Log of Meeting

Office of Commissioner Trumka

Subject: Meeting with The American Academy of Pediatrics

Date of Meeting: January 21, 2025

Place of Meeting: In-Person

Log Entry Source: Kaiwon Tresvant

Commission Attendees: Commissioner Rich Trumka, Robin Lipp, Kaiwon Tresvant

Non-Commission Attendees: Michael O'Brien, George Kerchner, Jennifer Giblin, Amy Lestition Burke, Steve Alonzo, Dane Pedersen (observer)

Summary of the Meeting: Commissioner Trumka held a brief introductory in-person meeting with The Rechargeable Battery Association, International Association of Fire Chiefs, Solid Waste Association of North America, and the National Waste & Recycling Association. The non-commission attendees led a presentation of information that covered: historical perspectives on lithium-ion battery recalls; lithium-ion battery recalls from 2024; examples of properly implemented lithium-ion battery recalls, special permitting for recalled lithium ion batteries, state battery collection and recycling legislation, and safety concerns with battery disposal at landfills and material recovery facilities. This meeting was requested by The Rechargeable Battery Association, the International Association of Fire Chiefs, Solid Waste Association of North America, and the National Waste & Recycling Association.

Materials received at the meeting:



WI Portable Battery EPR Bill Modeled Afte



CPSC and Industry Meeting on Lithium B

State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-0136/P2
MCP:amn&wlj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

AN ACT ***to create*** 20.370 (4) (ha), 287.07 (6), 287.175 and 287.176 of the statutes; **relating to:** requiring battery producers to administer battery collection and recycling programs, granting rule-making authority, making an appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill requires battery stewardship organizations to operate programs in this state to collect and recycle covered batteries. A "battery stewardship organization" is defined in the bill as a battery manufacturer (producer) that directly implements a battery stewardship plan or a nonprofit organization that has been designated by five or more producers to implement such a plan. The bill defines "covered battery" as either 1) a "portable battery" (a rechargeable battery weighing no more than 11 pounds and having a rating of no more than 300 watt-hours, or a nonrechargeable battery weighing no more than 4.4 pounds); or 2) a "medium format battery" (a rechargeable battery weighing more than 11 pounds or having a rating of more than 300 watt-hours, or both, but not exceeding 25 pounds or 2,000 watt-hours; or a nonrechargeable battery weighing more than 4.4 pounds but not more than 25 pounds). Under the bill, a "covered battery" does not include a battery that is contained in a medical device and that is not designed or marketed for retail sale; a battery that contains a liquid electrolyte; a lead acid battery

weighing more than 11 pounds; a vehicle battery; or a battery that is not easily removed from its product.

Under the bill, beginning on January 1, 2026, no producer or retailer may sell a covered battery, or a product containing or packaged with a covered battery (battery containing product), in this state unless the battery's producer 1) is operating under a battery stewardship plan that has been approved by the Department of Natural Resources; 2) pays an annual fee of $75,000 to DNR; 3) submits annual reports to DNR; and 4) provides outreach and education to consumers, retailers, and others about its battery stewardship program.

In addition, beginning on January 1, 2027, no producer or retailer may sell a covered battery or battery containing product unless the covered battery or battery in the battery containing product is marked with an identification of the producer of the battery. Further, beginning on January 1, 2029, no producer or retailer may sell a covered battery or battery containing product unless the covered battery or battery in the battery containing product is marked to identify the chemistry of the battery and to indicate that the battery should not be disposed of as household waste.

To be approved by DNR, a proposed battery stewardship plan must include specific information, such as a list of all the brands of covered batteries that producers participating in the organization sell in this state; performance goals under the plan, including target collection and recycling rates and goals for public awareness, and a process for achieving these goals; an education and outreach strategy; a process for making signage and other materials available to collection sites to inform consumers about management options for covered batteries; collection site safety training procedures relating to covered batteries; provisions for collecting covered batteries at no cost; the addresses of collection sites that will accept covered batteries under the plan; provisions for recordkeeping; and a method for fully funding the plan. The bill specifies that DNR may approve plans from more than one battery stewardship organization, and that DNR may approve plans that share the costs of implementing those plans among the battery stewardship organizations that benefit under the plans. Such cost sharing may include the amount of the annual fee paid to DNR. If approved plans allow for cost sharing, the bill requires DNR to allocate the amount of fees owed between those organizations, as provided in the approved plans of those organizations.

Under the bill, DNR must provide notice of a proposed battery stewardship plan and receive public comments on the proposed plan for 30 days. DNR has 120 days after receiving a proposed plan, including the period for public comment, to approve, conditionally approve, or deny a proposed plan. Under the bill, a producer may not amend an approved battery stewardship plan unless the proposed amendments are approved by DNR.

The bill also requires DNR to maintain a website that includes a list of the names of producers with approved battery stewardship plans, copies of those plans and any annual reports submitted to DNR under such a plan, and a list of the brands of batteries covered under an approved plan.

BILL

The bill provides that a battery stewardship organization implementing a battery stewardship plan approved by DNR is responsible for all costs associated with implementing the plan, unless the approved plan allows for cost sharing among other battery stewardship organizations with approved plans. The bill requires a battery stewardship organization to collect charges from participating producers, and to reimburse local governmental units for costs incurred as a result of a local government facility or solid waste facility serving as a collection site under the plan.

