

Proposed Substitute House Bill 1896

By Representative Harris-Talley

Original Bill: Providing for responsible environmental management of batteries.

Proposed Substitute (H-2523.1/22) compared to the House Bill 1896 (H-1732.2):

- Excludes producers of covered electronic products under the state's Electronic Product Stewardship Program (E-Cycle program) from Battery Stewardship Program participation obligations, and eliminates provisions addressing financial reconciliation and reporting between E-Cycle Program stewardship organizations and battery stewardship organizations;
- Excludes, from Battery Stewardship Program participation requirements, producers of batteries in battery-containing products that are not designed to be easily removable from the product, and excludes those batteries from collection, labeling, and disposal requirements;
- Clarifies that the three categories of battery (large-format, medium-format, and portable batteries) are distinguished based on watt hour in addition to weight only if the battery is labeled with a watt hour rating;
- Authorizes retailers to sell batteries contained in battery containing products that are not labeled consistent with state requirements, but requires producers of battery-containing products that are designed to be easily removed from a product to certify to retailers of the products that the batteries contained in the products are labeled consistent with battery labeling requirements;
- Requires battery stewardship plans to identify proposed battery brokers to be used by the Battery Stewardship Program for the final disposition of batteries, in addition to identified transporters, processors, and facilities;
- Specifies that stewardship organizations are in compliance with the requirement to operate in an environmentally sound and socially just manner if they meet standards better than, contained in, or broadly equivalent to a standard published by a specified electronics recycling organization;
- Specifies that stewardship organizations may satisfy reporting obligations related to pollution emissions of processing facilities by submitting data contained in reporting and permits, if the reporting and permits are similar to those that would apply if the facility were located in the United States;
- Eliminates the requirement that labor, domestic location, and pollution emission information reported by a stewardship organization be verified by an independent third party;

Committee: House Environment & Energy Committee
Staff: Jacob Lipson (786-7196), Office of Program Research
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- Delays battery labeling requirements by two years to 2027 for most requirements, and until 2029 for the requirement that covered batteries be marked by a color code;
- Amends the authority for the Department of Ecology (Ecology) to adopt rules related to large-format batteries to require that such a program achieve environmentally positive outcomes similar to those of the Battery Stewardship Program for portable and medium-format batteries, but without requiring that any large-format program rules contain plan submission, retailers, performance goals, program funding, collection and management, education and outreach, and reporting requirements similar to the stewardship program for portable and medium-format batteries;
- Requires the submission of a report to the Legislature regarding any rules adopted by Ecology applicable to large-format batteries by July 1, 2029; and
- Requires, rather than authorizes, Ecology to exclude from adopted product stewardship rules any large format batteries that attain collection rates of 95 percent through an existing battery management system.

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-2523.1/22

ATTY/TYPIST: ML:akl

BRIEF DESCRIPTION: Providing for responsible environmental
management of batteries.

1 AN ACT Relating to providing for responsible environmental
2 management of batteries; reenacting and amending RCW 43.21B.110 and
3 43.21B.300; adding a new chapter to Title 70A RCW; and prescribing
4 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) Prevention and waste reduction;

23 (b) Reuse, when reuse is appropriate;

24 (c) Recycling, as defined in RCW 70A.205.015; 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) "Button cell battery" means a round small cell or battery
35 with an overall cell or battery height that is less than the diameter
36 of the battery or cell.

37 (5) (a) "Covered battery" means a portable battery or, beginning
38 January 1, 2028, a medium format battery.

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

1 (i) A battery contained within a medical device, as specified in
2 Title 21 U.S.C. Sec. 360c as it existed as of the effective date of
3 this section if the device or battery must be treated as infectious
4 waste when the device or battery is discarded;

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

6 (iii) A button cell battery contained in circuit boards or
7 equipment;

8 (iv) A battery subject to the provisions of RCW 70A.205.505
9 through 70A.205.530 or other portable batteries contained in a motor
10 vehicle, part of a motor vehicle, or a component part of a motor
11 vehicle assembled by, or for, a vehicle manufacturer or franchised
12 dealer, including replacement parts for use in a motor vehicle; and

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

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

17 (7) "Easily removable" means designed by the manufacturer to be
18 removable by the customer.

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

26 (9) "Final disposition" means the end products for which
27 materials contained in a covered battery collected by the program
28 will be used, at the point where the material is in its constituent
29 parts and is no longer considered waste.

30 (10) "Large format battery" means a battery that weighs more than
31 25 pounds or has a rating of more than 1,000 watt hours, if labeled
32 with a watt-hour rating.

33 (11) "Medium format battery" means a primary or rechargeable
34 covered battery that weighs:

35 (a) More than 11 pounds or, if labeled with a watt-hour rating,
36 has a rating of more than 300 watt hours, or both; and

37 (b) No more than 25 pounds and has a rating of no more than 1,000
38 watt hours, if labeled with a watt-hour rating.

1 (12) "Portable battery" means a primary or rechargeable battery
2 that weighs no more than 11 pounds and, if labeled with a watt-hour
3 rating, has a rating of no more than 300 watt hours.

