
SUBSTITUTE SENATE BILL 5144

State of Washington

68th Legislature

2023 Regular Session

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

READ FIRST TIME 02/08/23.

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 containing
16 primary or rechargeable batteries that are covered batteries.

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

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

22 (a) Waste prevention and reduction;

23 (b) Reuse, when reuse is appropriate;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (i) For covered batteries:

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

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

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

30 (D) If there is no person described in (a)(i)(A) through (C) of
31 this subsection over whom the state can constitutionally exercise
32 jurisdiction, the producer is the person that imports the battery
33 into the United States for use in a commercial enterprise that sells,
34 offers for sale, or distributes the battery in this state;

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

38 (ii) For covered battery-containing products:

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

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

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

13 (D) If there is no person described in (a)(ii)(A) through (C) of
14 this subsection over whom the state can constitutionally exercise
15 jurisdiction, the producer is the person that imports the product
16 into the United States for use in a commercial enterprise that sells,
17 offers for sale, or distributes the product in this state;

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

21 (b) A person who would be considered a "producer" of a covered
22 battery or covered battery-containing product sold, offered for sale,
23 or distributed in or into this state, as defined in (a) of this
24 subsection, can designate another producer for that covered battery
25 or covered battery-containing product if another person agrees to
26 accept responsibility and participate in a registered battery
27 stewardship organization as the producer responsible for that covered
28 battery or covered battery-containing product under this chapter.

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

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

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

- 37 (a) Combustion;
- 38 (b) Incineration;
- 39 (c) Energy generation;
- 40 (d) Fuel production; or

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

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

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

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

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

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

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

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

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

1 department under section 11 of this act lists, as of the date a
2 product is made available for retail sale, a producer or brand of
3 covered battery or battery-containing product sold by the retailer as
4 being a participant in an approved plan or the implementer of an
5 approved plan.

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

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

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

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

35 NEW SECTION. **Sec. 5.** STEWARDSHIP PLAN COMPONENTS. (1) Within
36 six months of the rules adopted by the department, each battery
37 stewardship organization must submit a plan for covered portable
38 batteries to the department for approval. Within 24 months of the
39 rules adopted by the department, each battery stewardship

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (c) No less than every five years.

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

25 (a) When proposing changes to the performance goals under section
26 6 of this act;

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

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

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

37 (4) As part of a quarterly update, a battery stewardship
38 organization must notify the department after a producer begins or
39 ceases to participate in a battery stewardship organization. The

1 quarterly update submitted to the department must also include a
2 current list of the producers and brands participating in the plan.

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

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

- 15 (a) The rate of battery collection for recycling in Washington;
- 16 (b) The recycling efficiency of the program; and
- 17 (c) Public awareness of the program.

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

- 20 (a) Target collection rates;
- 21 (b) Target recycling efficiency rates of at least 60 percent for
22 rechargeable batteries and at least 70 percent for primary batteries;
23 and
- 24 (c) Goals for public awareness, convenience, and accessibility
25 that meet or exceed the minimum requirements established in section 8
26 of this act.

27 NEW SECTION. **Sec. 7.** STEWARDSHIP PROGRAM COMPONENTS—FUNDING.
28 (1) Each battery stewardship organization must ensure adequate
29 funding is available to fully implement approved battery stewardship
30 plans, including the implementation of aspects of the plan
31 addressing:

- 32 (a) Battery collection, transporting, and processing;
- 33 (b) Education and outreach;
- 34 (c) Program evaluation; and
- 35 (d) Payment of the administrative fees to the department under
36 section 11 of this act.

37 (2) A battery stewardship organization implementing a battery
38 stewardship plan on behalf of producers must develop, and continually

1 improve over the years of program implementation, a system to collect
2 charges from participating producers to cover the costs of plan
3 implementation in an environmentally sound and socially just manner
4 that encourages the use of design attributes that reduce the
5 environmental impacts of covered batteries, such as through the use
6 of eco-modulated fees. Examples of fee structures that meet the
7 requirements of this subsection include using eco-modulated fees to:

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

9 (b) Encourage the use of recycled content;

10 (c) Discourage the use of problematic materials that increase
11 system costs of managing covered products; and

12 (d) Encourage other design attributes that reduce the
13 environmental impacts of covered products.