Under the bill, a battery stewardship organization implementing a battery stewardship plan approved by DNR must provide for the collection of all covered batteries from any person, regardless of the chemistry or brand of the battery, on a free, continuous, convenient, visible, and accessible basis; provide free collection containers to collection sites under the plan; ensure that medium format batteries are collected only at certain staffed collection sites such as household hazardous waste collection sites; provide for the collection of damaged and defective batteries at certain sites; ensure statewide collection opportunities for all covered batteries; coordinate activities with other actors to provide efficient delivery of services and avoid unnecessary duplication of effort and expense; and ensure a certain number and location of collection sites and collection events for both portable batteries and medium format batteries. The bill does not require a battery stewardship organization to provide for the collection of recalled batteries; battery containing products; or covered batteries that remain contained in a battery containing product at the time of delivery to a collection site or collection event.

The bill also requires a battery stewardship organization implementing an approved plan to undertake certain education and outreach activities to promote the implementation of the plan, including developing and maintaining a website; developing and distributing periodic press releases, articles, and advertisements; developing promotional materials about the plan and about the restriction on disposing of covered batteries; developing and distributing collection site safety; providing consumer-focused educational materials, to each collection site used under the plan, that are accessible by customers; provide educational materials to the operators of collection sites for the management of recalled batteries; and providing educational materials describing collection opportunities for covered batteries to retailers and other potential collection sites. In addition, the bill requires a battery stewardship organization implementing an approved plan to conduct a survey, during the first year of implementing the plan and every five years thereafter, of public awareness of the provisions of this bill, and to share the results of the surveys with DNR.

Under the bill, a battery stewardship organization must submit annual reports to DNR with information about the implementation of its approved plan, including an independent financial assessment of implementing the plan; a summary financial statement documenting the financing of the plan and an analysis of plan costs and expenditures; the weight of covered batteries collected under the plan and the weight of materials recycled from covered batteries collected under the plan; a calculation of the collection rate and the recycling efficiency rate

under the plan; a list of all facilities used in processing or disposing of covered batteries under the plan and, for domestic facilities, a summary of any violations of environmental laws and regulations during the previous three years at each facility; a description of how collected batteries were managed and recycled; a description of education and outreach efforts supporting plan implementation and an evaluation of their effectiveness; an up-to-date map indicating the location of all collection sites used to implement the plan; and a summary of progress made toward the performance goals under the plan, and an explanation of why performance goals were not met, if applicable.

The bill creates a private right of action for battery stewardship organizations operating under approved battery stewardship plans. Under the bill, such an organization may bring a civil action against 1) a producer that sells batteries or battery containing products in this state without an approved battery stewardship plan, if the organization bringing the action has incurred costs of more than $1,000 as a result of the producer operating without an approved plan; 2) the producer of a recalled battery, for the costs associated with handling the recalled battery; and 3) another battery stewardship organization to recover costs incurred as a result of the other organization failing to meet its obligations under its approved plan.

Under the bill, any person that violates the provisions of the bill relating to battery stewardship plans is subject to a civil forfeiture of up to $7,000 per violation, except that a person who fails to pay a required fee is instead subject to a civil forfeiture of double the amount of the fee. However, a person who knowingly makes a false material statement to DNR under the bill is guilty of a Class I felony, which is punishable by a fine not to exceed $10,000 or imprisonment not to exceed three years and six months, or both.

In addition, under the bill, beginning on January 1, 2028, a person may not 1) knowingly cause or allow the disposal of a covered battery in a landfill or the burning of a covered battery; 2) dispose of a covered battery other than by delivery to a collection site or collection event operated under an approved battery stewardship plan; or 3) knowingly cause or allow the mixing of a covered battery with recyclable materials that are intended for processing and sorting at a material recovery facility, with municipal waste that is intended for disposal at a landfill, or with waste that is intended for burning or incineration.

The bill also requires a battery stewardship organization implementing an approved battery stewardship plan to submit, by July 1, 2027, a report to DNR on any assessments prepared in other states, if available, of the opportunities and challenges associated with the end-of-life management of certain portable and medium format batteries that are not intended or designed to be easily removed by a customer. Under the bill, DNR must submit this report to the legislature with recommendations as to whether the provisions of this bill can be applied to batteries that are not intended or designed to be easily removed from the device in which they are contained.

Finally, the bill creates a grant program, under which DNR must provide grants of up to $75,000 to solid waste facilities and materials recovery facilities for

the purpose of installing, upgrading, or expanding fire detection and suppression systems to address the increased risk of fire due to the presence of rechargeable batteries in the waste and recycling streams.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.370 (4) (ha) of the statutes is created to read:

20.370 **(4)** (ha) *Battery collection and recycling programs.* From the general fund, all moneys received under s. 287.175 (3) (b) to implement the battery collection and recycling program under s. 287.175.

SECTION 2. 287.07 (6) of the statutes is created to read:

287.07 **(6)** BATTERIES. Beginning on January 1, 2028, no person may dispose of or burn a covered battery, as defined in s. 287.175 (1) (d), in a solid waste disposal facility. Such a battery may be disposed of only by delivery to a collection site or collection event operated under a battery stewardship plan under s. 287.175.

SECTION 3. 287.175 of the statutes is created to read:

287.175 Battery collection and recycling. (1) DEFINITIONS. In this section:

(a) "Battery containing product" means a product that contains or is packaged with a covered battery. "Battery containing product" does not include a product that is an eligible electronic device, as defined in s. 287.17 (1) (gs).