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

6 (14)(a) "Producer" means with respect to a covered battery or
7 battery containing product that is sold, offered for sale, or
8 distributed for sale in or into the state:

9 (i) The person that manufactures the covered battery or covered
10 battery containing product and sells or offers for sale in or into
11 the state that battery or product under the person's own brand;

12 (ii) If there is no person to which (a)(i) of this subsection
13 applies, the owner or licensee of a brand under which the covered
14 battery or covered battery containing product is sold, offered for
15 sale, or distributed in or into the state;

16 (iii) If there is no person to which (a)(i) or (ii) of this
17 subsection applies, a person that imports the covered battery or
18 covered battery containing product into the United States for sale or
19 distribution into Washington; or

20 (iv) If there is no person described in (a)(i), (ii), or (iii) of
21 this subsection over whom the state can constitutionally exercise
22 jurisdiction, the producer is the person who imports or distributes
23 the covered battery or covered battery containing product in or into
24 the state.

25 (b) A producer does not include any person who only manufactures,
26 sells, offers for sale, distributes, or imports into the country for
27 sale in the state a battery containing product if the only batteries
28 used by the battery containing product are supplied by a producer
29 participating in an approved stewardship plan.

30 (c) A retailer that sells covered batteries or battery containing
31 products under its own brand, or that otherwise meets the definition
32 of a producer in (a) and (b) of this subsection, is a producer for
33 purposes of this chapter.

34 (15) "Program" means a program implemented by a battery
35 stewardship organization consistent with an approved battery
36 stewardship plan.

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

1 (17) "Recycling efficiency rate" means the ratio of the weight of
2 resources recovered from batteries received by a battery processor to
3 the weight of batteries received by that battery processor.

4 (18) "Retailer" means a person who sells covered batteries or
5 battery containing products in or into this state or offers or
6 otherwise makes available covered batteries or battery containing
7 products to a customer, including other businesses, for use in this
8 state.

9 (19) "Urban cluster" means areas of population density of 2,500
10 to 50,000, as defined by the United States census bureau.

11 (20) "Urbanized area" means areas of high population density with
12 populations of 50,000 or greater, as defined by the United States
13 census bureau.

14 NEW SECTION. **Sec. 3.** REQUIREMENT THAT PRODUCERS IMPLEMENT A
15 STEWARDSHIP PLAN. (1) Beginning January 1, 2026, each producer
16 selling covered batteries or battery containing products in or into
17 the state of Washington shall participate in an approved Washington
18 state battery stewardship plan through participation in and
19 appropriate funding of a battery stewardship organization.

20 (2) A producer that does not participate in a battery stewardship
21 organization and battery stewardship plan may not sell covered
22 batteries or battery containing products covered by this chapter in
23 or into Washington.

24 NEW SECTION. **Sec. 4.** RETAILER OBLIGATIONS. (1) Beginning July
25 1, 2026, for portable batteries, and July 1, 2028, for medium format
26 batteries, a retailer may not sell, offer for sale, or otherwise make
27 available for sale a covered battery or battery containing product
28 unless the producer of the covered battery or battery containing
29 product participates in a battery stewardship organization whose plan
30 has been approved by the department.

31 (2) A retailer is in compliance with the requirements of
32 subsection (1) of this section and is not subject to penalties under
33 section 12 of this act as long as the website made available by the
34 department under section 11 of this act lists, as of the date a
35 product is made available for retail sale, a producer or brand of
36 covered battery or battery containing product sold by the retailer as
37 being a participant in an approved plan or the implementer of an
38 approved plan.

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

8 (4) A retailer may not sell, offer for sale, or otherwise make
9 available for sale covered batteries, other than batteries contained
10 in battery containing products, unless those batteries are marked
11 consistent with the requirements of section 14 of this act. A
12 producer of a battery containing product containing a covered battery
13 must certify to the retailers of their product that the battery
14 contained in the battery containing product is marked consistent with
15 the requirements of section 14 of this act.

16 (5) At the time of sale, a retailer selling or offering covered
17 batteries or battery containing products for sale in Washington must
18 provide information, provided to the retailer by the battery
19 stewardship organization, regarding available end-of-life management
20 options for covered batteries collected by the battery stewardship
21 organization.

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

26 NEW SECTION. **Sec. 5.** STEWARDSHIP PLAN COMPONENTS. (1) By July
27 1, 2025, or no less than six months before a plan begins to be
28 implemented, each battery stewardship organization must submit a plan
29 to the department for approval. A battery stewardship organization
30 may submit a plan at any time to the department for review and
31 approval. The department must review and may approve a plan based on
32 whether it contains and adequately addresses the following
33 components:

34 (a) Lists and provides contact information for each producer,
35 battery brand, and battery containing product brand covered in the
36 plan;

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

1 (c) Describes how the battery stewardship organization will make
2 retailers aware of their obligation to sell only covered batteries
3 and battery containing products of producers participating in an
4 approved plan;

5 (d) Includes a detailed and comprehensive list of promotion
6 activities to be undertaken as part of the first year of the
7 educational and outreach program required in section 9 of this act,
8 and the identification of consumer awareness goals, and strategies
9 that the program will employ to achieve these goals after the program
10 begins to be implemented;