14 (3) (a) Each battery stewardship organization is responsible for
15 all costs of participating covered battery collection,
16 transportation, processing, education, administration, agency
17 reimbursement, recycling, and end-of-life management in accordance
18 with the battery management hierarchy and environmentally sound
19 management practices.

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

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

26 (4) (a) A battery stewardship organization must reimburse local
27 governments for demonstrable costs incurred as a result of a local
28 government facility or solid waste handling facility serving as a
29 collection location for a program including, but not limited to,
30 associated labor costs and other costs associated with accessibility
31 and collection site standards such as storage.

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

36 (c) A battery stewardship organization must include in its
37 battery stewardship plan a template of the service agreement and any
38 other forms, contracts, or other documents for use in distribution of
39 reimbursements. The service agreement template must be developed with
40 local government input. The entities seeking or receiving

1 reimbursement from the battery stewardship organization are not
2 required to use the template agreement included in the program plan
3 and are not limited to the terms of the template agreement included
4 in the program plan.

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

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

32 (b) Medium format batteries may only be collected at household
33 hazardous waste collection locations or other locations that are
34 staffed by persons who are certified to handle and ship hazardous
35 materials under federal regulations adopted by the United States
36 department of transportation pipeline and hazardous materials safety
37 administration.

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

4 (ii) Each battery stewardship organization must provide for
5 collection of damaged and defective batteries in each county of the
6 state, either through collection sites or collection events with
7 qualified staff as specified in (c)(i) of this subsection. Collection
8 events should be provided periodically throughout the year where
9 practicable, but must be provided at least once per year at a
10 minimum.

11 (iii) As used in this subsection, "damaged and defective
12 batteries" means batteries that have been damaged or identified by
13 the manufacturer as being defective for safety reasons, that have the
14 potential of producing a dangerous evolution of heat, fire, or short
15 circuit, as referred to in 49 C.F.R. Sec. 173.185(f) as of January 1,
16 2023.

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

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

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

39 (ii) The establishment of collection sites that are accessible
40 and convenient to overburdened communities identified by the

1 department under chapter 70A.02 RCW, in an amount that is roughly
2 proportional to the number and population of overburdened communities
3 identified by the department under chapter 70A.02 RCW relative to the
4 population or size of the state as a whole;

5 (iii) At least one permanent collection site for portable
6 batteries in addition to those required in (b)(i) of this subsection
7 for every 30,000 residents of an urbanized area and for every urban
8 cluster of at least 30,000 residents. For the purposes of compliance
9 with this subsection (3)(b)(iii), a battery stewardship organization
10 and the department may rely upon designations of urban locations by
11 the United States census bureau that are determined by the department
12 to be similar to the definitions of urbanized area or urban cluster
13 in section 2 of this act;

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

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

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

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

23 (ii) Reasonable geographic dispersion of collection sites
24 throughout the state;

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

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

31 (v) Service to areas without a permanent collection site,
32 including service to island and geographically isolated communities.
33 A battery stewardship organization must ensure that there is a
34 collection site or annual collection event in each county of the
35 state. Collection events should be provided periodically throughout
36 the year where practicable, but must be provided at least once per
37 year at a minimum.

38 (4)(a) Stewardship programs must use existing public and private
39 waste collection services and facilities, including battery
40 collection locations that are established through other battery

1 collection services, transporters, consolidators, processors,
2 retailers, and curbside services, where cost-effective, mutually
3 agreeable, and otherwise practicable.

4 (b) Stewardship programs must use as a collection site for
5 portable batteries any retailer, wholesaler, municipality, solid
6 waste management facility, or other entity that meets the criteria
7 for collection locations in the approved plan, upon the submission of
8 a request by the entity to the battery stewardship organization to
9 serve as a collection site.

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

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

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

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

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

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

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

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

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

38 (a) And maintenance of a website;

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

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

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

7 (e) And distribution of collection site safety training
8 procedures that are in compliance with state law to collection sites
9 to help ensure proper management of covered batteries at collection
10 locations; and

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

19 (2) Each battery stewardship organization must provide:

20 (a) Consumer-focused educational promotional materials to each
21 collection location used by the program and accessible by customers
22 of retailers that sell covered batteries or battery-containing
23 products; and

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

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

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

36 (4) Upon request by a retailer, the battery stewardship
37 organization must provide the retailer educational materials
38 describing collection opportunities for batteries.