(b) "Battery stewardship organization" means a producer that directly implements a battery stewardship plan under this section or a nonprofit organization that has been designated by 5 or more producers to implement such a plan.

(c) "Collection rate" means the percentage calculated by dividing the total weight of covered batteries collected in this state by a battery stewardship organization in a calendar year by the average annual weight of covered batteries estimated to have been sold in this state by all producers during that same calendar year and the previous 2 calendar years.

(d) "Covered battery" means a portable battery or a medium format battery. "Covered battery" does not include any of the following:

1. A battery, contained in a medical device that is regulated under the federal food, drug and cosmetic act, 21 USC 301 to 394, that is not designed or marketed for sale or resale at retail locations for personal use.

2. A battery that contains an electrolyte as a free liquid or a product that contains such a battery.

3. A lead acid battery weighing more than 11 pounds or a product that contains such a battery.

4. A battery that is a component of a motor vehicle or that is intended for use exclusively in motor vehicles.

5. A battery in a product that is not intended or designed to be easily removable from the product.

(e) "Medium format battery" means any of the following:

1. For primary batteries, a battery that weighs more than 4.4 pounds but not more than 25 pounds.

2. For rechargeable batteries, a battery that weighs more than 11 pounds, or

that has a rating of more than 300 watt-hours, or both, but that does not weigh more than 25 pounds or have a rating of more than 2,000 watt-hours.

(f) "Portable battery" means any of the following:

1. For primary batteries, a battery that weighs no more than 4.4 pounds.

2. For rechargeable batteries, a battery that weighs no more than 11 pounds and that has a rating of no more than 300 watt-hours.

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

(h) 1. "Producer" means a person that sells, offers for sale, or distributes for sale a covered battery or battery containing product in or into this state and that is any of the following:

a. If the covered battery or battery containing product is sold under a brand of the battery's or product's manufacturer, the person that manufactures the battery or product.

b. If the covered battery or battery containing product is sold under a retail brand or under a brand owned by a person other than the battery's or product's manufacturer, the person that owns the brand.

c. If subd. 1. a. and b. do not apply, the person that is the licensee of a brand or trademark under which the covered battery or battery containing product is sold, offered for sale, or distributed for sale in or into this state, regardless of whether the trademark is registered in this state.

d. If subd. 1. a. to c. do not apply to any person within the United States, the person that is the importer of record for the covered battery or battery containing

product into the United States for the purpose of selling, offering for sale, or distributing for sale the battery or product in or into this state.

e. If subd. 1. a. to d. do not apply to any person with a commercial presence in this state, the person who first sells, offers for sale, or distributes for sale the covered battery or battery containing product in or into this state.

2. "Producer" does not include a person that only sells, offers for sale, or distributes for sale a battery containing product if the battery is supplied by another producer that is directly implementing a plan approved by the department under this section or that has designated a battery stewardship organization to implement such a plan and if the producer certifies this fact in writing to the person that only sells, offers for sale, or distributes for sale the battery containing product.

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

(j) "Recycling" means preparing batteries for use in manufacturing processes or for recovery of usable materials and delivering the materials for use. "Recycling" does not include destruction by incineration or other processes or land disposal of recyclable materials and does not include reuse, repair, or any other process through which batteries are returned in their original form or in a form for secondary use.

(k) "Recycling efficiency rate" means the percentage calculated by dividing the weight of components and materials recycled by a battery stewardship organization by the weight of covered batteries collected by the battery stewardship organization.

(L) "Retailer" means a person that sells or offers for sale a covered battery or battery containing product in or into this state.

(2) PROHIBITIONS. (a) Beginning on January 1, 2026, no producer or retailer may sell, offer for sale, or distribute for sale in or into this state any covered battery or battery containing product unless the producer of the covered battery or battery containing product is operating under a plan approved by the department under this section. This paragraph does not apply to a retailer if the website maintained by the department under sub. (8) (e) lists, as of the date a battery or product is made available for retail sale, the producer or brand of the battery or product as being covered by a plan approved under this section.

(b) Beginning on January 1, 2027, no producer or retailer may sell, offer for sale, or distribute for sale in or into this state any covered battery or battery containing product unless the covered battery or battery in the battery containing product is marked with an identification of the producer of the battery. This paragraph does not apply if the battery is less than one-half inch in diameter or does not contain a surface with a length that exceeds one-half inch.

(c) Beginning on January 1, 2029, no producer or retailer may sell, offer for sale, or distribute for sale in or into this state any covered battery or battery containing product unless the covered battery or battery in the battery containing product is marked to ensure proper collection and recycling, by identifying the chemistry of the battery and including an indication that the battery should not be disposed of as household waste.

(d) A producer, retailer, or battery stewardship organization may not charge a

point-of-sale fee to consumers to cover the costs of implementing a battery stewardship plan approved under this section.

(3) BATTERY STEWARDSHIP PLAN. (a) *Plan submittal.* No later than June 1, 2026, each producer shall submit a battery stewardship plan to the department for approval. A battery stewardship plan approved by the department shall have a term of no more than 5 years and shall include all of the following:

1. The names and contact information for each producer covered under the plan.

2. The brands of all of the covered batteries that the producer sells, offers for sale, or distributes for sale in or into this state. All such brands shall be covered by the battery stewardship plan.

