
SUBSTITUTE HOUSE BILL 1579

State of Washington

63rd Legislature

2014 Regular Session

By House Environment (originally sponsored by Representatives Goodman, Warnick, McCoy, Fey, Llias, Farrell, Ryu, S. Hunt, Pollet, and Moscoso)

READ FIRST TIME 02/05/14.

1 AN ACT Relating to paint stewardship; amending RCW 43.21B.110 and
2 43.21B.110; adding a new chapter to Title 70 RCW; prescribing
3 penalties; providing an effective date; and providing an expiration
4 date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that:

7 (1) Leftover architectural paints are a waste management issue and
8 present environmental risks and health and safety risks, especially to
9 workers in the solid waste industry. During waste collection and
10 processing, wet paint can create spills and splashes and oil paint and
11 aerosol containers may rupture, releasing fumes hazardous to workers
12 and the remaining liquids contribute to leachate problems in landfills.
13 Many local governments provide collection sites or events for latex
14 paint in order to provide their residents with at least some disposal
15 options and to keep latex paint out of the solid waste stream. But
16 residents and small businesses need more convenient options for
17 disposal of architectural paint. Drying latex for disposal is
18 difficult for many residents and wastes latex paint that can otherwise
19 be reused or recycled. Local government special and moderate-risk

1 waste collection programs are heavily impacted by the cost of managing
2 unwanted architectural paints and these costs decrease the available
3 funds to address other hazardous and hard to handle materials.

4 (2) An estimated average of ten percent of architectural paint
5 purchased becomes leftover paint nationally. Current programs only
6 collect a fraction of the potential leftover paint for proper reuse,
7 recycling, or disposal. There is not a comprehensive statewide, end-
8 of-life management plan for architectural paint, resulting in
9 significant missed opportunities to reduce, reuse, and recycle paint.

10 (3) It is in the best interest of Washington for paint
11 manufacturers to assume responsibility for development and
12 implementation of a cost-effective paint stewardship program that will:
13 Develop and implement strategies to reduce the generation of leftover
14 paint; promote the reuse of leftover paint; and collect, transport, and
15 process leftover paint for end-of-life management, including reuse,
16 recycling, energy recovery, and disposal. A paint stewardship program
17 will follow the paint waste management hierarchy for managing and
18 reducing leftover paint in the order as follows: Reduce consumer
19 generation of leftover paint; reuse; recycle; and provide for energy
20 recovery and disposal. Requiring paint manufacturers to assume
21 responsibility for the collection, recycling, reuse, transportation,
22 and disposal of leftover paint will provide more opportunities for
23 consumers to properly manage their leftover paint, provide fiscal
24 relief for local government in managing leftover paint, keep paint out
25 of the waste stream, and conserve natural resources.

26 (4) The legislature further finds that the existing waste
27 collection, recycling, and disposal system leads the nation in
28 innovation and environmentally sound practices. This system has
29 achieved some of the highest overall recycling rates in the nation at
30 fifty-one percent in 2012. The legislature further finds that leftover
31 paint is a toxic and hard to handle waste product that is appropriate
32 for a product stewardship program to increase the safe, convenient, and
33 effective reuse, recycling, and disposal of leftover paint. Product
34 stewardship programs for toxic and hard to handle materials, including
35 an architectural paint stewardship program, should integrate with and
36 complement the existing waste collection, recycling, and disposal
37 system.

1 (5) This chapter creates an architectural paint recovery program to
2 be enforced by the department.

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

5 (1) "Architectural paint" or "paint" means interior and exterior
6 architectural coatings, sold in a container of five gallons or less.
7 "Architectural paint" or "paint" does not mean industrial, original
8 equipment, or specialty coatings.

9 (2) "Architectural paint stewardship assessment" or "assessment"
10 means the amount determined by a stewardship organization that must be
11 added to the purchase price of architectural paint sold in this state
12 to cover a stewardship organization's costs of administration,
13 education and outreach, collecting, transporting, and processing of the
14 leftover architectural paint managed through a statewide architectural
15 paint stewardship program.