39 (5) If multiple battery stewardship organizations are
40 implementing plans approved by the department, the battery

1 stewardship organizations must coordinate in carrying out their
2 education and outreach responsibilities under this section and must
3 include in their annual reports to the department under section 10 of
4 this act a summary of their coordinated education and outreach
5 efforts.

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

13 NEW SECTION. **Sec. 10.** REPORTING REQUIREMENTS. (1) By June 1,
14 2028, and each June 1st thereafter, each battery stewardship
15 organization must submit an annual report to the department covering
16 the preceding calendar year of battery stewardship plan
17 implementation. The report must include:

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

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

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

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

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

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

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

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

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

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

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

32 (l) A list of all collection locations and accompanying latitude
33 and longitude data and an address for each listed site, and an up-to-
34 date map indicating the location of all collection sites used to
35 implement the program, with links to appropriate websites where there
36 are existing websites associated with a location;

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

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

4 (o) An evaluation of the effectiveness of education and outreach
5 activities.

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

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

13 (a) Whether the facility is located domestically, in an
14 organization for economic cooperation and development country, or in
15 a country that meets organization for economic cooperation and
16 development operating standards; and

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

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

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

37 NEW SECTION. **Sec. 11.** FEE AND DEPARTMENT OF ECOLOGY ROLE. (1)
38 The department must adopt rules as necessary for the purpose of
39 implementing, administering, and enforcing this chapter. The

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

15 (2) The responsibilities of the department in implementing,
16 administering, and enforcing this chapter include, but are not
17 limited to:

18 (a) Reviewing submitted stewardship plans and plan amendments and
19 making determinations as to whether to approve the plan or plan
20 amendment;

21 (i) The department must provide a letter of approval for the plan
22 or plan amendment if it provides for the establishment of a
23 stewardship program that meets the requirements of sections 3 through
24 9 of this act;

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

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

33 (b) Reviewing annual reports submitted under section 10 of this
34 act within 90 days of submission to ensure compliance with that
35 section;

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

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

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

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

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

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

33 (b) A battery stewardship organization implementing an approved
34 stewardship plan may bring a civil action against another battery
35 stewardship organization that under performs on its battery
36 collection obligations under this chapter by failing to collect and
37 provide for the end-of-life management of batteries in an amount
38 roughly equivalent to costs imposed on the plaintiff battery

1 stewardship organization by virtue of the failures of the defendants
2 and legal fees and expenses.

3 (c) The remedies provided in this subsection are in addition to
4 the enforcement authority of the department and do not limit and are
5 not limited by a decision by the department to impose a civil penalty
6 or issue an order under subsection (2) of this section. The
7 department is not required to audit, participate in, or provide
8 assistance to a battery stewardship organization pursuing a civil
9 action authorized under this subsection.

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

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

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

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

27 (e) Prior to imposing penalties under this section, the
28 department must provide a producer, retailer, or battery stewardship
29 organization with a written warning for the first violation by the
30 producer, retailer, or battery stewardship organization of the
31 requirements of this chapter. The written warning must inform a
32 producer, retailer, or battery stewardship organization that it must
33 participate in an approved plan or otherwise come into compliance
34 with the requirements of this chapter within 30 days of the notice. A
35 producer, retailer, or battery stewardship organization that violates
36 a provision of this chapter after the initial written warning may be
37 assessed a penalty as provided in this subsection.

38 (3) Penalties levied under subsection (2) of this section must be
39 deposited in the responsible battery management account created in
40 section 13 of this act.

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

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

5 The responsible battery management account is created in the custody
6 of the state treasurer. All receipts from activities undertaken
7 consistent with chapter 70A.--- RCW (the new chapter created in
8 section 24 of this act) must be deposited in the account. Only the
9 director of the department or the director's designee may authorize
10 expenditures from the account. The account is subject to allotment
11 procedures under chapter 43.88 RCW, but an appropriation is not
12 required for expenditures. Moneys in the account may be used solely
13 by the department for administering, implementing, and enforcing the
14 requirements of this chapter. Funds in the account may not be
15 diverted for any purpose or activity other than those specified in
16 this section.