3. Performance goals under the plan, and a process for achieving these goals. Performance goals shall include target collection rates for rechargeable batteries and for primary batteries; target recycling efficiency rates of at least 60 percent for rechargeable batteries and 70 percent for primary batteries; and goals for public awareness, convenience, and accessibility. The collection rate goals for each of the first 3 years of implementation of the battery stewardship organization's approved plan shall be based on the estimated total weight of covered batteries that have been sold in this state in the previous 3 calendar years by the producers participating in the plan.

4. A process for making retailers aware of the requirement under sub. (2) (b).

5. Consumer awareness goals and a description of the education and outreach strategy that the battery stewardship organization will implement to promote

participation in the organization's approved plan and to provide information necessary for the effective participation of consumers, retailers, and others.

6. A process for making available to collection sites, for voluntary use, signage, written materials, and other promotional materials to inform consumers of the available end-of-life management options for covered batteries collected under the battery stewardship organization's approved plan.

7. Collection site safety training procedures related to covered battery collection activities at collection sites, including a description of operating protocols to reduce risks of spills or fires, response protocols in the event of a spill or fire, and protocols for safe management of damaged batteries that are returned to collection sites.

8. A method for fully funding the battery stewardship organization's approved plan in a manner that equitably distributes the plan's costs among the producers that are part of the battery stewardship organization; or, for producers that are not a member of a battery stewardship organization and that implement a plan individually, a method for fully funding the producer's approved plan.

9. Provisions for collecting covered batteries at no cost, regardless of the brand or producer of the covered battery, on a continuous, convenient, visible, and accessible basis.

10. The addresses of collection sites that will accept covered batteries under the plan, and the criteria used to determine whether an entity may serve as a collection site.

11. The names of proposed service providers, including sorters, transporters, and processors, to be used for the final disposition of batteries.

12. Provisions for recordkeeping, tracking, and documenting the management and disposition of collected covered batteries.

13. An explanation for any delay anticipated by the battery stewardship organization in managing medium-format batteries.

(b) *Annual fee.* 1. A battery stewardship organization shall pay a fee of $75,000 to the department upon approval of a plan under this section or on January 1, 2027, whichever is later, and a fee of $75,000 annually thereafter. Fees paid under this subdivision shall be credited to the appropriation under s. 20.370 (4) (ha).

2. If a plan approved under this section allows for cost sharing among other battery stewardship organizations, as provided under par. (f), the department shall allocate the amount of the fees owed under subd. 1. among those organizations, as provided in the approved plans of those organizations.

(c) *Plan expiration and resubmittal.* A battery stewardship organization shall submit a new plan to the department for approval no less than every 5 years. If the performance goals under the previously approved plan have not been met, the new plan shall include corrective measures to be implemented by the battery stewardship organization to meet those performance goals, which may include improvements to the collection site network or increased expenditures dedicated to education and outreach.

(d) *Plan amendments.* A battery stewardship organization shall provide plan amendments to the department for approval when proposing materials changes to the approved plan.

(e) *Notification of certain changes.* A battery stewardship organization

operating under a plan approved by the department under this section shall notify the department within 30 days of a producer beginning or ceasing participation in the battery stewardship organization, or within 30 days of adding or removing a processor or transporter under the approved plan.

(f) *More than one battery stewardship organization; cost sharing.* 1. The department may approve plans under this section from more than one battery stewardship organization.

2. The department may approve plans that equitably share the costs, among other battery stewardship organizations, of implementing the parts of those plans that benefit such organizations.

(4) COSTS AND REIMBURSEMENT. (a) *Costs of implementation.* A battery stewardship organization implementing a plan approved under sub. (3) is responsible for all costs associated with implementing the plan, unless the approved plan allows for cost sharing among other battery stewardship organizations with approved plans, as provided under sub. (3) (f).

(b) *Reimbursement of local governments.* A battery stewardship organization implementing a plan approved under this section shall reimburse local governmental units for demonstrable costs incurred as a result of a local government facility or solid waste facility serving as a collection site under the plan.

(c) *Collecting charges from producers.* A battery stewardship organization implementing a plan approved under this section shall collect charges from participating producers sufficient to cover the costs of implementation, including

battery collection, transportation, and processing; education and outreach; program evaluation; and payment of the annual fee to the department under sub. (3) (b).

(5) COLLECTION AND MANAGEMENT OF COVERED BATTERIES. (a) A battery stewardship organization implementing a plan approved under this section shall do all of the following:

1. Provide for the collection of all covered batteries from any person, regardless of the chemistry or brand of the battery, on a free, continuous, convenient, visible, and accessible basis.

2. Provide to collection sites under the plan, at no cost to the sites, suitable collection containers for covered batteries that are segregated from other solid waste; or make alternative arrangements for the collection of such batteries at the site, with the agreement of the collection site.

3. Ensure that medium format batteries are collected only at household hazardous waste collection sites or other staffed collection sites that meet applicable federal, state, and local requirements for managing medium format batteries.

4. Provide for the collection of damaged and defective batteries, by persons trained to handle and ship such batteries, at collection sites and at each permanent household hazardous waste facility and each household hazardous waste collection event provided by the department. As used in this paragraph, "damaged and defective batteries" means batteries that have damaged or that have been identified by the manufacturer as being defective for safety reasons, and that have the potential to produce a dangerous evolution of heat, fire, or short circuit.

5. Ensure statewide collection opportunities for all covered batteries.

6. Coordinate activities with others, such as electronic waste recyclers and other battery stewardship plan operators, to provide efficient delivery of services and avoid unnecessary duplication of effort and expense. A battery stewardship organization shall use existing public and private waste collection services and facilities, transporters, consolidators, processors, and retailers, if cost effective, mutually agreeable, and otherwise practical.

