection (4) of
20 this section, a multiparty program plan submitted to the department
21 must also contain the following:

22 (a) Identification of rechargeable battery stewards that are
23 currently participating, or plan to participate, in the program, and
24 the means by which the program operator will track their participation;

25 (b) Retailer collection of used small rechargeable batteries at
26 multiple locations;

27 (c) Collection of used small rechargeable batteries from
28 governmental collection facilities;

29 (d) The provision of at least one used small rechargeable battery
30 collection site in each county of the state and in each city or town
31 with a population greater than ten thousand, which may be the same as
32 the location in a county; and

33 (e) Education and outreach activities to maximize collections,
34 including the offering of signage to retailers indicating the
35 retailer's support of the program.

36 (6) Upon approval pursuant to subsection (3) of this section, the
37 submitter of the qualified program plan must post on the internet:

38 (a) Its program plan;

1 (b) A rechargeable battery collection site locator to assist
2 consumers in finding the nearest collection site;

3 (c) For a multiparty program, a list of the rechargeable battery
4 stewards that are currently participating in the program; and

5 (d) Contact information for the program, indicating how small
6 rechargeable battery manufacturers and marketers, portable rechargeable
7 product manufacturers or marketers, and consumers may seek technical
8 assistance from the program.

9 (7) By April 1st of the year following approval of a qualified
10 program plan, and each year thereafter until the program is terminated,
11 the operator of a qualified multiparty or retailer program must make
12 available on the internet and provide to the department a report
13 identifying:

14 (a) The program's funding and recycling success, including any
15 increase in total batteries collected each year, the cost of the
16 program per pound of batteries collected, and the cost of the program
17 per Washington resident;

18 (b) The program's collections by county and battery chemistry;

19 (c) The program's educational and outreach activities;

20 (d) The rechargeable battery stewards that participate in the
21 program;

22 (e) The mechanisms employed and the entities involved in the final
23 disposition of collected materials;

24 (f) A description of the methods used to collect, transport, and
25 account for all used small rechargeable batteries collected, including
26 identification of all sorting and reclamation facilities used; and

27 (g) The program's independently audited financial statement,
28 including a breakdown of program expenses such as collection,
29 recycling, education, and overhead. If a qualified program operating
30 in Washington is part of a program that also operates in jurisdictions
31 outside of Washington, funding information and audited financial
32 statements need not be reported on a Washington-specific basis, but
33 average program-wide costs of collection and overhead must be clearly
34 stated.

35 (8) A qualified program plan may be amended by submitting to the
36 department a revised version of the qualified program plan showing
37 proposed amendments and an administrative fee in the amounts set forth
38 in subsection (1)(a) of this section. Within sixty days of receipt,

1 the department shall approve the amended program plan if the amended
2 program plan continues to address all of the requirements of subsection
3 (4) of this section and, if it is a multiparty program plan, subsection
4 (5) of this section, or shall inform the submitter of any specific
5 deficiencies and allow a reasonable period of time for submission of
6 revised amendments. Unless the department notifies the submitter
7 within sixty days of the submission of the revised amended plan that
8 the revised amended plan fails to meet the applicable requirements of
9 subsection (4) or (5) of this section, then the revised amended plan is
10 deemed to be a qualified program plan. If at either the submission or
11 resubmission stage the department informs the submitter of
12 deficiencies, the unamended, previously approved, qualified plan
13 remains in effect until a revised plan is approved by the department,
14 unless the qualified plan is terminated by its operator.

15 (9) A program plan amendment must be submitted to the department
16 only if there is an addition to the products covered under the
17 qualified program or there is a significant change in the operation of
18 the program. Nothing in this chapter may be construed to require the
19 amendment of a plan in the event of minor changes in the composition of
20 program participants or collection sites. In the event of the
21 submission of an amended plan, the department's review obligations as
22 to revised portions of the plan are the same as those set forth in
23 subsections (4) and (5) of this section.

24 (10) A qualified program may be terminated by its operator at any
25 time after the operator gives six months' notice to the department and
26 to program participants of the proposed termination date.