11 (e) Includes a collection site procedural manual, and other
12 safety information related to covered battery collection activities
13 at collection sites, including appropriate protocols to reduce risks
14 of spills or fires and response protocols in the event of a spill or
15 fire, and a protocol for safe management of damaged batteries that
16 are returned to collection sites;

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

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

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

32 (i) Describes how the program will offer additional portable
33 battery collection opportunities and pick-up service at special
34 locations where batteries are often spent and replaced and that will
35 provide adequate supervision of collection containers, such as parks
36 with stores and campgrounds;

37 (j) Describes the methods used to calculate whether the
38 stewardship program is collecting batteries in an amount roughly
39 equivalent to the weight of covered batteries sold by producers into
40 Washington, and how the battery stewardship organization will:

1 (i) Seek reimbursement from other battery stewardship
2 organizations that underperform on their battery collection
3 obligations under section 8 of this act; and

4 (ii) Reimburse other battery stewardship organizations if the
5 battery stewardship organization underperforms on its battery
6 collection obligations under section 8 of this act;

7 (k) Identifies proposed brokers, transporters, processors, and
8 facilities to be used by the program for the final disposition of
9 batteries and how collected batteries will be managed in:

10 (i) An environmentally sound and socially just manner at
11 facilities operating with human health and environmental protection
12 standards that are broadly equivalent to or better than those
13 required in the United States and other countries that are members of
14 the organization for economic cooperation and development. A
15 stewardship organization is in compliance with the requirements of
16 this subsection if it meets standards broadly equivalent to,
17 contained in, or better than the sustainable electronics reuse and
18 recycling standard, version 3.0, as it existed as of July 1, 2020,
19 published by sustainable electronics recycling international, and
20 that uses only facilities for the final disposition of batteries that
21 meet that standard; and

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

25 (1) Details how the program will achieve a recycling efficiency
26 rate, calculated consistent with section 10 of this act, of at least
27 70 percent for rechargeable batteries and at least 80 percent for
28 primary batteries; and

29 (m) Proposes goals for increasing public awareness of the
30 program, including subgoals applicable to public awareness of the
31 program in vulnerable populations and overburdened communities
32 identified by the department under chapter 70A.02 RCW, and describes
33 how the public education and outreach components of the program under
34 section 9 of this act will be implemented.

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

37 (a) When there is a change to the method of financing plan
38 implementation under section 7 of this act;

39 (b) If there are significant changes to the methods of
40 collection, transport, or end-of-life management of covered batteries

1 under section 8 of this act that are not covered by the plan. The
2 department may, by rule, identify the types of significant changes
3 that require a new plan to be submitted to the department for
4 approval. For purposes of this subsection, adding or removing a
5 processor or transporter under the plan is not considered a
6 significant change that requires a plan resubmittal;

7 (c) To address the novel inclusion of medium format batteries or
8 large format batteries as covered batteries under the plan; and

9 (d) No less than every five years.

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

13 (a) After a producer begins or ceases to participate in a battery
14 stewardship organization, as part of a quarterly update submitted to
15 the department that also includes a current identification of the
16 producers and brands participating in the plan;

17 (b) When proposing changes to the performance goals under section
18 6 of this act;

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

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

26 (4) No earlier than five years after the initial approval of a
27 plan, the department may require a battery stewardship organization
28 to submit a revised plan, which may include improvements to the
29 collection site network or increased expenditures dedicated to
30 education and outreach, if the approved plan does not meet the
31 performance goals under section 6 of this act.

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

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

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

1 (c) Public awareness of the program.

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

4 (a) Target collection rates;

5 (b) Target recycling efficiency rates of at least 70 percent for
6 rechargeable batteries and at least 80 percent for primary batteries;

7 (c) For each battery recycling process, targets for the amount of
8 secondary material derived from the recycling processes as measured
9 by average weights; and

10 (d) Goals for public awareness, convenience, and accessibility
11 that exceed the minimum requirements established in section 8 of this
12 act.

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

14 (1) Each battery stewardship organization must ensure adequate
15 funding is available to fully implement approved battery stewardship
16 plans, including the implementation of aspects of the plan
17 addressing:

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

19 (b) Education and outreach;

20 (c) Program evaluation; and

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

23 (2) (a) A battery stewardship organization implementing a battery
24 stewardship plan on behalf of producers must develop, and continually
25 improve over the years of program implementation, a system to collect
26 charges from participating producers to cover the costs of plan
27 implementation in an environmentally sound and socially just manner
28 that encourages the use of design attributes that reduce the
29 environmental impacts of covered batteries, such as through the use
30 of eco-modulated fees to:

31 (i) Encourage designs intended to facilitate reuse and recycling;

32 (ii) Encourage the use of recycled content;

33 (iii) Discourage the use of problematic materials that increase
34 system costs of managing covered products; and

35 (iv) Encourage other design attributes that reduce the
36 environmental impacts of covered products.

37 (b) Beginning during the first year of program implementation, at
38 a minimum for purposes of fulfilling the requirements of (a) of this
39 subsection, a battery stewardship organization must proportionally

1 reduce the financial obligations of producers for their use of
2 batteries that contain recycled content.