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

18 Beginning January 1, 2028, a producer or retailer may only sell,
19 distribute, or offer for sale in or into Washington a large format
20 battery, covered battery, or battery-containing product that contains
21 a battery that is designed or intended to be easily removable from
22 the product, if the battery is:

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

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

30 (2) A producer shall certify to its customers that the
31 requirements of this section have been met, as provided in section 4
32 of this act.

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

1 NEW SECTION. **Sec. 15.** REQUIREMENT TO USE BATTERY COLLECTION
2 PROGRAMS. Effective July 1, 2027, for portable batteries and July 1,
3 2029, for medium format batteries, or the first date on which an
4 approved plan begins to be implemented under this chapter by a
5 battery stewardship organization, whichever comes first:

6 (1) All persons, residents, businesses, and government,
7 commercial, industrial, and retail facilities, and office buildings
8 must dispose of unwanted covered batteries through the collection
9 locations established by or included in the programs created by this
10 chapter, except commercial, industrial, or government facilities and
11 programs that utilize other responsible battery management
12 arrangements that manage batteries in ways substantially similar to
13 what this chapter requires of battery stewardship organizations.

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

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

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

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

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

35 (a) Large format batteries;

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

1 (c) Batteries contained in medical devices, as specified in Title
2 21 U.S.C. Sec. 360c as it existed as of the effective date of this
3 section; and

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

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

16 (3) The assessment must consider:

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

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

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

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

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

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

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

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

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

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

29 (a) An existing industry or other battery management system
30 exists for the battery or battery-containing product category covered
31 by the assessment in section 16 of this act that currently attains a
32 rate of collection that exceeds 95 percent of the number of that
33 category of batteries sold in Washington each year, and the existing
34 battery management system processes the batteries using
35 environmentally sound management practices; or

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

38 (5) The department must exclude from any rules adopted by the
39 department under this section any large format batteries contained in
40 or originating from electric vehicles if, by July 1, 2030, electric

1 vehicle batteries are managed under state law in a manner that
2 achieves similar outcomes to the program created in this chapter.

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

8 NEW SECTION. **Sec. 18.** DEPARTMENT OF ECOLOGY RECOMMENDATIONS FOR
9 MANAGEMENT OF ELECTRIC VEHICLE BATTERIES. (1) By November 30, 2023,
10 the department of ecology must report to the appropriate committees
11 of the legislature on preliminary policy recommendations for the
12 collection and management of electric vehicle batteries. By April 30,
13 2024, the department of ecology must report to the appropriate
14 committees of the legislature on final policy recommendations for the
15 collection and management of electric vehicle batteries.

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

18 (a) Solicit input from representatives of automotive wrecking and
19 salvage yards, solid waste collection and processing companies, local
20 governments, environmental organizations, electric vehicle
21 manufacturers, and any other interested parties; and

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

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

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

35 (2) The determination of the cost and structure of a battery
36 stewardship plan; and

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

1 NEW SECTION. **Sec. 20.** AUTHORITY OF THE UTILITIES AND
2 TRANSPORTATION COMMISSION. Nothing in this chapter changes or limits
3 the authority of the Washington utilities and transportation
4 commission to regulate collection of solid waste, including curbside
5 collection of residential recyclable materials, nor does this chapter
6 change or limit the authority of a city or town to provide the
7 service itself or by contract under RCW 81.77.020.

8 **Sec. 21.** RCW 43.21B.110 and 2022 c 180 s 812 are each amended to
9 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 70A.15 RCW,
14 local health departments, the department of natural resources, the
15 department of fish and wildlife, the parks and recreation commission,
16 and authorized public entities described in chapter 79.100 RCW:

17 (a) Civil penalties imposed pursuant to RCW 18.104.155,
18 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
19 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
20 70A.65.200, 70A.455.090, 76.09.170, 77.55.440, 78.44.250, 88.46.090,
21 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102
22 and chapter 70A.--- RCW (the new chapter created in section 24 of
23 this act).

24 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
25 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
26 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250,
27 90.48.120, and 90.56.330 and chapter 70A.--- RCW (the new chapter
28 created in section 24 of this act).

