Chapter 173-905 WAC
BATTERY STEWARDSHIP PROGRAM

GENERAL

NEW SECTION

WAC 173-905-010 Purpose. (1) Chapter 70A.555 RCW requires establishment of a convenient, accessible, and environmentally sound product stewardship program for all covered batteries throughout Washington state. The legislature decided that such a system will ensure the proper handling, recycling, and end-of-life management of used batteries. Managing covered batteries through product stewardship removes them from the waste stream, prevents releases of toxic materials into the environment and ensures recycling of limited resources.

(2) This chapter implements chapter 70A.555 RCW, Batteries—Environmental stewardship. This chapter establishes:

(a) Processes and procedures that the department and battery stewardship organizations use to oversee and administer the program;

(b) Fees to be paid to the department to cover the agency's full costs of providing oversight of the implementation and administration of the program and enforcing chapter 70A.555 RCW and this chapter;

(c) Requirements for producers to mark batteries with their identification, an identification of the chemistry of the battery, and an indication that batteries should not be discarded with household garbage; and

(d) Standards to ensure the safe and effective collection and handling of batteries through a stewardship program.

NEW SECTION

WAC 173-905-020 Applicability. This chapter applies to:

(1) Any producer of covered batteries or battery-containing products, as defined in this chapter;

(2) Any battery stewardship organization as defined in this chapter;

(3) Any retailer that sells, offers for sale, distributes, or makes available for sale a covered battery or battery-containing product in or into Washington state;

(4) Any person who collects covered batteries in Washington state for a battery stewardship plan approved under this chapter;

(5) Any person who transports covered batteries in Washington state for a battery stewardship plan approved under this chapter;

(6) Any local government in Washington state collecting covered batteries; and

(7) Any person who disposes of a covered battery.

NEW SECTION

WAC 173-905-030 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

"Battery-containing product" means a product that contains or is packaged with rechargeable or primary batteries that are covered batteries. "Battery-containing product" does not include a covered electronic product under an approved plan implemented under chapter 70A.500 RCW.

"Battery management hierarchy" means a management system of covered batteries, prioritized in the following order:

(a) Waste prevention and reduction;

(b) Reuse, when reuse is appropriate;

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

(d) Other means of end-of-life management, which may only be utilized after demonstrating to the department that it is not feasible to manage the batteries using priorities in (a) through (c) of the definition.

"Battery-related incident" means a spill, fire, release, or other hazard that poses a risk to public safety or environmental health resulting from the collection, handling, transportation, or processing of a covered battery.

"Battery stewardship organization" means a producer that directly implements a battery stewardship plan or a nonprofit organization designated by a producer or group of producers to implement a battery stewardship plan.

"Battery stewardship plan" or **"plan"** means a plan developed for the collection, transportation, recycling, and the safe and proper management of covered batteries.

"Best available technologies" means a recycling technology that results in the greatest recycling efficiency rate.

"Brand" means a name, symbol, word, logo, registered or unregistered trademark, or identifying or a traceable mark that identifies a covered battery and attributes the battery to the owner of the brand.

"Chemistry" means the names, symbols, or codes contained in standards created by domestic or internationally recognized standards organizations such as the American National Standards Institute (ANSI), the International Electrotechnical Commission (IEC), or Society of Automotive Engineers (SAE), used by battery manufacturers to identify the electrochemical system of the battery.

"Collection event" means a one-time or recurring activity at a site used by an operator to collect covered batteries on a particular day or days, storing them less than 48 hours.

"Collection rate" means a percentage that is calculated by dividing the total weight of primary and rechargeable batteries collected by a battery stewardship organization during the previous calendar year by the average annual weight of primary and rechargeable batteries that were estimated to have been sold in the state by all produc-

ers participating in an approved battery stewardship plan during the previous three calendar years.

"Collection site" means a permanent service location, run by an entity allowed to operate in Washington state, that accepts covered batteries under a battery stewardship plan.

"Covered battery" means a portable battery that has been used in Washington state regardless of where it was purchased. Beginning January 1, 2029, "covered battery" also means a medium format battery that has been used in Washington state regardless of where it was purchased. "Covered battery" does not include:

(a) A battery contained within a medical device that is not marketed to consumers for personal use;

(b) A wet cell battery, including a vehicle battery as defined in WAC 173-331-100; and

(c) A battery that is not intended or designed to be easily removable from a battery-containing product.

"Damaged and defective batteries" means batteries that have been damaged or identified by the manufacturer as being defective for safety reasons, that have the potential of producing a dangerous evolution of heat, fire, or short circuit.

"Demonstrable costs" means costs that a local government participating in a battery stewardship program incurs as a result of covered battery collection activities, at permanent collection sites or through collection events, including labor and nonlabor costs associated with:

(a) Sorting collected batteries;

(b) Packaging collected batteries for transport;

(c) Transportation and consolidation of batteries from satellite sites;

(d) Storage containers unless those containers are provided by the battery stewardship organization;

(e) Transportation to the battery stewardship organization's vendor, if cost effective or more efficient;

(f) Recycling batteries collected at collection events; and

(g) Additional agreed-to costs.

"Department" means the department of ecology.

"Easily removable" means designed by the manufacturer to be removable by the user of the product, without causing damage to the battery contained within the product, using only common household tools.

"Environmentally sound management practices" means practices that:

(a) Comply with all applicable laws and rules to protect workers, public health, and the environment;

(b) Provide for adequate recordkeeping, tracking, and documenting the fate of materials within the state and beyond; and

(c) Include comprehensive liability coverage for the battery stewardship organization, including environmental liability coverage that is commercially practicable.

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

"Geographically isolated community" means a community that has limited or no access to services of other communities, or is otherwise physically separated from other communities, due to limited public transportation options or the presence of natural barriers.

"Large format battery" means:

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

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

"Medium format battery" means:

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

(b) A primary battery weighing more than 4.4 pounds but not more than 25 pounds.