3 (3) (a) Each battery stewardship organization is responsible for
4 all costs of participating covered battery collection,
5 transportation, processing, education, administration, agency
6 reimbursement, recycling, and end-of-life management in accordance
7 with the battery management hierarchy and environmentally sound
8 management practices.

9 (b) Each battery stewardship organization must collect and
10 provide for the end-of-life management of batteries in an amount
11 roughly equivalent to the weight of batteries sold by covered
12 producers into Washington. A battery stewardship organization may
13 seek or provide reimbursement, consistent with the provisions of the
14 stewardship plan, from a different battery stewardship organization
15 that fails to collect and provide for the end-of-life management of
16 batteries in an amount roughly equivalent to the national market
17 share of the batteries of producers participating in the plan.

18 (c) A battery stewardship organization is not authorized to
19 reduce or cease collection, education and outreach, or other
20 activities implemented under an approved plan based on achievement of
21 program performance goals or upon collecting and providing for the
22 end-of-life management of more batteries than required under (b) of
23 this subsection.

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

30 (b) A battery stewardship organization must include in its
31 battery stewardship plan, and provide upon request, a template of the
32 service agreement and any other forms, contracts, or other documents
33 for use in distribution of reimbursements. The service agreement
34 template must be developed with local government input. The entities
35 seeking or receiving reimbursement from the battery stewardship
36 organization are not required to use the template agreement included
37 in the program plan and are not limited to the terms of the template
38 agreement included in the program plan.

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

15 (2)(a) At each collection site utilized by the program, each
16 battery stewardship organization must provide suitable collection
17 containers for discarded batteries that are segregated from other
18 solid waste or make mutually agreeable alternative arrangements for
19 the collection of batteries at the site. The location of collection
20 containers at each collection site used by the program must be within
21 view of a responsible person. Each collection site must adhere to the
22 operations manual and other safety information provided to the
23 collection site by the battery stewardship organization.

24 (b) Medium format batteries may only be collected at household
25 hazardous waste collection locations or other locations that are
26 staffed by persons who are certified to handle and ship hazardous
27 materials under federal regulations adopted by the United States
28 department of transportation pipeline and hazardous materials safety
29 administration.

30 (3)(a) Each battery stewardship organization implementing a
31 battery stewardship plan shall ensure statewide collection
32 opportunities for all covered batteries. Statewide collection
33 opportunities must be determined by geographic information modeling
34 that considers permanent collection sites. The program may rely, in
35 part, on collection events to supplement the permanent collection
36 services required in (a) and (b) of this subsection. However, only
37 permanent collection services specified in (a) and (b) of this
38 subsection qualify towards the satisfaction of the requirements of
39 this subsection.

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

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

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

13 (iii) At least one permanent collection site for portable
14 batteries in addition to those required in (b)(i) of this subsection
15 for every 30,000 residents of an urbanized area and for every urban
16 cluster of at least 30,000 residents;

17 (iv) Collection opportunities and service for portable batteries
18 to all counties and tribal lands in Washington;

19 (v) Collection opportunities for portable batteries at special
20 locations where batteries are often spent and replaced, such as
21 supervised locations at parks with stores and campgrounds; and

22 (vi) Service to areas without a permanent collection site,
23 including service to island and geographically isolated communities.

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

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

28 (ii) Reasonable geographic dispersion of collection sites
29 throughout the state;

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

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

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

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 collection
7 site criteria provided in this section and the criteria for
8 collection locations in the approved plan, upon the submission of a
9 request by the entity to the battery stewardship organization to
10 serve as a collection site.

11 (c) A stewardship organization may suspend or terminate a
12 collection site or service that does not adhere to the collection
13 site criteria in the approved plan and that poses an immediate health
14 and safety concern. The stewardship organization must notify the
15 department upon suspending or terminating a collection site or
16 service.

17 (5) (a) Stewardship programs are not required to provide for the
18 collection of battery containing products.

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

21 (i) Are not intended or designed to be easily removable from the
22 product other than by the manufacturer; and

23 (ii) Remain contained in a battery containing product at the time
24 of delivery to a collection site.

25 (c) Stewardship programs are required to provide for the
26 collection of covered batteries that were once contained in battery
27 containing products but that are not contained in the battery
28 containing product at the time of delivery to a collection site.

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

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

39 (7) The department must adopt rules to clarify the protocols that
40 a collection site must follow for the collection of batteries that do

1 not bear a label or marking that clearly conveys information related
2 to the battery's watt-hour capacity or weight.

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

7 (a) And maintenance of a website;
8 (b) And distribution of periodic press releases and articles;
9 (c) And placement of graphic advertisements for use on social
10 media or other relevant media platforms;

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

15 (e) And distribution of the collection site procedural manual
16 approved by the department to collection sites to help ensure proper
17 management of covered batteries at collection locations; and

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

26 (2) Each battery stewardship organization must provide:

27 (a) Consumer-focused educational promotional materials to each
28 collection location used by the program and at each retailer that
29 sells covered batteries or battery containing products; and

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

34 (3) A producer that supplies batteries to a retailer must provide
35 the retailer with educational materials developed by the battery
36 stewardship organization describing collection opportunities for
37 batteries or must arrange for the stewardship program implementing
38 the plan in which the producer participates to provide these
39 materials.