7. For portable batteries, provide, no later than December 31, 2028, at least one permanent collection site within a 15-mile radius for at least 95 percent of state residents.

8. For medium format batteries, provide all of the following no later than December 31, 2028:

a. At least 10 permanent collection sites in this state.

b. Collection sites that are reasonably dispersed throughout this state.

c. A collection event at least once every 3 years in each county that does not have a permanent collection site, which must provide for the collection of all medium format batteries, including damaged and defective medium format batteries.

9. Use as a collection site or the site of a collection event any entity that meets the criteria for a collection site or collection event under an approved battery stewardship plan and that requests to serve as a collection site or collection event, up to the number of collection sites required to comply with subds. 7. and 8.

(b) A battery stewardship organization implementing a plan approved under this section may issue a warning to, suspend, or terminate a collection site or

service that does not comply with the criteria under the approved plan or that poses an immediate concern to health and safety.

(c) A battery stewardship organization is not required to provide for the collection of recalled batteries, battery containing products, or covered batteries that remain contained in a battery containing product at the time of delivery to a collection site or collection event. A battery stewardship organization may seek reimbursement from the producer of a recalled battery for the costs incurred in collecting, transporting, or processing such batteries.

(6) EDUCATION AND OUTREACH. A battery stewardship organization implementing a plan approved under this section shall do all of the following to promote the implementation of the plan:

(a) Develop and maintain a website.

(b) Develop and distribute periodic press releases and articles.

(c) Develop and place advertisements for use on social media or other relevant media platforms.

(d) Develop promotional materials about the program and about the restriction on disposing of covered batteries under sub. (11).

(e) Develop and distribute collection site safety training procedures to collection sites to help ensure proper management of covered batteries at collection sites.

(f) Develop and implement outreach and educational resources that are conceptually, linguistically, and culturally accurate for the communities served, including through meaningful consultation with communities that bear

disproportionately higher levels of adverse environmental and social justice impacts.

(g) Provide consumer-focused educational materials, to each collection site used under the plan, that are accessible by customers of retailers that sell covered batteries or battery containing products.

(h) Provide safety information related to covered battery collection activities to the operator of each collection site used under the plan, including appropriate protocols to reduce risks of spills or fires, to respond to a spill or fire, and to manage a collected damaged or defective battery.

(i) Provide educational materials to the operator of each collection site used under the plan for the management of recalled batteries.

(j) Upon request by a retailer or other potential collection site, provide education materials describing collection opportunities for covered batteries.

(k) Coordinate with other battery stewardship organizations implementing a plan approved under this section, if applicable, in providing education and outreach under this subsection.

(L) Conduct a survey, during the first year of implementing an approved plan and every 5 years thereafter, of public awareness of the provisions of this section. The battery stewardship organization shall share the results of the surveys with the department.

(7) ANNUAL REPORTING. No later than June 1, 2029, and each June 1 thereafter, a battery stewardship organization implementing a plan approved under this section shall submit to the department a report that contains all of the following:

(a) An independent financial assessment of implementing the plan, including a breakdown of the plan's expenses, such as collection expenses, recycling expenses, education expenses, and overhead expenses.

(b) A summary financial statement documenting the financing of the plan and an analysis of plan costs and expenditures, including an analysis of the plan's expenses, such as collection, transportation, recycling, education, and administrative overhead. The summary financial statement shall be sufficiently detailed to provide transparency that funds collected from producers are spent on plan implementation in this state. For a battery stewardship organization implementing a similar battery stewardship program in more than one state, the summary financial statement may include all covered states if the statement provides separately any financial information pertinent to this state.

(c) The weight, by chemistry, of covered batteries collected under the plan.

(d) The weight of materials recycled from covered batteries collected under the plan, in total, and by method of battery recycling.

(e) A calculation of the recycling efficiency rate under the plan.

(f) A list of all facilities used in the processing or disposition of covered batteries under the plan and, for domestic facilities, a summary of any violations of environmental laws and regulations during the previous 3 years at each facility.

(g) For each facility used for the final disposition of covered batteries under the plan, a description of how the facility recycled or otherwise managed batteries and battery components.

(h) The weight and chemistry of covered batteries sent to each facility that is used for the final disposition of batteries. This information may be approximated

based on extrapolations of national or regional data for programs in operation in multiple states.

(i) The collection rate achieved under the plan, including a description of how this collection rate was calculated and how it compares to the collection rate goals under the plan.

(j) The estimated aggregate sales, by weight and chemistry, of covered batteries, including covered batteries contained in or packaged with battery containing products, sold in this state by the battery stewardship organization's participating producers for each of the previous 3 calendar years.

(k) A description of how collected batteries were managed and recycled, including a discussion of best available technologies and the recycling efficiency rate.

(L) A description of education and outreach efforts supporting plan implementation, including a summary of education and outreach provided to consumers, collection sites, manufacturers, distributors, and retailers to promote the collection and recycling of covered batteries; a description of how that education and outreach met the requirements of sub. (6); samples of education and outreach materials; a summary of coordinated education and outreach efforts with any other battery stewardship organizations implementing a plan approved under this section; and a summary of any changes made during the previous calendar year to education and outreach activities.

(m) A list of all collection sites and an address for each listed site, and an up-to-date map indicating the location of all collection sites used to implement the plan, with links to websites when available.