29 (c) Except as provided in RCW 90.03.210(2), the issuance,
30 modification, or termination of any permit, certificate, or license
31 by the department or any air authority in the exercise of its
32 jurisdiction, including the issuance or termination of a waste
33 disposal permit, the denial of an application for a waste disposal
34 permit, the modification of the conditions or the terms of a waste
35 disposal permit, or a decision to approve or deny an application for
36 a solid waste permit exemption under RCW 70A.205.260.

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

1 (e) Decisions of local health departments regarding the issuance
2 and enforcement of permits to use or dispose of biosolids under RCW
3 70A.226.090.

4 (f) Decisions of the department regarding waste-derived
5 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
6 decisions of the department regarding waste-derived soil amendments
7 under RCW 70A.205.145.

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

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

17 (i) Decisions of the department of natural resources, the
18 department of fish and wildlife, and the department that are
19 reviewable under chapter 76.09 RCW, and the department of natural
20 resources' appeals of county, city, or town objections under RCW
21 76.09.050(7).

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

24 (k) Decisions of the department of fish and wildlife to issue,
25 deny, condition, or modify a hydraulic project approval permit under
26 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
27 comply, to issue a civil penalty, or to issue a notice of intent to
28 disapprove applications.

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

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

35 (n) Decisions of the department of ecology that are appealable
36 under RCW 70A.245.020 to set recycled minimum postconsumer content
37 for covered products or to temporarily exclude types of covered
38 products in plastic containers from minimum postconsumer recycled
39 content requirements.

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

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

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

5 (b) Hearings conducted by the department pursuant to RCW
6 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
7 70A.15.3110, and 90.44.180.

8 (c) Appeals of decisions by the department under RCW 90.03.110
9 and 90.44.220.

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

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

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

17 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
18 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
19 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, 88.46.090,
20 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102
21 and chapters 70A.355 and 70A.--- (the new chapter created in section
22 24 of this act) RCW shall be imposed by a notice in writing, either
23 by certified mail with return receipt requested or by personal
24 service, to the person incurring the penalty from the department or
25 the local air authority, describing the violation with reasonable
26 particularity. For penalties issued by local air authorities, within
27 30 days after the notice is received, the person incurring the
28 penalty may apply in writing to the authority for the remission or
29 mitigation of the penalty. Upon receipt of the application, the
30 authority may remit or mitigate the penalty upon whatever terms the
31 authority in its discretion deems proper. The authority may ascertain
32 the facts regarding all such applications in such reasonable manner
33 and under such rules as it may deem proper and shall remit or
34 mitigate the penalty only upon a demonstration of extraordinary
35 circumstances such as the presence of information or factors not
36 considered in setting the original penalty.

37 (2) Any penalty imposed under this section may be appealed to the
38 pollution control hearings board in accordance with this chapter if
39 the appeal is filed with the hearings board and served on the

1 department or authority 30 days after the date of receipt by the
2 person penalized of the notice imposing the penalty or 30 days after
3 the date of receipt of the notice of disposition by a local air
4 authority of the application for relief from penalty.

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

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

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

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

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

24 (5) All penalties recovered shall be paid into the state treasury
25 and credited to the general fund except those penalties imposed
26 pursuant to RCW 18.104.155, which shall be credited to the
27 reclamation account as provided in RCW 18.104.155(7), RCW
28 70A.15.3160, the disposition of which shall be governed by that
29 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited
30 to the recycling enhancement account created in RCW 70A.245.100, RCW
31 70A.300.090, which shall be credited to the model toxics control
32 operating account created in RCW 70A.305.180, RCW 70A.65.200, which
33 shall be credited to the climate investment account created in RCW
34 70A.65.250, RCW 90.56.330, which shall be credited to the coastal
35 protection fund created by RCW 90.48.390, and RCW 70A.355.070, which
36 shall be credited to the underground storage tank account created by
37 RCW 70A.355.090.

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

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

6 (2) This section is not subject to the requirements of RCW
7 82.32.805 and 82.32.808 and is not subject to an expiration date.

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

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

12 NEW SECTION. **Sec. 25.** SEVERABILITY. If any provision of this
13 act or its application to any person or circumstance is held invalid,
14 the remainder of the act or the application of the provision to other
15 persons or circumstances is not affected.

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