27 NEW SECTION. **Sec. 6.** (1) Nothing in this chapter prohibits a
28 governmental entity from recovering payment from a qualified program
29 for used small rechargeable batteries that have been collected by or on
30 behalf of that governmental entity and accepted by the qualified
31 program.

32 (2) Nothing in this chapter requires any qualified program operator
33 to pay any governmental entity for costs incurred by the governmental
34 entity in association with the collection of used small rechargeable
35 batteries.

1 NEW SECTION. **Sec. 7.** Any person that operates a qualified program
2 in Washington for the stewardship of multiple brands of used
3 nonrechargeable batteries shall provide to all rechargeable battery
4 stewards subject to this chapter the opportunity to participate in that
5 person's program and shall comply with the requirements of a multiparty
6 program plan under section 5 (1) and (5) of this act. Such a person
7 may impose on the rechargeable battery steward fees no greater than the
8 share of the total cost of the program of collecting, handling, and
9 processing small rechargeable batteries that is equal to a reasonable
10 estimate of the percentage that represents the share of sales of small
11 rechargeable batteries sold in Washington for which the rechargeable
12 battery steward would be responsible under section 3 of this act,
13 compared to the total number of small rechargeable batteries sold in
14 Washington as either individual units or in portable rechargeable
15 products. Any rechargeable battery steward who participates in such a
16 qualified program is deemed to be in compliance with this chapter.

17 NEW SECTION. **Sec. 8.** (1)(a) Beginning July 1, 2014, no retailer
18 may sell or offer for sale in Washington:

19 (i) A small rechargeable battery or product containing or packed
20 with a small rechargeable battery unless the battery is marked with an
21 identification of the small rechargeable battery manufacturer or
22 marketer; or

23 (ii) A small rechargeable battery or portable rechargeable product
24 if the retailer has received written notice from the department or from
25 the operator of a qualified program that the manufacturer or marketer
26 of the battery or product does not comply with this chapter.

27 (b) This subsection does not apply to donated, used items sold in
28 a retail store operated by a charity recognized as an entity that is
29 exempt from taxation under Title 26 U.S.C. Sec. 501(c)(3) of the
30 federal internal revenue code of 1986, as amended, as of the effective
31 date of this section.

32 (2) Retailers that sell or offer to sell small rechargeable
33 batteries or portable rechargeable products to consumers in Washington,
34 whether through places of business or through nonretail outlets such as
35 catalogs, by mail, telephone, or the internet, and who are cooperating
36 in a qualified program shall inform consumers of program-provided
37 opportunities to return used small rechargeable batteries for recycling

1 in Washington. Retailers that sell or offer to sell rechargeable
2 batteries or portable rechargeable products to consumers in Washington,
3 whether through places of business or through nonretail outlets such as
4 catalogs, by mail, telephone, or the internet, and who do not cooperate
5 in a qualified program should encourage consumers to recycle used small
6 rechargeable batteries.

7 (3) Any retailer that has a physical presence in Washington and is
8 operating, participating in, or cooperating with a qualified program
9 shall ensure that all used batteries placed in any collection container
10 located at the retailer's facility are protected from short circuiting
11 in accordance with the applicable law, and shall take reasonable steps
12 to prevent the placement into any such container of materials other
13 than properly protected used small rechargeable batteries.

14 (4) A retailer may not require the operator of a qualified program
15 to pay the retailer for the costs associated with cooperating with that
16 program.

17 (5) An operator of a qualified program may not require a retailer
18 to pay a fee to cooperate with that operator's program.

19 (6) Any person who supplies to a retailer for sale a new small
20 rechargeable battery or new portable rechargeable product whose
21 manufacturer or marketer is not in compliance with section 3 of this
22 act shall, upon request by the retailer, designate a location to which
23 the retailer may ship the battery or product for further handling,
24 reimburse the retailer for all costs incurred by the retailer in
25 shipping the battery or product to the designated location, and
26 reimburse the retailer for the amount the retailer paid for the
27 product.

28 NEW SECTION. **Sec. 9.** All activities undertaken by any qualified
29 program or a participant in such a program to establish and operate the
30 program, to coordinate that program with a program to collect used
31 electronic waste, or to coordinate with or participate in a program
32 described in section 7 of this act shall not be considered in violation
33 of any provision of chapter 19.86 RCW, the consumer protection act.