(n) A description of methods used to collect, transport, and recycle covered batteries under the plan.

(o) A summary of progress made toward the performance goals under the plan, and an explanation of why performance goals were not met, if applicable.

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

(q) If a battery stewardship organization has disposed of covered batteries through energy recovery, incineration, or landfilling during the preceding calendar year of plan implementation, the steps that the battery stewardship organization will take to make the recycling of covered batteries cost-effective, when possible, or to otherwise increase battery recycling efficiency rates achieved by the battery stewardship organization.

(8) DEPARTMENT DUTIES. (a) *Plan approvals.* Within 120 days after receiving a proposed battery stewardship plan or proposed amendment under sub. (3) (a) or (d), including any time required for public comment under par. (b), the department shall approve, conditionally approve, or deny the plan or amendment. If the department denies the plan or amendment, the department shall notify the battery stewardship organization of the denial in writing and explain how the proposed plan or amendment does not comply with this section; the producer shall submit a revised plan or amendment or notice of plan withdrawal within 60 days of the denial; and the department shall approve or deny the revised plan or amendment within 90 days of resubmittal.

(b) *Public notice and comment.* The department shall publish a class 1 notice under ch. 985, shall publish notice on its website, and shall provide notice, upon request, to interested persons, announcing the opportunity for written public

comment on any proposed plan or amendment under sub. (3) (a) or (d). The department shall receive public comments on the proposed plan or amendment for a 30-day period beginning on the date the department gives notice.

(c) *Annual reports.* The department shall review annual reports submitted under sub. (7) within 90 days after submission.

(d) *Assistance*. The department shall provide technical assistance to producers and retailers related to the requirements under this section.

(e) *Website.* Subject to par. (f), the department shall maintain on its website all of the following:

1. A copy of all approved battery stewardship plans and any amendments to such plans.

2. The names of producers with approved battery stewardship plans.

3. A list of brands of covered batteries covered under an approved battery stewardship plan.

4. Annual reports submitted to the department under sub. (7).

(f) *Confidentiality.* Proprietary information submitted to the department under this section may not be open to public inspection and copying under s. 19.35 (1).

(g) *Rules.* The department may promulgate rules to implement and administer this section.

(9) ANTITRUST AND UNFAIR TRADE PRACTICES. A producer, retailer, or battery stewardship organization is not liable for any claim of a violation of antitrust laws or laws relating to fraudulent, deceptive, or unfair methods of competition or trade

practices arising from conduct that complies with an approved battery stewardship plan under this section.

(10) INDEPENDENT BATTERY COLLECTION. Nothing in this section prevents or prohibits a person from offering or performing a fee-based household collection program or a mail-back program for covered batteries independently of a battery stewardship plan under this section, if all of the following apply:

(a) The services are performed, and any facilities are operated in compliance with, all applicable federal, state, and local laws and requirements.

(b) All batteries collected by the person from customers in this state are provided to a battery stewardship organization implementing a plan approved under this section.

(c) After providing collected batteries to a battery stewardship organization, any transport and processing of such batteries by the battery stewardship organization is done at the battery stewardship organization's expense.

(11) INDIVIDUAL BATTERY DISPOSAL. (a) Beginning on January 1, 2028, all of the following apply:

1. A person may dispose of a covered battery only by delivery to a collection site or collection event operated under a battery stewardship plan approved under this section, unless the battery is regulated as hazardous waste.

2. No person may knowingly cause or allow the mixing of a covered battery with recyclable materials that are intended for processing and sorting at a material recovery facility.

3. No person may knowingly cause or allow the mixing of a covered battery with municipal waste that is intended for disposal at a landfill.

4. No person may knowingly cause or allow the disposal of a covered battery in a landfill.

5. No person may knowingly cause or allow the mixing of a covered battery with waste that is intended for burning or incineration.

6. No person may knowingly cause or allow the burning or incineration of a covered battery.

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

(c) A solid waste collector may not be found in violation of this section for a covered battery placed in a disposal container by a 3rd party.

(12) PRIVATE RIGHT OF ACTION. A battery stewardship organization that is implementing a plan approved under this section may bring any of the following civil actions:

(a) An action against one or more producers that sell or offer for sale batteries or battery containing products in this state without an approved battery stewardship plan in violation of this section, to recover costs, damages, and fees, if the organization bringing the action has incurred costs of more than $1,000 to collect, transport, and recycle or otherwise dispose of covered batteries or battery containing products produced by the producer operating without an approved plan.

(b) An action against the producer of a covered battery that has been recalled, to recover costs associated with handling the recalled battery.

(c) An action against another battery stewardship organization that is

operating under an approved plan, to recover costs, including attorney fees, incurred as a result of that organization failing to meet its obligations under its approved plan.

(13) PENALTIES. (a) Any person that violates this section, other than sub. (11), may be required to forfeit not more than $7,000 for each violation, except that any person that fails to pay any fee under this section shall instead be liable for a civil penalty that is double the amount of the applicable fee.

(b) A person who knowingly makes a false material statement to the department related to or required under this section is guilty of a Class I felony.

(c) The attorney general or the district attorney of any county in which a violation of this section occurs may, in addition to any other penalty, bring an action to enjoin any person from violating this section, other than sub. (11).

SECTION 4. 287.176 of the statutes is created to read:

287.176 Grants for rechargeable battery recycling. (1) In this section, "rechargeable battery" has the meaning given in s. 287.175 (1) (i).