"Portable battery" means:

(a) A rechargeable battery weighing no more than 11 pounds and has a rating of no more than 300 watt-hours;

(b) A primary battery weighing no more than 4.4 pounds.

"Primary battery" means a battery that is not capable of being recharged.

"Producer" means the following person responsible for meeting the requirements of chapter 70A.555 RCW and this chapter for a covered battery or battery-containing product sold, offered for sale, or distributed in or into Washington state:

(a) For covered batteries:

(i) If the battery is sold under the battery manufacturer's brand, the manufacturer is the producer;

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

(iii) If there is no person to which (i) or (ii) of this definition applies, the person licensed to use the brand or trademark for the battery is the producer;

(iv) If there is no person described in (i) through (iii) of this definition located in the United States, the importer of record for the battery into the United States is the producer;

(v) If there is no person described in (i) through (iv) of this definition with a commercial presence in the state, the person who first sells or distributes the battery in or into Washington is the producer.

(b) For battery-containing products:

(i) If the battery-containing product is sold under the product manufacturer's brand, the manufacturer is the producer;

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

(iii) If there is no person to which (i) or (ii) of this definition applies, the person licensed to use the brand or trademark for the product is the producer;

(iv) If there is no person described in (i) through (iii) of this definition located in the United States, the importer of record for the product into the United States is the producer;

(v) If there is no person described in (i) through (iv) of this definition with a commercial presence in the state, the person who first sells, offers for sale, or distributes the product in or into Washington is the producer.

(vi) A producer does not include any person who only manufactures, sells, offers for sale, distributes, or imports into the state a battery-containing product if the only batteries used by the battery-containing product are supplied by a producer that has joined a registered battery stewardship organization as the producer for the

covered battery under this chapter. Such a producer of covered batteries that are included in a battery-containing product must provide written certification of that membership to both the producer of the covered battery-containing product and the battery stewardship organization of which the battery producer is a member.

(c) A person is the "producer" of a covered battery or covered battery-containing product sold, offered for sale, or distributed in or into this state, as defined in (a) or (b) of this subsection, except where another party has contractually accepted responsibility as a responsible producer and has joined an approved battery stewardship organization as the producer for that covered battery or covered battery-containing product under this chapter.

"Program" means a program implemented by a battery stewardship organization consistent with an approved battery stewardship plan.

"Rechargeable battery" means a battery that contains one or more voltaic or galvanic cells, is electrically connected to produce electric energy, and is designed to be recharged.

"Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than:

(a) Combustion;

(b) Incineration;

(c) Energy generation;

(d) Fuel production; or

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

"Recycling efficiency rate" means the ratio of the weight, in pounds, of covered battery components and materials recycled from covered batteries to the weight, in pounds, of those covered batteries collected by the battery stewardship organization.

"Regulated generator" means a generator as defined in WAC 173-303-040.

"Retailer" means a person who sells, offers for sale, or otherwise makes available covered batteries or battery-containing products to a customer or business by any means including, but not limited to, sales outlets, catalogs, or an online marketplace.

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

BATTERY STEWARDSHIP ORGANIZATION REQUIREMENTS

NEW SECTION

WAC 173-905-100 Pay administrative and plan review fee. (1) **Legislative mandate.** Each battery stewardship organization shall pay annual fees to the department to cover the department's administrative costs related to overseeing the battery stewardship program authorized under chapter 70A.555 RCW.

(2) **Plan review fee.** Each battery stewardship organization shall pay a one-time plan review base fee when it submits a plan to the department for review and approval.

(a) The department will annually determine the plan review base fee and will post the fee on its website. If the actual cost of review exceeds the plan review base fee, the department will charge an additional per-hour fee to cover the additional cost. The department will also post the per-hour fee on its website.

(b) This fee covers:

(i) Costs of staff hours, including salaries and benefits required by law to be paid to, or on behalf of, employees; and

(ii) Other costs incurred as a direct result of department staff working on the plan including travel related to plan review, printing and publishing plan documents, and other work, contracted or otherwise.

(c) This fee does not apply to the submission of a plan renewal or plan amendment.

(3) **Administrative fee.** Beginning 2026, each stewardship organization shall pay an administrative fee to the department. This fee is due each year on June 1st.

(a) The department will annually determine the administrative fee and will post the fee on its website.

(b) The department will base the administrative fee on annual costs from the previous calendar year including:

(i) Costs of staff hours, including salaries and benefits required by law to be paid to, or on behalf of, employees; and

(ii) Other costs incurred as a direct result of department staff working on annual report review, plan amendments, quarterly meetings, required studies, maintaining websites, developing and publishing guidance documents, and other work, contracted or otherwise.

(c) The administrative fee amount may be adjusted by the fiscal growth factor (FGF) as calculated under RCW 43.135.025.

(d) If there is only one approved plan, that battery stewardship organization is responsible for the entire fee.

(e) In the case of multiple stewardship organizations, the fee will be allocated in proportion to the market share a stewardship organization represents. The department will base market share on data provided by stewardship organizations and any available data.

(i) By April 1st each year, battery stewardship organizations shall submit to the department the total sales, in pounds, of covered batteries or battery-containing products of their participating producers for the previous calendar year. The department will use the sales data to determine the aggregated market share of the battery stewardship organization.

(ii) If the department does not receive sales data from the battery stewardship organizations, the market share estimate will be calculated using available data.

(4) **Responsible battery management account.** Fees paid under this section must be deposited into the responsible battery management account created under RCW 70A.555.120.