34 NEW SECTION. **Sec. 10.** (1) This section establishes the mechanisms
35 available to the department to enforce this chapter. For the purposes
36 of this chapter, nothing authorizes or requires, except as provided in

1 subsection (2) of this section, the department to inspect any location
2 at which used small rechargeable batteries are being collected, stored,
3 sorted, processed, or reclaimed, or to take any other action not
4 expressly described in this section.

5 (2) If the department learns from a qualified program operator,
6 including retailer programs, that a person subject to a requirement
7 under section 3, 4, 7, or 8 of this act has failed to comply with this
8 chapter or failed to comply with a certification made pursuant to
9 section 5(4)(c) of this act, the department may inspect the location of
10 the suspected failure to comply, and shall notify the person of the
11 potential violation. Unless the person comes into compliance within
12 ninety days of receipt of such a notification, demonstrates to the
13 satisfaction of the department that it is not subject to section 3, 4,
14 7, or 8 of this act, or requests a hearing on its compliance to be
15 conducted in conformance with the administrative procedure act, chapter
16 34.05 RCW, the department shall include the person's name and other
17 identifying information, including, but not limited to, all brand names
18 used by the person, on a list that is made available to the public
19 through the internet of entities whose small rechargeable battery or
20 portable rechargeable product may not be sold in Washington.

21 (3)(a) The department may issue civil penalties in the amount of up
22 to five thousand dollars for the first violation, up to ten thousand
23 dollars for the second violation, and up to fifty thousand dollars for
24 the third and each subsequent violation, to any person who violates
25 section 3, 4, 5, or 7 of this act, or who holds himself or herself out
26 as operating a qualified program when such a program has not been
27 approved by the department.

28 (b) The department may issue civil penalties in the amount of up to
29 one thousand dollars to any person who violates section 8 of this act.

30 (c) For purposes of this chapter, multiple consecutive days of the
31 same failure to comply with a requirement of this chapter are
32 considered a single violation.

33 (4) At least ninety days prior to seeking to assess any penalty
34 authorized by subsection (3) of this section, the department shall
35 notify the alleged violator of the department's intention to seek a
36 penalty. No penalty is recoverable under subsection (3) of this
37 section if, within the ninety days of receipt of such a notice, the
38 recipient has come into compliance with this chapter. Any person that

1 incurs a penalty under this chapter may appeal the penalty by written
2 petition to the pollution control hearings board in accordance with
3 chapter 34.05 RCW, the administrative procedure act.

4 NEW SECTION. **Sec. 11.** The used battery stewardship account is
5 created in the custody of the state treasurer. All receipts from
6 payments made under section 5 (1) and (8) of this act and penalties
7 levied under this chapter must be deposited into the account.
8 Expenditures from the account may be used solely by the department for
9 the purposes of fulfilling department responsibilities specified in
10 this chapter. Only the director of the department or the director's
11 designee may authorize expenditures from the account. Funds in the
12 account may not be diverted for any purpose or activity other than
13 those specified in this section. The account is subject to allotment
14 procedures under chapter 43.88 RCW, but an appropriation is not
15 required for expenditures.

16 NEW SECTION. **Sec. 12.** (1) The operator of a qualified used small
17 rechargeable battery stewardship program that incurs costs in excess of
18 five thousand dollars in collecting, handling, recycling, or properly
19 disposing in Washington of nonenrolled batteries may bring a civil
20 action or actions to recover costs, damages, and fees as specified in
21 subsection (2) of this section if the nonenrolled batteries originated
22 from a small rechargeable battery manufacturer or marketer or portable
23 rechargeable product manufacturer or marketer who:

24 (a) Was required by section 3 of this act to operate or participate
25 in a qualified program, did not at the time the used battery was
26 collected participate in a qualified program, and was not covered by
27 the participation by another manufacturer in a qualified program; and

28 (b) Can reasonably be identified from a brand or marking on a used
29 small rechargeable battery or from other information.