(2) (a) The department shall create and administer a program to provide grants to solid waste facilities and materials recovery facilities for the purpose of installing, upgrading, or expanding fire detection and suppression systems to address the increased risk of fire due to the presence of rechargeable batteries in the waste and recycling streams.

(b) The department may not provide grants under this subsection to a single solid waste facility or materials recovery facility in a total amount greater than $75,000 in the same grant cycle.

SECTION 5. Nonstatutory provisions.

(1) ASSESSMENT OF BATTERY CONTAINING PRODUCTS. No later than July 1, 2027, a battery stewardship organization, as defined in s. 287.175 (1) (b), implementing a battery stewardship plan approved under s. 287.175 shall submit a report to the department of natural resources on any assessments prepared in other states, if available, of the opportunities and challenges associated with the end-of-life management of portable batteries, as defined in s. 287.175 (1) (f), and medium format batteries, as defined in s. 287.175 (1) (e), that are not intended or designed to be easily removed by a customer and that are contained either in battery containing products, as defined in s. 287.175 (1) (a), medical devices, or electronic products that are not eligible electronic devices, as defined in s. 287.17 (1) (gs). The department of natural resources shall submit this report, to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees of the legislature in the manner required under s. 13.172 (3), with recommendations as to whether s. 287.175 could be applied to batteries that are not intended or designed to be easily removed by a customer in a manner that is identical or analogous to the provisions of s. 287.175 applicable to covered batteries, as defined in s. 287.175 (1) (d).

(END)

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THE RECHARGEABLE PRBA BATTERY ASSOCIATION

Industry Meeting with CPSC on Lithium ion Battery Recalls

PRBA – The Rechargeable Battery Association

National Waste & Recycling Association

Solid Waste Association of North America

International Association of Fire Chiefs

January 21, 2025

Agenda

- Introductions
  - Consumer Product Safety Commission
  - PRBA – The Rechargeable Battery Association
  - International Association of Fire Chiefs
  - Solid Waste Association of North America
  - National Waste & Recycling Association
- Historical perspective on lithium ion battery recalls
- Lithium ion battery recalls from 2024
- Examples of properly implemented recalls: Klein Tools, Chervon, Samsung Note 7, Apple Beats Speakers
- 49 CFR requirements for recalled lithium ion batteries; companies with U.S. DOT/PHMSA Special Permits for recalled lithium ion batteries
- State battery collection and recycling legislation and laws, exclusion on recalled batteries
- Disposing of recalled lithium ion batteries:
  - Financial and regulatory burden on household hazardous waste facilities, battery stewardship organizations
  - Employee safety issue for materials recovery facilities (MRFs), landfills, trash haulers, household hazardous waste facilities, retailers, emergency responders
- Solution: Implement consistent recall protocol, require manufacturers to organize and fund recalls

Historical Perspective on Lithium ion Battery Recalls

- CPSC initially required manufacturers conducting lithium ion battery recalls to contact and work with the DOT/PHMSA
- 49 CFR did not authorize transport of DDR lithium ion batteries until 2015/2016



LOCAL

Fire marshal: Beware of recalled laptop batteries

KAREN VOYLES Staff Writer

Published 12:05 p.m. ET Nov. 12, 2008

Alachua County Fire Marshal Mark Smith issued a reminder Wednesday morning about some lithium-ion laptop computer batteries that have been recalled because they could overheat and start a fire.

Lithium cells or batteries or portable electronic devices, that have been damaged or identified by the manufacturer as being defective for safety reasons, and have the potential of producing a dangerous evolution of heat, fire, or short circuit may only be transported by highway, rail or vessel in accordance with the provisions of 49 CFR 173.185(f) or under the conditions of a Special Permit or Approval issued by PHMSA's Associate Administrator for Hazardous Materials Safety.

Lithium ion Battery Recalls from 2024
(Batteries and battery powered equipment)

- November and December, 2024:
  - Six recalls: 919,562 batteries

- Totals for all of 2024:
  - 22 recalls: 3,528,259 batteries

Properly Managed Lithium ion Battery Recalls

- Chervon (2024): *Chervon will provide a battery collection kit for the consumer to return the recalled battery and will provide the requested remedy upon return of the recalled battery.*
- Klein Tools (2023): *Consumers should return the recalled Blackfire and Klein Tools power stations to their original place of purchase. Klein Tools is contacting all known purchasers directly.*
- Samsung Note 7 (2016): All out Samsung effort to pick up used phones, arrange for returns, ship unused phones from retailers under US DOT special permit
- Apple Beats Speakers (2015): *Consumers should immediately stop using the recalled product and contact Apple for a $325 Apple Store credit or electronic payment. Apple will provide a postage paid box for consumers to send their Pill XL speaker to Apple.*