1 (4) If multiple battery stewardship organizations are
2 implementing plans approved by the department, the battery
3 stewardship organizations must coordinate in carrying out their
4 education and outreach responsibilities under this section and must
5 include in their annual reports to the department under section 10 of
6 this act a summary of their coordinated education and outreach
7 efforts.

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

15 NEW SECTION. **Sec. 10.** REPORTING REQUIREMENTS. (1) By June 1,
16 2027, and each June 1st thereafter, each battery stewardship
17 organization must submit an annual report to the department covering
18 the preceding calendar year of battery stewardship plan
19 implementation. The report must include:

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

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

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

1 (d) The weight of materials recycled from covered batteries
2 collected under the program, in total, and by battery recycling
3 process;

4 (e) A calculation of the recycling efficiency rate, as measured
5 consistent with subsection (2) of this section;

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

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

14 (h) The collection rate achieved by battery chemistry under the
15 program, including a description of how this collection rate was
16 calculated;

17 (i) The estimated aggregate sales, by weight and chemistry, of
18 batteries and batteries contained in or with battery containing
19 products sold in Washington by participating producers for each of
20 the previous three calendar years;

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

24 (k) A summary of the education and outreach supporting plan
25 implementation, including a description of how that education and
26 outreach met the requirements of section 9 of this act, samples of
27 education and outreach materials, a summary of coordinated education
28 and outreach efforts with any other battery stewardship organizations
29 implementing a plan approved by the department, and a summary of any
30 changes made during the previous calendar year to education and
31 outreach activities;

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

37 (m) A description of the manner in which the collected batteries
38 were sorted, consolidated, and processed;

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) (a) The weight of recovered resources from batteries counted
7 towards satisfaction of the recycling efficiency rate requirement
8 must, by the end of a program calendar year, be used:

9 (i) Or destined to be used by a person for the making of products
10 or packaging;

11 (ii) As zinc manganese fertilizer; or

12 (iii) As aggregate. The weight of aggregate may only account for
13 up to 15 percent of the materials counted towards satisfaction of the
14 recycling efficiency rate requirement.

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

18 (c) The following may not be counted towards satisfaction of the
19 recycling efficiency rate requirement:

20 (i) The weight of materials that are land disposed;

21 (ii) The weight of materials that are incinerated;

22 (iii) The weight of materials that are used as a fuel or fuel
23 supplement;

24 (iv) The weight of materials that are stored, stockpiled, used as
25 landfill cover, or otherwise deposited on land in a manner that does
26 not meet the criteria of (a) of this subsection.

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

31 (a) Whether the facility is located domestically, in an
32 organization for economic cooperation and development country, or in
33 a country that meets organization for economic cooperation and
34 development operating standards;

35 (b) Emissions of pollutants to air and water, or other activities
36 that impact public health or the environment. A battery stewardship
37 organization may satisfy the requirement established in this
38 subsection through the submission of data contained in any reporting
39 required under existing permits where applicable, if the permits and

1 reporting are similar to the permits and reporting that would be
2 required of a facility located in the United States; and

3 (c) Labor metrics including, but not limited to, wages, unions,
4 and workforce demographics.

5 (4) If a battery stewardship organization has disposed of covered
6 batteries through energy recovery, incineration, or landfilling during
7 the preceding calendar year of program implementation, the annual
8 report must specify the steps that the battery stewardship
9 organization will take to make the recycling of covered batteries
10 cost-effective, where possible, or to otherwise increase battery
11 recycling rates achieved by the battery stewardship organization.

12 (5) A producer or battery stewardship organization that submits
13 information or records to the department under this chapter may
14 request that the information or records be made available only for
15 the confidential use of the department, the director of the
16 department, or the appropriate division of the department. The
17 director of the department must consider the request and if this
18 action is not detrimental to the public interest and is otherwise in
19 accordance with the policies and purposes of chapter 43.21A RCW, the
20 director must grant the request for the information to remain
21 confidential as authorized in RCW 43.21A.160.

22 NEW SECTION. **Sec. 11.** FEE AND DEPARTMENT OF ECOLOGY ROLE. (1)
23 The department must adopt rules as necessary for the purpose of
24 implementing, administering, and enforcing this chapter. The
25 department must by rule establish fees, to be paid annually by a
26 battery stewardship organization, that are adequate to cover the
27 department's full costs of implementing, administering, and enforcing
28 this chapter, including the provisions of this chapter applicable to
29 producers of large format batteries, if any. All fees must be based
30 on costs related to implementing, administering, and enforcing this
31 chapter, not to exceed expenses incurred by the department for these
32 activities.