30 (2) An action under subsection (1) of this section may be brought
31 against one or more small rechargeable battery manufacturers or
32 marketers or portable rechargeable product manufacturers or marketers.
33 In any such action, the plaintiff operator of a qualified program may
34 recover from a defendant small rechargeable battery manufacturer or
35 marketer or portable rechargeable product manufacturer or marketer the
36 costs the plaintiff incurred in collecting, handling, recycling, or

1 properly disposing of nonenrolled batteries reasonably identified as
2 having originated from the defendant small rechargeable battery
3 manufacturer or marketer or portable rechargeable product manufacturer
4 or marketer, plus an amount of damages equal to no more than three
5 times those costs, plus the plaintiff's attorneys' fees and costs of
6 litigation.

7 (3) An action to recover the costs specified in this section may be
8 brought in any superior or district court in the state.

9 **Sec. 13.** RCW 43.21B.110 and 2010 c 210 s 7 and 2010 c 84 s 2 are
10 each reenacted and amended to read as follows:

11 (1) The hearings board shall only have jurisdiction to hear and
12 decide appeals from the following decisions of the department, the
13 director, local conservation districts, the air pollution control
14 boards or authorities as established pursuant to chapter 70.94 RCW,
15 local health departments, the department of natural resources, the
16 department of fish and wildlife, and the parks and recreation
17 commission:

18 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
19 70.105.080, 70.107.050, section 10 of this act, 76.09.170, 77.55.291,
20 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
21 90.56.330, and 90.64.102.

22 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
23 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
24 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

25 (c) A final decision by the department or director made under
26 chapter 183, Laws of 2009.

27 (d) Except as provided in RCW 90.03.210(2), the issuance,
28 modification, or termination of any permit, certificate, or license by
29 the department or any air authority in the exercise of its
30 jurisdiction, including the issuance or termination of a waste disposal
31 permit, the denial of an application for a waste disposal permit, the
32 modification of the conditions or the terms of a waste disposal permit,
33 or a decision to approve or deny an application for a solid waste
34 permit exemption under RCW 70.95.300.

35 (e) Decisions of local health departments regarding the grant or
36 denial of solid waste permits pursuant to chapter 70.95 RCW.

1 (f) Decisions of local health departments regarding the issuance
2 and enforcement of permits to use or dispose of biosolids under RCW
3 70.95J.080.

4 (g) Decisions of the department regarding waste-derived fertilizer
5 or micronutrient fertilizer under RCW 15.54.820, and decisions of the
6 department regarding waste-derived soil amendments under RCW 70.95.205.

7 (h) Decisions of local conservation districts related to the denial
8 of approval or denial of certification of a dairy nutrient management
9 plan; conditions contained in a plan; application of any dairy nutrient
10 management practices, standards, methods, and technologies to a
11 particular dairy farm; and failure to adhere to the plan review and
12 approval timelines in RCW 90.64.026.

13 (i) Any other decision by the department or an air authority which
14 pursuant to law must be decided as an adjudicative proceeding under
15 chapter 34.05 RCW.

16 (j) Decisions of the department of natural resources, the
17 department of fish and wildlife, and the department that are reviewable
18 under chapter 76.09 RCW, and the department of natural resources'
19 appeals of county, city, or town objections under RCW 76.09.050(7).

20 (k) Forest health hazard orders issued by the commissioner of
21 public lands under RCW 76.06.180.

22 (l) Decisions of the department of fish and wildlife to issue,
23 deny, condition, or modify a hydraulic project approval permit under
24 chapter 77.55 RCW.

25 (m) Decisions of the department of natural resources that are
26 reviewable under RCW 78.44.270.

27 (n) Decisions of a state agency that is an authorized public entity
28 under RCW 79.100.010 to take temporary possession or custody of a
29 vessel or to contest the amount of reimbursement owed that are
30 reviewable under RCW 79.100.120.

31 (2) The following hearings shall not be conducted by the hearings
32 board:

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

35 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
36 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

37 (c) Appeals of decisions by the department under RCW 90.03.110 and
38 90.44.220.