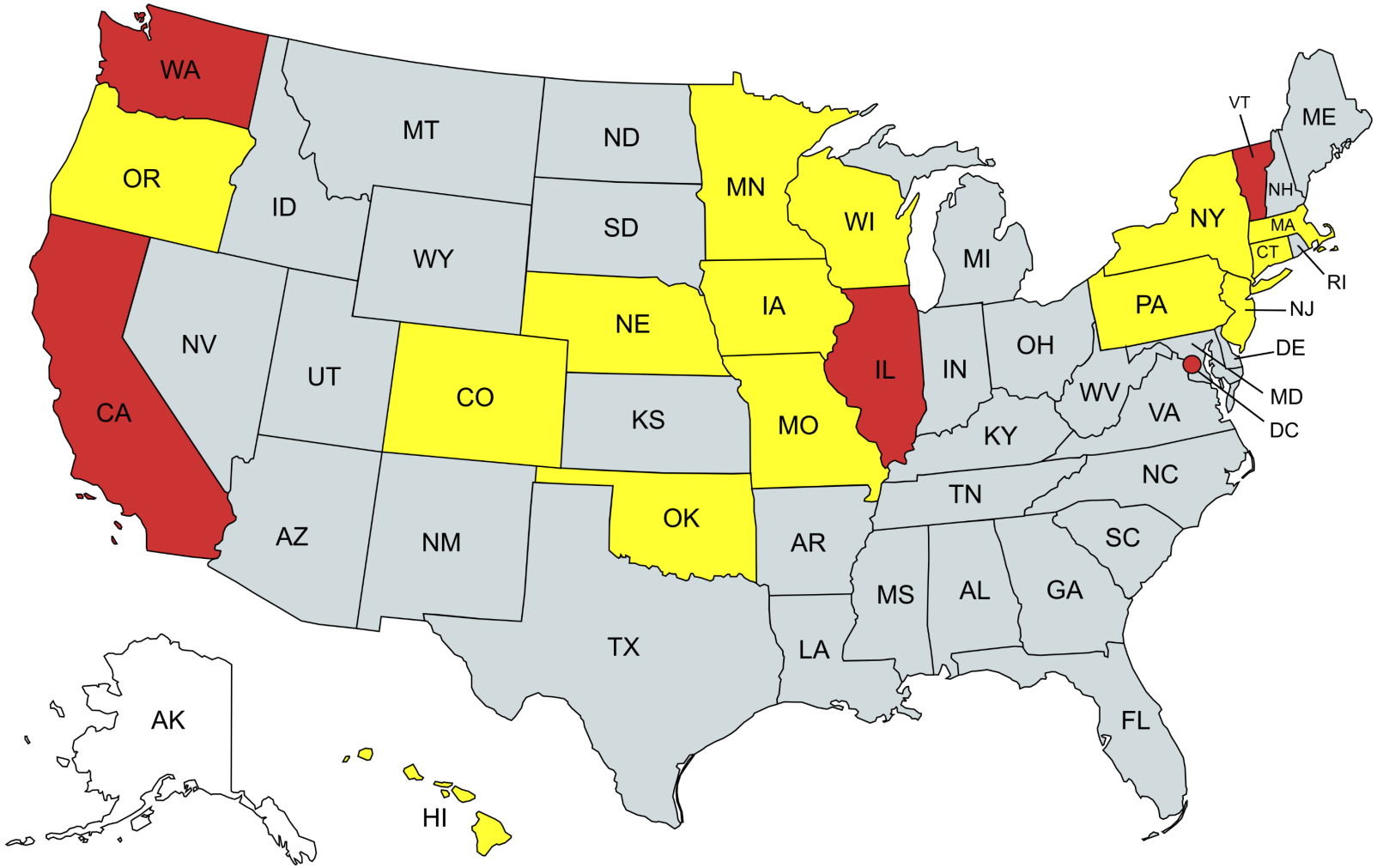
49 CFR Requirements for DDR Lithium Batteries; Companies with U.S. DOT/PHMSA Special Permits

- 49 CFR limits one DDR lithium battery per package
- Shipments do not qualify for relief from 49 CFR (*i.e.*, must be shipped as fully-regulated hazardous materials)
- PHMSA has issued Special Permits to packaging manufacturers authorizing relief from some 49 CFR requirements

- Americase
- Call2Recycle
- CellBlock
- Cirba Solutions
- KBI Recycling
- KULR Technologies
- Others (approx. 6)

State All-Portable Battery EPR Legislative Initiatives

Updated January 17, 2025



Existing laws or recently enacted portable battery legislation*

Considering or has introduced portable battery legislation for 2025*

Voluntary rechargeable battery collections

Note: *Iowa, Florida, Maryland, New Jersey, Maine, New Hampshire, and Connecticut enacted laws in the 1990s mandating collection of portable nickel cadmium and small sealed lead acid batteries.*

** Minnesota and New York currently require the collection of portable rechargeable batteries.*

Disposing of Recalled Lithium ion Batteries

- Several recent recalls state:
  - *"Consumers should dispose of the [batteries] in accordance with local and state regulations."*
  - One manufacturer recommended dropping of batteries at local fire stations
- Most local jurisdictions and states do not have regulations that govern the disposal of portable batteries
- Creates uncertainty for consumers and entities in waste industry
- Places significant financial and regulatory burden on household hazardous waste facilities, battery stewardship organizations, retailers

Disposing of Recalled Lithium ion Batteries

- Safety: Employees at materials recovery facilities (MRFs), landfills, trash haulers, and household hazardous waste facilities, retailers, and emergency responders
- No distinction can be made between recalled lithium ion batteries and other lithium ion battery types
- Particularly critical for MRF operators who have seen an increase in fires, many of which are attributed to lithium ion batteries

Solution

- CPSC should implement a consistent recall protocol, requiring manufacturers to organize and fund recalls
- Inform federal government's inter-agency lithium battery task group of new protocol
- Publish list of packaging manufacturers with PHMSA Special Permits authorizing transport of recalled lithium ion batteries
- Work with trade associations and their members that would be impacted by new protocol