NEW SECTION

WAC 173-905-110 Provide education and outreach. (1) At least once each quarter, each battery stewardship organization shall carry out activities to promote the program using education and outreach materials that are accessible for the communities where the outreach takes place. These promotional activities must include:

(a) Developing and maintaining a website and a customer service number with information about the program;

(b) Developing and distributing education and outreach materials that will be used to inform consumers about the prohibited disposal of covered batteries and provide information on how to properly drop off or discard covered batteries;

(c) Distributing periodic press releases and articles;

(d) Placing advertisements on social media or other relevant media platforms;

(e) Distributing consumer-focused educational and promotional materials to the operator of each collection site;

(f) Distributing educational materials to the operator of each collection site detailing how noncovered products and batteries, such as recalled batteries, should be managed;

(g) Providing educational materials to help facilitate transportation and processing of recalled batteries, which are not intended to be collected under the program;

(h) Distributing educational materials to the operator of each collection site detailing how damaged and defective batteries should be managed; and

(i) Providing educational materials describing collection opportunities for batteries to each retailer that requests them, for distribution to customers.

(2) In developing education and outreach materials for overburdened communities and vulnerable populations identified by the department, a battery stewardship organization shall consult with those communities to ensure the materials are conceptually, linguistically, and culturally accurate.

(3) If multiple battery stewardship organizations are implementing plans approved by the department, the battery stewardship organizations shall coordinate their education and outreach activities including providing a single website, a collection site locator, a phone number, and a program name, all of which must provide unified messaging.

(4) During the first year of program implementation and every five years thereafter, each battery stewardship organization shall carry out a survey of public awareness to evaluate education and outreach efforts.

NEW SECTION

WAC 173-905-120 Plan contents. A proposed battery stewardship plan must include the following components:

(1) **Program operation.** A description of how the program will collect all covered batteries on a free, continuous, convenient, visible,

and accessible basis using environmentally sound management practices including:

(a) A list of transporters to be used by the program for transporting batteries from the collection sites and relevant information for each transporter including:

(i) Company name;

(ii) Name of a contact person;

(iii) Physical address of the company;

(iv) Email address and phone number for the contact person;

(v) A list of all applicable permits and licenses; and

(vi) A list of all applicable hazardous waste EPA/state identification numbers.

(b) A list of facilities to be used by the program for sorting and final disposition of batteries or battery components and relevant information for each facility including:

(i) Company name;

(ii) Name of a contact person;

(iii) Physical address of the company;

(iv) Email address and phone number for the contact person;

(v) A list of all applicable permits and licenses; and

(vi) A list of all applicable hazardous waste EPA/state identification numbers.

(c) A description of the recycling process used at each facility for each type of battery collected.

(d) A description of the factors the battery stewardship organization will use when choosing which facilities will be selected to recycle collected batteries.

(e) A description of how the battery stewardship organization will routinely monitor all companies involved in the collection, handling, transporting, and final disposition of covered batteries to ensure they are operating in compliance with all applicable laws and rules.

(f) A description of how the battery stewardship organization will manage batteries that cannot be recycled.

(g) A description of how the battery stewardship organization will coordinate with other stewardship organizations, public or private entities that collect covered batteries, and electronic waste recyclers to provide efficient delivery of services.

(2) **Covered producers and brands.** Information on producers of covered batteries and their brands, including:

(a) A list of producers covered in the plan;

(b) A list of battery brands and battery-containing product brands covered in the plan;

(c) For each producer covered by the battery stewardship plan, information for a contact person including name, mailing address, phone number, and email address; and

(d) If the plan is submitted after January 1, 2028, an indication of which producers meet the marking requirements in WAC 173-905-310.

(3) **Collection sites.** Information about the collection site network including:

(a) A list, provided in a spreadsheet in Microsoft Excel format, or a similar file format with prior approval from the department, of collection sites and site information, including the site name, physical address, phone number, latitude and longitude, an indication of whether the site accepts damaged and defective batteries, and beginning January 1, 2029, an indication of whether the site accepts medium

format batteries. Site contact information, such as a contact name and email address, must also be included.

(b) A list and description of the criteria the battery stewardship organization will use to determine whether an entity may serve as a collection site or site of a collection event.

(c) A description of the types of collection containers that will be used at collection sites that allow for segregation from other solid waste including dangerous waste subject to chapter 173-303 WAC.

(d) A copy of signage or labels to be placed on or near collection containers providing specific instructions to customers disposing of batteries.

(e) A description of how damaged and defective batteries will be collected only at sites staffed by persons trained to collect, handle, and ship those batteries.

(f) A description of methods for hosting collection events to supplement permanent collection services, including proposed locations, frequency, and outreach efforts.

(g) A description of how the battery stewardship organization will ensure each collection site has the materials and equipment necessary to handle customer demand and has established a regular pick-up schedule to prevent overflow issues at collection sites.

(h) A description of how the battery stewardship organization will ensure that covered batteries at collection sites no longer participating under an approved plan will be delivered to a recycling facility.

(i) A description of how collection sites will be trained to deal with receiving batteries that are not required to be collected such as batteries that are not easily removable from a product or covered electronic products under chapter 70A.500 RCW.

(j) A description of how the battery stewardship organization will meet the statewide convenience standards described in WAC 173-905-500 including an explanation of how the requirement of sites established at special locations in WAC 173-905-500 (2)(e) was met.

(4) **Performance goals.** Numeric performance goals that measure, on an annual basis, the achievements of the program, including a description of how progress towards each goal will be measured. Performance goals must, at minimum, include:

(a) A target collection rate for covered batteries;

(b) A target recycling efficiency rate of at least 60 percent for rechargeable batteries and at least 70 percent for primary batteries;

(c) The percentage of people in Washington that are aware of the program, including a subgoal applicable to public awareness of the program in vulnerable populations and overburdened communities identified by ecology;

(d) The percentage of people that know how to find where to recycle covered batteries; and

(e) Goals to meet the convenience and accessibility requirements in WAC 173-905-500.