33 (2) The responsibilities of the department in implementing,
34 administering, and enforcing this chapter include, but are not
35 limited to:

36 (a) Reviewing submitted stewardship plans and plan amendments and
37 making determinations as to whether to approve the plan or plan
38 amendment;

1 (i) The department must provide a letter of approval for the plan
2 or plan amendment if it provides for the establishment of a
3 stewardship program that meets the requirements of sections 3 through
4 9 of this act;

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

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

13 (b) Reviewing annual reports submitted under section 10 of this
14 act within 90 days of submission to ensure compliance with that
15 section;

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

20 (ii) Upon the date the first plan is approved, the department
21 must post on its website a list of producers and their brands for
22 which the department has approved a plan. The department must update
23 the list of producers and brands participating under an approved
24 program plan based on information provided to the department from
25 battery stewardship organizations; and

26 (d) Providing technical assistance to producers and retailers
27 related to the requirements of this chapter and issuing orders or
28 imposing civil penalties authorized under section 12 of this act
29 where the technical assistance efforts do not lead to compliance by a
30 producer or retailer.

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

32 (1)(a) A battery stewardship organization implementing an approved
33 plan may bring a civil action or actions to recover costs, damages,
34 and fees, as specified in this section, from a producer who sells or
35 otherwise makes available in Washington covered batteries, battery
36 containing products, or large format batteries not included in an
37 approved plan in violation of the requirements of this chapter. An
38 action under this section may be brought against one or more
39 defendants. An action may only be brought against a defendant

1 producer when the stewardship program incurs costs in Washington,
2 including reasonable incremental administrative and program
3 promotional costs, in excess of \$1,000 to collect, transport, and
4 recycle or otherwise dispose of the covered batteries, battery
5 containing products, or large format batteries of a nonparticipating
6 producer.

7 (b) A battery stewardship organization may only bring a civil
8 action authorized under (a) of this subsection if the most recent
9 annual report filed with and approved by the department indicates
10 that the battery stewardship organization has achieved the collection
11 rate performance goal established consistent with section 6 of this
12 act.

13 (c) A battery stewardship organization implementing an approved
14 stewardship plan may bring a civil action against another battery
15 stewardship organization that underperforms on its battery collection
16 obligations under this chapter by failing to collect and provide for
17 the end-of-life management of batteries in an amount roughly
18 equivalent to the national market share of the batteries of producers
19 participating in the plan.

20 (d) The remedies provided in this subsection are in addition to
21 the enforcement authority of the department and do not limit and are
22 not limited by a decision by the department to impose a civil penalty
23 or issue an order under subsection (2) of this section. The
24 department is not required to audit, participate in, or provide
25 assistance to a battery stewardship organization pursuing a civil
26 action authorized under this subsection.

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

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

34 (c) Whenever on the basis of any information the department
35 determines that a person has violated or is in violation of this
36 chapter, the department may issue an order requiring compliance. A
37 person who fails to take corrective action as specified in a
38 compliance order is liable for a civil penalty as provided in (b) of
39 this subsection, without receiving a written warning prescribed in
40 (e) of this subsection.

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

4 (e) Prior to imposing penalties under this section, the
5 department must provide a producer, retailer, or battery stewardship
6 organization with a written warning for the first violation by the
7 producer, retailer, or battery stewardship organization of the
8 requirements of this chapter. The written warning must inform a
9 producer, retailer, or battery stewardship organization that it must
10 participate in an approved plan or otherwise come into compliance
11 with the requirements of this chapter within 30 days of the notice. A
12 producer, retailer, or battery stewardship organization that violates
13 a provision of this chapter after the initial written warning may be
14 assessed a penalty as provided in this subsection.

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

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

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

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

32 Beginning January 1, 2027, a producer or retailer may only sell,
33 distribute, or offer for sale in or into Washington a large format
34 battery, covered battery, or battery containing product that contains
35 a battery that is designed or intended to be easily removable from
36 the product, if the battery is:

1 (a) Marked, including with a color code mark beginning January 1,
2 2029, to identify the chemistry employed in storing energy in the
3 battery;

4 (b) Marked with an identification of the producer of the battery,
5 unless the battery is less than .5 inch in diameter or does not
6 contain a surface whose length exceeds .5 inch;

7 (c) Marked with the weight and watt-hour rating of the battery,
8 for batteries that exceed 300 watt hours or 11 pounds in weight; and

9 (d) Labeled to clearly indicate that the battery is recyclable
10 and should not be disposed of in solid waste or recycling containers
11 other than stewardship program collection containers.

12 (2) The department may amend, by rule, the requirements of
13 subsection (1) of this section to maintain consistency with the
14 labeling requirements or voluntary standards for batteries
15 established in federal law or the laws of other states, or an
16 international battery labeling standard.

17 NEW SECTION. **Sec. 15.** REQUIREMENT TO USE BATTERY COLLECTION
18 PROGRAMS. (1) Effective July 1, 2026, for portable batteries and July
19 1, 2028, for medium format batteries, or the first date on which an
20 approved plan begins to be implemented under this chapter by a
21 battery stewardship organization, whichever comes first:

22 (a) All persons, residents, businesses, and government,
23 commercial, industrial, and retail facilities, and office buildings
24 must dispose of unwanted covered batteries through the collection
25 locations established by the programs created by this chapter, except
26 commercial, industrial, or government facilities and programs that
27 utilize other responsible battery management arrangements.