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

3 ~~((e) Appeals of decisions by the department as provided in chapter
4 43.21L RCW.))~~

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

8 **Sec. 14.** RCW 43.21B.110 and 2010 c 210 s 8 and 2010 c 84 s 3 are
9 each reenacted and amended to read as follows:

10 (1) The hearings board shall only have jurisdiction to hear and
11 decide appeals from the following decisions of the department, the
12 director, local conservation districts, the air pollution control
13 boards or authorities as established pursuant to chapter 70.94 RCW,
14 local health departments, the department of natural resources, the
15 department of fish and wildlife, and the parks and recreation
16 commission:

17 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
18 70.105.080, 70.107.050, section 10 of this act, 76.09.170, 77.55.291,
19 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
20 90.56.330, and 90.64.102.

21 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
22 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
23 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

24 (c) Except as provided in RCW 90.03.210(2), the issuance,
25 modification, or termination of any permit, certificate, or license by
26 the department or any air authority in the exercise of its
27 jurisdiction, including the issuance or termination of a waste disposal
28 permit, the denial of an application for a waste disposal permit, the
29 modification of the conditions or the terms of a waste disposal permit,
30 or a decision to approve or deny an application for a solid waste
31 permit exemption under RCW 70.95.300.

32 (d) Decisions of local health departments regarding the grant or
33 denial of solid waste permits pursuant to chapter 70.95 RCW.

34 (e) Decisions of local health departments regarding the issuance
35 and enforcement of permits to use or dispose of biosolids under RCW
36 70.95J.080.

1 (f) Decisions of the department regarding waste-derived fertilizer
2 or micronutrient fertilizer under RCW 15.54.820, and decisions of the
3 department regarding waste-derived soil amendments under RCW 70.95.205.

4 (g) Decisions of local conservation districts related to the denial
5 of approval or denial of certification of a dairy nutrient management
6 plan; conditions contained in a plan; application of any dairy nutrient
7 management practices, standards, methods, and technologies to a
8 particular dairy farm; and failure to adhere to the plan review and
9 approval timelines in RCW 90.64.026.

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

13 (i) Decisions of the department of natural resources, the
14 department of fish and wildlife, and the department that are reviewable
15 under chapter 76.09 RCW, and the department of natural resources'
16 appeals of county, city, or town objections under RCW 76.09.050(7).

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

19 (k) Decisions of the department of fish and wildlife to issue,
20 deny, condition, or modify a hydraulic project approval permit under
21 chapter 77.55 RCW.

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

24 (m) Decisions of a state agency that is an authorized public entity
25 under RCW 79.100.010 to take temporary possession or custody of a
26 vessel or to contest the amount of reimbursement owed that are
27 reviewable under RCW 79.100.120.

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 70.94.332,
33 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

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

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

1 (~~(e) Appeals of decisions by the department as provided in chapter~~
2 ~~43.211 RCW.~~)

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

6 NEW SECTION. **Sec. 15.** This chapter is void if a federal law, or
7 a combination of federal laws, takes effect that establishes a national
8 program for the collection and recycling of both used nonrechargeable
9 batteries and used small rechargeable batteries.

10 NEW SECTION. **Sec. 16.** This chapter may be known and cited as the
11 Washington small rechargeable battery stewardship act.

12 NEW SECTION. **Sec. 17.** If any provision of this act or its
13 application to any person or circumstance is held invalid, the
14 remainder of the act or the application of the provision to other
15 persons or circumstances is not affected.

16 NEW SECTION. **Sec. 18.** Sections 1 through 12, 15 through 17, and
17 19 of this act constitute a new chapter in Title 70 RCW.

18 NEW SECTION. **Sec. 19.** Nothing in this chapter alters or limits
19 the authority of the utilities and transportation commission to
20 regulate collection of solid waste, including curbside collection of
21 residential recyclable materials, nor does this chapter alter or limit
22 the authority of a city or town to provide such services itself or by
23 contract under RCW 81.77.020.

24 NEW SECTION. **Sec. 20.** Section 13 of this act expires June 30,
25 2019.

26 NEW SECTION. **Sec. 21.** Section 14 of this act takes effect June
27 30, 2019.

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