(5) **Education and outreach.** A description of the communications strategy the battery stewardship organization will use to promote the program to consumers, retailers, and others. The plan must include:

(a) Sample materials sent to retailers to make them aware of their obligation to sell only covered batteries and battery-containing products of producers participating in an approved plan;

(b) Sample materials that can be provided to retailers upon request, including in-store signage, written materials, or other promo-

tional materials that retailers may use to inform customers of recycling options for covered batteries;

(c) Sample promotional materials such as flyers or social media posts that communicate:

(i) That the program provides free collection of covered primary and rechargeable batteries;

(ii) Guidance for safe handling of covered batteries, including damaged and defective batteries; and

(iii) Information on how to find collection sites.

(d) A description of how the battery stewardship organization will identify target audiences and appropriate outreach for those audiences, including through television or radio, news media, public service announcements, mailing, emails, online listservs, social media, and newsletters;

(e) A description of how the battery stewardship organization will consult with overburdened communities and vulnerable populations identified by ecology when developing outreach materials;

(f) A description of how the stewardship organization will document education and outreach efforts; and

(g) A summary of planned education and outreach activities.

(6) **Safety.** A description of how the battery stewardship organization will provide annual training to collection sites and a copy of all procedural materials that will be distributed to collection sites, including protocols for preventing and responding to battery-related incidents.

(7) **Program funding.** A description of how the battery stewardship organization will establish and administer a means for fully funding a program that:

(a) Equitably distributes the program's costs among the producers that are part of the battery stewardship organization; and

(b) Covers the full implementation of the program, including:

(i) Battery collection, transportation, sorting, and final disposition;

(ii) Education and outreach;

(iii) Program evaluation;

(iv) Local government reimbursement; and

(v) Payment of fees to the department.

(8) **Fee structure.** A description of how the stewardship organization will structure producer fees to encourage design attributes that reduce the environmental impacts of covered batteries. Examples of fee structures that meet these requirements include using eco-modulated fees that:

(a) Encourage recyclability or recycling;

(b) Encourage the use of recycled content;

(c) Encourage conservation of resources;

(d) Discourage the use of problematic materials that increase costs of managing covered batteries; or

(e) Other design attributes that reduce the environmental impacts of covered batteries.

(9) **Budget.** The program budget for the first three years of program implementation that includes separate line items for the following categories and describes what is included in each category:

(a) Collection costs;

(b) Transportation costs;

(c) Sorting costs;

(d) Recycling costs;

(e) Disposal costs for material that cannot be recycled;

(f) Education, outreach and communications costs;

(g) Program evaluation costs;

(h) Plan review and administrative fees paid to the department;

(i) Demonstrable costs paid to local governments or local government facilities; and

(j) Personnel, general, and other administrative costs.

(10) **Local government coordination.** The plan must describe how the stewardship organization will communicate and coordinate with local governments in implementation of the program including:

(a) A copy of a template local government reimbursement agreement and a description of how local governments participated in the template's development.

(b) Procedures that a local government collecting covered batteries at its own expense outside of the program must follow to meet the requirements in WAC 173-905-500(8).

(c) Procedures that a local government must follow to coordinate with a battery stewardship organization regarding collection events.

(d) Procedures that a local government seeking reimbursement from the stewardship organization must follow to coordinate with a battery stewardship organization on education and outreach efforts.

NEW SECTION

WAC 173-905-130 Submit a plan. (1) **Plan for managing portable batteries.** By July 1, 2026, each battery stewardship organization shall submit to the department a plan that covers the collection, transport, and processing of portable batteries. Information on the collection, transport, and processing medium format batteries, as required in subsection (2) of this section, may be included in the plan.

(2) **Plan for managing medium format batteries.** By January 1, 2028, each battery stewardship organization shall submit to the department a plan that covers the collection, transport, and processing of medium format batteries if the approved plan does not already include medium format batteries.

(3) **Plan amendments.** A battery stewardship organization shall submit a plan amendment to the department for review and approval when:

(a) There is a proposed change to the performance goals established in the approved plan;

(b) There is a change to the method of financing plan implementation;

(c) There are significant changes in the operation, administration, or implementation of the program that are not addressed in the approved plan;

(d) Another battery stewardship organization has received approval for a new plan;

(e) The program budget needs to be updated on the approved plan; or

(f) The department requests an amendment to the approved plan.

(4) **Plan renewal.** Every five years, each battery stewardship organization shall submit a revised plan to the department for approval. The previous plan will remain in effect until the revised plan is approved.

(5) **File format.** Plans and plan amendments must be submitted electronically with a hyperlinked table of contents, in Microsoft Word and PDF format, or a similar file format with prior approval from the department, unless specified otherwise in this chapter.

NEW SECTION

WAC 173-905-140 Implement an approved plan. (1) Beginning January 1, 2027, battery stewardship organizations shall begin to implement an approved plan;

(2) By July 1, 2027, unless specified below, each battery stewardship organization shall fully implement its approved plan for covered portable batteries. Full implementation is when:

(a) Collection convenience standards in WAC 173-905-500 have been met;

(b) By January 1, 2028, all collection sites have received proper training, collection containers, signage and educational materials;

(c) The battery stewardship organization's website is live, providing information to producers, retailers, collection sites, and consumers about the program;

(d) A collection site locator on the battery stewardship organization's website is operational, providing collection site address, hours, phone number, website if applicable, and any special instructions or restrictions specific to the collection site; and

(e) The battery stewardship organization has paid all necessary fees to the department.

(3) By January 1, 2029, battery stewardship organizations shall fully implement an approved plan that includes the collection and management of covered medium format batteries;

(4) After July 1, 2027, additional stewardship organizations may begin implementation of approved plans between July 1st and December 31st.

NEW SECTION

WAC 173-905-150 Submit annual reports. By June 1, 2028, and each June 1st thereafter, each battery stewardship organization shall submit an annual report to the department for the preceding calendar year of battery stewardship plan implementation in a format prescribed by the department. The report must contain the following information:

(1) **Program operation.** A description of methods used to collect, transport, and recycle covered batteries by the battery stewardship organization including a discussion of best available processing technologies and the recycling efficiency rate.