28 (b) A person may not place covered batteries in waste containers
29 for disposal at incinerators, waste to energy facilities, or
30 landfills.

31 (c) A person may not place covered batteries in or on a container
32 for mixed nonbattery recyclables unless there is a separate location
33 or compartment for the covered battery that complies with local
34 government collection standards or guidelines.

35 (d) An owner or operator of a solid waste facility may not be
36 found in violation of this section if the facility has posted in a
37 conspicuous location a sign stating that covered batteries must be
38 managed through collection locations established by a stewardship
39 organization and are not accepted for disposal.

1 (e) A solid waste collector may not be found in violation of this
2 section for a covered battery placed in a disposal container by the
3 generator of the covered battery.

4 (2) Beginning July 1, 2030, the provisions of subsection (1) of
5 this section apply to large format batteries unless the department
6 provides otherwise by rule under section 17 of this act.

7 NEW SECTION. **Sec. 16.** DEPARTMENT OF COMMERCE ASSESSMENT OF
8 LARGE FORMAT BATTERIES. (1) By July 1, 2026, the department of
9 commerce must complete an assessment of the opportunities and
10 challenges associated with the end-of-life management of large format
11 batteries. The department of commerce must consult with the
12 department and interested stakeholders in completing the assessment,
13 including consultation with overburdened communities and vulnerable
14 populations identified by the department under chapter 70A.02 RCW.
15 The assessment must identify any needed adjustments to the
16 stewardship program requirements established in this chapter that are
17 necessary to maximize public health, safety, and environmental
18 benefits, such as battery reuse. The study must assess how to design
19 stewardship program requirements to encourage the development of
20 battery technology that reduces reliance on rare earth and conflict
21 materials and uses more earth abundant materials. The assessment must
22 survey existing studies of large format batteries, including studies
23 completed by the state of California, and include the department of
24 commerce's analysis of:

25 (a) The different categories and uses of large format batteries;

26 (b) The current economic value and reuse or recycling potential
27 of large format batteries or large format battery components;

28 (c) The current methods by which unwanted large format batteries
29 are managed in Washington and nearby states and provinces;

30 (d) The risks to human health and the environment if an
31 accessible, safe, and verifiable end-of-life management system is not
32 instituted statewide for large format batteries;

33 (e) Challenges posed by the potential collection, management, and
34 transport of large format batteries, including challenges associated
35 with removing large format batteries that were not intended or
36 designed to be easily removable from products containing large format
37 batteries, other than by the manufacturer;

1 (f) The environmental and equity implications of displacing
2 demand for new rare earth materials, critical materials, and other
3 conflict materials through the reuse and recycling of batteries; and

4 (g)(i) Which criteria of this chapter should apply to large
5 format batteries in a manner that is identical or analogous to the
6 requirements applicable to covered batteries; and

7 (ii) Which criteria of this chapter should not apply to large
8 format batteries in any manner.

9 (2) By October 1, 2026, the department of commerce must submit a
10 report to the department and the appropriate committees of the
11 legislature containing the findings of the assessment required in
12 subsection (1) of this section.

13 NEW SECTION. **Sec. 17.** DEPARTMENT OF ECOLOGY RULE MAKING TO
14 REQUIRE THE ESTABLISHMENT OF STEWARDSHIP PROGRAM PARTICIPATION
15 REQUIREMENTS FOR LARGE FORMAT BATTERIES. (1) By January 1, 2029, the
16 department may, but is not required to, adopt rules that require
17 producers of large format batteries to participate in a stewardship
18 program that achieves environmentally positive outcomes similar to
19 those achieved by a battery stewardship program for medium format and
20 portable batteries.

21 (2) Any rules adopted by the department under this section must
22 require producers of large format batteries to participate in a
23 stewardship program by no earlier than July 1, 2030. The department
24 must submit a report to the appropriate committees of the legislature
25 by July 1, 2029, addressing any proposed product stewardship program
26 for large format batteries that may be established by any rules
27 adopted by the department.

28 (3) In adopting rules, the department must consider the results
29 of the assessment by the department of commerce required under
30 section 16 of this act and involve the expertise of the department's
31 recycling development center created in chapter 70A.240 RCW.

32 (4) The department must delay or exclude categories of large
33 format batteries, including categories of large format batteries that
34 are excluded from the definition of a covered battery in section 2 of
35 this act, based on the results of the assessment by the department of
36 commerce required under section 16 of this act, from stewardship
37 program requirements, if the department determines that stewardship
38 program requirements are infeasible for a category of large format
39 batteries due to:

1 (a) An existing industry or other battery management system
2 exists for a category of large format batteries that currently
3 attains a rate of collection that exceeds 95 percent of the number of
4 that category of batteries sold in Washington each year, and the
5 existing battery management system processes the batteries using
6 environmentally sound management practices; or

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

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

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

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

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

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

29 **Sec. 19.** RCW 43.21B.110 and 2021 c 316 s 41 and 2021 c 313 s 16
30 are each reenacted and amended to read as follows:

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

1 (a) Civil penalties imposed pursuant to RCW 18.104.155,
2 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
3 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
4 70A.65.200, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600,
5 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter
6 70A.--- RCW (the new chapter created in section 21 of this act).