(2) **Independent financial audit.** No later than six months prior to the due date of an annual report, the department will notify a battery stewardship organization if an independent financial audit of the program is required.

(3) **Program budget.** A summary of the program budget including revenue and a detailed analysis of program costs, expenses, and expenditures of the program comparing budgeted amounts to actual expendi-

tures. Battery stewardship organizations implementing similar battery stewardship programs in multiple states may submit a financial statement including all covered states if the statement breaks out financial information pertinent to Washington.

(4) **Battery collections and collection site information.** The report must provide the weight, by chemistry, of covered batteries collected under the program. The report must include the URL address to the battery stewardship organization's web page containing an up-to-date interactive map of all collection sites used to implement the program. Additionally, the report must include the following information for each collection site:

(a) The name of the site;

(b) The address of the site;

(c) The latitude and longitude of the site;

(d) An indication of whether the site accepts damaged and defective batteries;

(e) An indication of whether the site accepts medium format batteries;

(f) A link to the website associated with the site, if applicable; and

(g) The weight of covered batteries collected annually at the site.

(5) **Sorting facility and final disposition facility information.** The following information for each facility used by the program for sorting or final disposition of batteries:

(a) The name of the facility;

(b) The address of the facility;

(c) The weight by battery chemistry of covered batteries received;

(d) The weight of materials recycled;

(e) The weight of residuals disposed;

(f) A description of the recycling process used;

(g) The recycling efficiency rate achieved; and

(h) A summary of violations of environmental or labor laws and regulations over the previous three calendar years issued by a regulatory body with oversight of those laws and regulations, regardless of whether the violation is being contested, further investigated or resolved.

(6) **Aggregate sales.** The estimated aggregate sales by weight and chemistry of covered batteries and batteries contained in or with battery-containing products sold in Washington by participating producers for each of the previous three calendar years. Sales data by battery chemistry may be grouped with prior approval from the department.

(7) **Education and outreach.** A summary of education and outreach activities carried out by the battery stewardship organization including:

(a) A description of how the education and outreach requirements under WAC 197-905-110 were met;

(b) Samples of education and outreach materials distributed to consumers, collection sites, producers, distributors, and retailers;

(c) If there were other battery stewardship organizations implementing an approved plan, a description of how education and outreach activities were coordinated and how associated costs were shared with other battery stewardship organizations;

(d) A summary of education and outreach activities conducted during the previous calendar year and a description of activities planned for the upcoming 12 month;

(e) The results of any public awareness surveys conducted during the previous calendar year.

(8) **Safety training.** A description of how the battery stewardship organization provided safety training and distributed safety information to operators of battery collection sites including covered topics, the number of trainings provided at each collection site, and a list of locations where trainings were conducted.

(9) **Battery related incidents.** For any collection site or facility used by the program that experienced a battery related incident in the preceding calendar year, a spreadsheet in Microsoft Excel format, or a similar file format with prior approval from the department, with the following information for each incident:

(a) The name of the site;

(b) The address of the site;

(c) Date and time the incident occurred;

(d) Description of the incident;

(e) Steps taken to remedy the incident; and

(f) A description of how the waste was managed.

(10) **Marking requirement certifications.** A list of producers that have certified to the battery stewardship organization their compliance with the marking requirements under WAC 173-905-310.

(11) **Progress on performance goals.** A summary of progress made towards program performance goals established in the plan and an explanation of why a goal was not met, if applicable. The annual report must include:

(a) The collection rate for covered batteries achieved by the program and a description of how the collection rate was calculated. Calculation of separate rates may be required by ecology.

(b) The recycling efficiency rates achieved by the program for each of the following:

(i) All covered batteries collected by the program;

(ii) Primary batteries collected by the program;

(iii) Rechargeable batteries collected by the program; and

(iv) Each recycling facility used by the program.

(c) An evaluation of the effectiveness of education and outreach activities.

(12) **Improving recycling rates.** If a battery stewardship organization disposed of covered batteries through energy recovery, incineration, or landfilling during the preceding calendar year, a description of the steps that the battery stewardship organization will take to increase battery recycling rates achieved by the program.

(13) **Battery management hierarchy.**

(a) The weight and percentage of batteries disposed of for each of the disposal options:

(i) Waste prevention and reduction;

(ii) Reuse;

(iii) Recycling; and

(iv) Other means of end-of-life management.

(b) For any covered batteries that were disposed of using a lower priority end-of-life battery management option on the battery management hierarchy, the battery stewardship organization must provide an explanation of why higher priority battery management options were not technically feasible or economically practical for those batteries.

NEW SECTION

WAC 173-905-160 Provide quarterly updates. Beginning January 1, 2028, each battery stewardship organization shall meet with the department once each quarter to provide a written and oral update on the program including:

(1) Notice of any producers that have started or ended participation in the program in the previous quarter;

(2) Notice of any civil action the battery stewardship organization has taken against a producer or another battery stewardship organization;

(3) Notice of any collection sites that have been added in the previous quarter;

(4) Notice of any collection sites that have been terminated or suspended in the previous quarter and the reason for the termination or suspension;

(5) A summary of outreach and education activities that occurred in the previous quarter and those planned for the next quarter;

(6) A list of collection events that occurred in the previous quarter;

(7) A summary of battery-related incidents that occurred in the previous quarter, including the location where each incident occurred and the outcome or resolution of each incident; and

(8) Other information requested by the department.

RETAILER REQUIREMENTS

NEW SECTION

WAC 173-905-200 Role of retailers. (1) Beginning July 1, 2027, retailers are prohibited from selling or distributing covered portable batteries or battery-containing products in or into the state of Washington unless the producer of the covered batteries or battery-containing products participates in an approved battery stewardship plan.

(2) Beginning January 1, 2028, retailers are prohibited from selling or distributing a large format battery, a covered battery, or a battery-containing product in or into the state of Washington unless they meet the marking requirements under WAC 173-905-310.

(3) Beginning July 1, 2029, retailers are prohibited from selling or distributing covered medium format batteries or battery-containing products in or into the state of Washington unless the producer of the covered batteries or battery-containing products participates in an approved battery stewardship plan.

(4) Retailers may use the list of producers on the department's website to verify compliance with subsections (1) through (3) of this section.

(5) A retailer selling covered batteries or battery-containing products in or into the state of Washington may request education and outreach materials from the stewardship organization to inform their customers about end-of-life management options for covered batteries.

(6) A retailer is not required to make retail locations available to serve as collection sites for a battery stewardship program.

(7) A retailer that serves as a collection site for a battery stewardship program must comply with the requirements for collection sites contained in a battery stewardship organization's approved plan and the requirements in WAC 173-905-520.

(8) A retailer may not charge a specific point-of-sale fee to consumers to cover the administrative or operational costs of the battery stewardship program.

PRODUCER REQUIREMENTS

NEW SECTION

WAC 173-905-300 Participate in an approved plan. (1) Beginning January 1, 2027, for portable batteries and July 1, 2029, for medium format batteries, each producer selling, making available for sale, or distributing a covered battery or a battery-containing product in or into the state of Washington shall participate in an approved battery stewardship plan.

(2) A producer intending to cease participation in a battery stewardship organization shall provide written notice to their battery stewardship organization no later than 30 days before ceasing participation. This notice must include:

(a) The producer's name and any associated brands;

(b) The date the producer will cease participation; and

(c) The reason for ceasing participation.

(3) A producer that does not comply with the requirements under this chapter may not sell covered batteries or battery-containing products in or into Washington.

(4) Nothing under this chapter may be construed to limit a producer or group of producers from designating or otherwise forming a new battery stewardship organization.

NEW SECTION

WAC 173-905-310 Marking requirements. (1) **Applicability.** The requirements of this section apply to producers that sell, distribute, or offer for sale in or into Washington:

(a) Large format batteries;

(b) Covered batteries; or

(c) Battery-containing products.

(2) **Marking requirements for batteries.** Producers shall place permanent, clearly visible, and legible marks on their batteries.

(a) Beginning January 1, 2028, a producer shall mark their batteries with their brand;

(b) Beginning January 1, 2030, a producer shall mark their batteries with crossed-out wheeled bin, shown below, to indicate the battery should not be disposed of as household waste; and

(c) Beginning January 1, 2030, a producer shall mark their batteries with information indicating the battery chemistry.

(3) **Marking requirements for battery-containing products.** Producers of battery-containing products shall ensure the batteries contained in their products meet the requirements of subsection (2) of this section.

(4) **Exceptions.** The requirements described in subsection (2) of this section do not apply to batteries that do not have a surface whose length exceeds one-half inch. If the battery does not have a surface whose length exceeds one-half inch, the package of the battery or battery-containing product must bear the marks required in subsection (2) of this section.

(5) **Certification.** A producer of a battery-containing product shall certify their compliance with this section to their customers or the retailer if the retailer is not the customer, and to the battery stewardship organization. A producer that meets the requirement in (a) of this subsection is in compliance with the certification requirement under RCW 70A.555.130(2). The following process will be used by the department to determine compliance with the requirements of this section:

(a) Producers shall certify their compliance with this section to the stewardship organization they participate in, or if they are not participating in a stewardship organization, they shall provide certification directly to the department.

(b) Each battery stewardship organization shall provide a list of its participating producers that have certified their compliance with this section on its annual report submitted to the department under WAC 173-905-150 and shall also provide a list of any producers removed or added to that list with each quarterly update to the department under WAC 173-905-160.

(c) The department will post the list of certified producers on its public website.

DEPARTMENT DUTIES

NEW SECTION

WAC 173-905-400 Maintain a web page. (1) The department will maintain a web page that may be used by producers, retailers, and the public as a resource to determine compliance with the program and view up-to date program data.

(2) Except for confidential information as granted under subsection (4) of this section, the department will post the following information to its website:

(a) Beginning January 1, 2027, a list of producers and a separate list of brands that participate in an approved plan. Appearing on these lists will serve as certification of a producer's participation in a battery stewardship organization;

(b) Beginning January 1, 2028, the list will contain producers that participate in an approved plan and that also have certified their compliance with the marking requirements under WAC 173-905-310;

(c) Plans and plan amendments submitted to the department;

(d) Annual reports submitted to the department; and

(e) The plan review base fee due at the time of first plan submittal.

(f) The per-hour fee the department may additionally charge as needed to cover additional plan review costs.

(3) The department will update the website within 30 days of receipt of any new information received in quarterly reports under WAC 173-905-160.

(4) A producer or battery stewardship organization that submits information or records to the department under this chapter may request that the information or records be made available only for the confidential use of the department, in accordance with RCW 43.21A.160. The director of the department will consider the request and if this action is not detrimental to the public interest and is otherwise in accordance with the policies and purposes of chapter 43.21A RCW, the director will grant the request for the information to remain confidential as authorized in RCW 43.21A.160.

NEW SECTION

WAC 173-905-410 Review a submitted plan. (1) The department will post a copy of submitted plans and plan amendments on its website for public review and comment for at least 30 days.

(2) Within six months of submittal of a plan, or within three months of submittal of a plan amendment, the department will determine whether the plan or plan amendment meets the requirements of chapter 70A.555 RCW and this chapter and will issue a decision letter to the battery stewardship organization.

(a) If the plan or plan amendment is approved, the department will issue a letter of approval by email or certified mail.