7 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
8 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
9 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250,
10 90.48.120, and 90.56.330 and chapter 70A.--- RCW (the new chapter
11 created in section 21 of this act).

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

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

22 (e) Decisions of local health departments regarding the issuance
23 and enforcement of permits to use or dispose of biosolids under RCW
24 70A.226.090.

25 (f) Decisions of the department regarding waste-derived
26 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
27 decisions of the department regarding waste-derived soil amendments
28 under RCW 70A.205.145.

29 (g) Decisions of local conservation districts related to the
30 denial of approval or denial of certification of a dairy nutrient
31 management plan; conditions contained in a plan; application of any
32 dairy nutrient management practices, standards, methods, and
33 technologies to a particular dairy farm; and failure to adhere to the
34 plan review and approval timelines in RCW 90.64.026.

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

38 (i) Decisions of the department of natural resources, the
39 department of fish and wildlife, and the department that are
40 reviewable under chapter 76.09 RCW, and the department of natural

1 resources' appeals of county, city, or town objections under RCW
2 76.09.050(7).

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

5 (k) Decisions of the department of fish and wildlife to issue,
6 deny, condition, or modify a hydraulic project approval permit under
7 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
8 comply, to issue a civil penalty, or to issue a notice of intent to
9 disapprove applications.

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

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

16 (n) Decisions of the department of ecology that are appealable
17 under RCW 70A.245.020 to set recycled minimum postconsumer content
18 for covered products or to temporarily exclude types of covered
19 products in plastic containers from minimum postconsumer recycled
20 content requirements.

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

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

25 (b) Hearings conducted by the department pursuant to RCW
26 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
27 70A.15.3110, and 90.44.180.

28 (c) Appeals of decisions by the department under RCW 90.03.110
29 and 90.44.220.

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

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

35 **Sec. 20.** RCW 43.21B.300 and 2021 c 316 s 42 and 2021 c 313 s 17
36 are each reenacted and amended to read as follows:

37 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
38 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
39 70A.245.070, 70A.245.080, 70A.65.200, 88.46.090, 90.03.600,

1 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and
2 chapters 70A.355 and 70A.--- RCW (the new chapter created in section
3 21 of this act) shall be imposed by a notice in writing, either by
4 certified mail with return receipt requested or by personal service,
5 to the person incurring the penalty from the department or the local
6 air authority, describing the violation with reasonable
7 particularity. For penalties issued by local air authorities, within
8 thirty days after the notice is received, the person incurring the
9 penalty may apply in writing to the authority for the remission or
10 mitigation of the penalty. Upon receipt of the application, the
11 authority may remit or mitigate the penalty upon whatever terms the
12 authority in its discretion deems proper. The authority may ascertain
13 the facts regarding all such applications in such reasonable manner
14 and under such rules as it may deem proper and shall remit or
15 mitigate the penalty only upon a demonstration of extraordinary
16 circumstances such as the presence of information or factors not
17 considered in setting the original penalty.

18 (2) Any penalty imposed under this section may be appealed to the
19 pollution control hearings board in accordance with this chapter if
20 the appeal is filed with the hearings board and served on the
21 department or authority thirty days after the date of receipt by the
22 person penalized of the notice imposing the penalty or thirty days
23 after the date of receipt of the notice of disposition by a local air
24 authority of the application for relief from penalty.

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

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

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

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

32 (4) If the amount of any penalty is not paid to the department
33 within thirty days after it becomes due and payable, the attorney
34 general, upon request of the department, shall bring an action in the
35 name of the state of Washington in the superior court of Thurston
36 county, or of any county in which the violator does business, to
37 recover the penalty. If the amount of the penalty is not paid to the
38 authority within thirty days after it becomes due and payable, the
39 authority may bring an action to recover the penalty in the superior
40 court of the county of the authority's main office or of any county

1 in which the violator does business. In these actions, the procedures
2 and rules of evidence shall be the same as in an ordinary civil
3 action.

4 (5) All penalties recovered shall be paid into the state treasury
5 and credited to the general fund except those penalties imposed
6 pursuant to RCW 18.104.155, which shall be credited to the
7 reclamation account as provided in RCW 18.104.155(7), RCW
8 70A.15.3160, the disposition of which shall be governed by that
9 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited
10 to the recycling enhancement account created in RCW 70A.245.100, RCW
11 70A.300.090, which shall be credited to the model toxics control
12 operating account created in RCW 70A.305.180, RCW 70A.65.200, which
13 shall be credited to the climate investment account created in RCW
14 70A.65.250, RCW 90.56.330, which shall be credited to the coastal
15 protection fund created by RCW 90.48.390, chapter 70A.--- RCW (the
16 new chapter created in section 21 of this act), which shall be
17 credited to the responsible battery management account created in
18 section 13 of this act, and RCW 70A.355.070, which shall be credited
19 to the underground storage tank account created by RCW 70A.355.090.

20 NEW SECTION. Sec. 21. CODIFICATION. Sections 1 through 18 of
21 this act constitute a new chapter in Title 70A RCW.

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

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