(b) If the plan or plan amendment is disapproved by the department:

(i) The department will issue a letter of disapproval by email or certified mail. The letter will include the reasons the department rejected the plan or plan amendment; and

(ii) The battery stewardship organization shall submit a new or revised plan or plan amendment within 60 days of receipt of the letter of disapproval.

(3) If the department requests additional information or clarification during review of a plan or plan amendment, the battery stewardship organization shall submit the additional information requested within 30 days of its receipt of the notice.

(4) After two plan disapprovals, if the department determines that a submitted plan or plan amendment still does not meet the requirements of chapter 70A.555 RCW and this chapter, the department may amend the most recent plan submittal. A plan amended by the department in this manner becomes the approved plan.

NEW SECTION

WAC 173-905-420 Review an annual report. (1) The department will review annual reports submitted under WAC 173-905-150 within 90 days of submission to ensure compliance with that section.

(2) If the annual report is approved, the department will issue a letter of approval by email or certified mail.

(3) If an annual report is incomplete, the department will notify the battery stewardship organization in writing of the additional information needed to comply with the requirements of WAC 173-905-150. The battery stewardship organization shall submit the additional information requested by the department within 30 days of its receipt of the notice.

NEW SECTION

WAC 173-905-430 Enforcement and penalties. (1) The following entities may not be found in violation of chapter 70A.555 RCW or this chapter:

(a) An owner or operator of a solid waste facility if the facility has posted a sign stating that covered batteries must be managed through collection sites established by a battery stewardship program and are not accepted for disposal;

(b) A solid waste collector if a generator places a covered battery in a disposal container serviced by the solid waste collector; and

(c) An individual or resident who improperly disposes of covered batteries in a noncommercial or residential setting.

(2) If the department determines that a person violated or is in violation of any of the requirements of chapter 70A.555 RCW or this

chapter, the department will issue a written warning or an order requiring compliance.

(a) **Written warning.** The department will provide a producer, retailer, or battery stewardship organization with a written warning for a first violation of the requirements of chapter 70A.555 RCW or this chapter. Written warnings will be delivered with verified receipt and will inform a violator of the steps they must take to come into compliance.

(b) **Compliance order.** Whenever, based on any information, the department determines that a person has violated or is in violation of chapter 70A.555 RCW or this chapter, it may issue an order to that person requiring compliance either immediately or within a specified period of time. The compliance order will be delivered with verified receipt and will inform a violator of the steps they must take to come into compliance. A person who fails to take corrective action as specified in a compliance order is liable for a civil penalty as provided in subsection (3) of this section without receiving a written warning first.

(3) The department may impose civil penalties for violations of chapter 70A.555 RCW or this chapter as follows:

(a) If a person remains in violation after 30 days of receiving a written warning described in subsection (2)(a) of this section, the department may administratively impose a civil penalty in an amount of up to $1,000 per violation per day for a first violation.

(b) If a person fails to comply with a compliance order as described in subsection (2)(b) of this section, the department may administratively impose a civil penalty in an amount of up to $10,000 per violation per day, without first delivering a warning as described in subsection (2)(a) of this section.

(c) For repeated violations the department may impose a civil penalty in an amount up to $10,000 per violation per day.

(4) A person who is issued an order or incurs a penalty under this section may appeal the order or penalty to the pollution control hearings board established by chapter 43.21B RCW within 30 days of the date of receipt.

PROGRAM COLLECTION AND HANDLING REQUIREMENTS

NEW SECTION

WAC 173-905-500 Collection sites and collection events. (1) Each battery stewardship organization must allow any person to discard each chemistry and brand of covered battery at each collection site identified in the stewardship plan, except that medium format batteries and damaged and defective batteries may only be collected at sites with staff who are properly trained to handle those batteries.

(2) **Convenience standards - Portable battery collections.** Each battery stewardship organization shall provide statewide portable bat-

tery collection opportunities that include, but are not limited to, the provision of:

(a) At least one permanent collection site within a 15 mile radius for at least 95 percent of Washington residents;

(b) The establishment of collection sites that are accessible and convenient to overburdened communities identified by the department in an amount that is roughly proportional to the number and population of overburdened communities relative to the population or size of the state as a whole;

(c) In addition to the requirements of (a) of this subsection, one permanent collection site for every 30,000 residents of each urban area in this state;

(d) Collection events in areas without a permanent collection site, including service to island and geographically isolated communities; and

(e) Collection opportunities at special locations where batteries are often spent and replaced such as campgrounds, parks with stores, fire stations, homeless shelters, donation centers, schools, and solid waste facilities.

(3) **Convenience standards - Medium format battery collections.** Each battery stewardship organization shall provide statewide medium format battery collection opportunities that include, but are not limited to, the provision of:

(a) At least 25 permanent collection sites in Washington;

(b) Reasonable geographic dispersion of collection sites throughout the state;

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

(d) The establishment of collection sites that are accessible to public transit and that are convenient to overburdened communities identified by the department; and

(e) Collection events in areas without a permanent collection site, including service to island and geographically isolated communities. A battery stewardship organization shall ensure that there is a collection site or annual collection event in each county of the state.

(4) **Use existing collection services and facilities.** Battery stewardship programs shall use existing public and private waste collection services and facilities, including battery collection sites that are established through other battery collection services, transporters, consolidators, processors, and retailers, where cost-effective, mutually agreeable, and otherwise practicable.

(5) **Use qualifying entities as collection sites.** Battery stewardship programs shall, upon request of an entity that meets the criteria for collection sites in the approved plan, use that entity as a collection site.

(6) **Collection events.** Battery stewardship organizations shall provide collection events at least once per year in each county without a permanent collection site.

(a) Battery stewardship programs shall hold collection events at the location of any entity that requests to participate if the entity meets criteria specified in the approved plan.

(i) All costs associated with a collection event initiated in this manner are the sole responsibility of the requesting entity unless otherwise agreed to by a battery stewardship organization.

(ii) A battery stewardship organization and the requesting entity must agree to terms for the collection event at least 60 days before the event is to take place.

(b) All collection events must be staffed to accept any covered battery for collection, including damaged and defective batteries.

(c) Batteries collected during collection events may be stored on-site for no more than 48 hours after the event has concluded.

(7) **Suspension or termination of a site or service.** A battery stewardship organization may suspend or terminate a collection site or service that does not adhere to the collection site criteria in the approved plan or that poses an immediate health and safety concern.

(8) **Sites at local government facilities not participating in a battery stewardship program.**

(a) A local government facility may collect batteries at its own expense through a collection site or collection event that is not a collection site or event under the program. Using procedures included in an approved battery stewardship plan, a local government facility that collects covered batteries under this subsection shall:

(i) Notify battery stewardship organizations of the local government's decision not to participate in the program;

(ii) Collect all covered batteries at its collection site or sites;

(iii) Collect, sort, package, and transport collected batteries according to the standards established in approved battery stewardship plans;

(iv) Either provide the collected batteries to the battery stewardship organization or transport the batteries directly to a facility that a battery stewardship organization has designated in an approved plan.

(b) A local government facility not participating in the program shall report to a battery stewardship organization the information necessary for the battery stewardship organization to fulfill its reporting obligations under WAC 173-905-150.

NEW SECTION

WAC 173-905-510 General battery disposal and collection requirements. Effective July 1, 2027, for portable batteries and July 1, 2029, for medium format batteries, or the first date on which an approved plan begins to be implemented under this chapter by a battery stewardship organization, whichever comes first:

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

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

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

(c) Disposal using local government collection facilities that collect batteries consistent with RCW 70A.555.070 (4)(c) and WAC 173-905-500(8);

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

(3) Covered batteries collected by the program must be collected, transported, and processed according to the standards established in an approved battery stewardship plan.

(4) A person may not place covered batteries in a waste container for general disposal, or in or on a container for recyclables unless there is a separate location or compartment for the covered battery that complies with local collection standards or guidelines.

(5) Collected batteries must be managed consistent with the prioritization outlined in the battery management hierarchy as defined in WAC 173-905-030.

(6) Collected batteries must be managed using environmentally sound management practices as defined in WAC 173-905-030.

NEW SECTION

WAC 173-905-520 Collection site procedures, safety, and training. (1) **Battery collection and handling standards.** Collection sites shall adhere to the following collection and handling standards:

(a) Collected batteries exhibiting one or more of the dangerous waste characteristics or criteria identified in WAC 173-303-090 or 173-303-100 must be managed consistent with the standards for universal waste management in WAC 173-303-573.

(b) Collection sites must determine whether they meet the definition of a small quantity handler or large quantity handler of universal waste as defined in WAC 173-303-040. Once a collection site determines their status, they must meet the respective standards in WAC 173-303-573.

(c) A collection site that discovers material that is not a covered battery in a collection container becomes the generator and must determine whether the material is dangerous waste as defined under chapter 173-303 WAC and manage the waste accordingly.

(d) During collection and storage, lithium batteries, including both lithium metal and lithium-ion chemistries, must meet terminal protection requirements in a manner that complies with U.S. Department of Transportation shipping requirements in 40 C.F.R. 173.185.

(e) Collection sites shall monitor battery collection containers each operating day for evidence of materials that are not a covered battery and damaged batteries.

(f) The following restrictions apply to damaged and defective battery collection from generators:

(i) Collection sites may not accept damaged batteries with broken or breached cell casings from medium quantity generators and large quantity generators as defined in WAC 173-303-040;

(ii) Collection sites may not accept damaged batteries with broken or breached cell casings from small quantity generators as defined in WAC 173-303-040, unless the site is permitted to manage moderate risk waste under WAC 173-350-360, operates under a permit exemption under WAC 173-350-360, or is a treatment, storage, and disposal facility operating under a permit issued under chapter 173-303 WAC;

(g) For collection sites that collect or discover damaged and defective batteries, those batteries must be:

(i) Separated from all other batteries;

(ii) Stored in a dry environment away from extreme cold and extreme heat;

(iii) Stored separately from flammable and combustible materials;

(iv) Monitored once each operating day for evidence of worsening conditions such as swelling, fire, smoke, gas, melting, cracking, corrosion, leakage, or discoloration;

(v) In a container labeled as "damaged/defective battery"; and

(vi) Sent off-site for recycling or disposal no longer than 90 calendar days from the date of collection or discovery.

(2) **Safety training.**

(a) Collection sites shall inform all employees who handle, or have responsibility for handling, collected covered batteries of proper handling and emergency procedures appropriate to the types of batteries expected to be collected at the site.

(b) Battery stewardship organizations shall provide annual safety training to each collection site used by the program and maintain documentation for a minimum of five years.

(c) A collection site may not accept damaged and defective batteries unless the site is staffed by persons trained to handle damaged and defective batteries.

(3) **Safety information.**

(a) Battery stewardship organizations shall provide safety information related to covered battery collection to the operator of each collection site used by the program. At minimum, the information must include appropriate protocols to reduce the risk of spills or fires and response protocols in the event of a spill or fire, and the information must be updated as needed.

(b) Battery stewardship organizations shall provide all collection sites with safety information related to the discovery of damaged and defective batteries in a collection container.

(c) Collection sites shall establish specific emergency procedures relevant to their site and ensure facility personnel are able to effectively respond to emergencies.

(d) Collection sites shall post signage near the battery collection container with the name and telephone number of an on-site or on-call emergency contact such as a store manager, shift supervisor, or environmental health and safety lead.

(4) **Emergency supplies.** Battery stewardship organizations shall provide each collection site with emergency supplies and equipment appropriate for mitigating risks associated with damaged or defective batteries such as leaks and fires. This includes proper personal protective equipment and containment for damaged and defective batteries.