16 (3) "Conditionally exempt small quantity generator" means a
17 dangerous waste generator whose dangerous wastes are not subject to
18 regulation under chapter 70.105 RCW, hazardous waste management, solely
19 because the waste is generated or accumulated in quantities below the
20 threshold for regulation and meets the conditions prescribed in WAC
21 173-303-070(8)(b), as it existed on the effective date of this section.

22 (4) "Conditionally exempt small quantity generator waste" means
23 dangerous waste generated by a conditionally exempt small quantity
24 generator.

25 (5) "Consumer" means any household, nonprofit, small business, or
26 other entity whose leftover paint is eligible under applicable laws and
27 regulations.

28 (6) "Covered entity" means any household or conditionally exempt
29 small quantity generator of oil based and latex architectural paint.
30 "Covered entity" also includes any regulated generator of latex
31 architectural paint only.

32 (7) "Curbside service" means a waste collection, recycling, and
33 disposal service providing pickup of covered paint from residential
34 sources, such as single-family households and multifamily housing, or
35 other covered entities in quantities generated from households or small
36 businesses.

37 (8) "Department" means the department of ecology.

1 (9) "Distributor" means a person that has a contractual
2 relationship with one or more manufacturers to market and sell
3 architectural paint to retailers in Washington.

4 (10) "End-of-life" or "end-of-life management" means activities
5 including, but not limited to, collection, transportation, reuse,
6 recycling, energy recovery, and disposal for leftover architectural
7 paint.

8 (11) "Energy recovery" means the recovery of energy in a useable
9 form from mass burning or refuse-derived fuel incineration, pyrolysis,
10 or any other means of using the heat of combustion of solid waste that
11 involves high temperature (above twelve hundred degrees Fahrenheit)
12 processing.

13 (12) "Environmentally sound management practices" means policies
14 and procedures to be implemented by a stewardship organization to
15 ensure compliance with all applicable laws and rules to protect
16 workers, public health, and the environment, and also addresses such
17 issues as safe and environmentally sound management of architectural
18 paint from collection through final disposition, adequate
19 recordkeeping, tracking and documenting the fate of materials within
20 the state and beyond, and adequate environmental liability coverage for
21 professional services and for the operations of the contractors working
22 on behalf of a stewardship organization.

23 (13) "Final disposition" means the point beyond which no further
24 processing takes place and the paint has been transformed for direct
25 use as a feedstock in producing new products or is disposed of,
26 including for energy recovery, in permitted facilities.

27 (14) "Household hazardous waste" means waste that exhibits any of
28 the properties of dangerous waste that is exempt from regulation under
29 chapter 70.105 RCW, hazardous waste management, solely because the
30 waste is generated by households. Household hazardous waste may also
31 include other solid waste identified in the local hazardous waste
32 management plan prepared pursuant to chapter 70.105 RCW.

33 (15) "Leftover paint" means architectural paint not used and no
34 longer wanted by a consumer.

35 (16) "Moderate risk waste" means solid waste that is limited to
36 conditionally exempt small quantity generator waste and household
37 hazardous waste as defined in this chapter.

1 (17) "Paint retailer" means any person that offers architectural
2 paint for sale at retail in Washington.

3 (18) "Person" means any individual, business, manufacturer,
4 transporter, collector, processor, retailer, charity, nonprofit
5 organization, or government agency.

6 (19) "Population center" means urbanized areas or urban clusters as
7 defined by the United States census bureau to identify areas of high
8 population density and urban land use with populations of two thousand
9 five hundred or greater.

10 (20) "Producer" means a manufacturer of architectural paint that is
11 sold, offered for sale, or distributed in Washington under the
12 producer's own name or other brand name.

13 (21) "Recycling" means transforming or remanufacturing waste
14 materials into usable or marketable materials for use other than
15 landfill disposal, energy recovery, or incineration. Recycling does
16 not include collection, compacting, repackaging, and sorting for the
17 purpose of transport.

18 (22) "Reuse" means any operation by which an architectural paint
19 product changes ownership and is used for the same purpose for which it
20 was originally purchased.

21 (23) "Sell" or "sale" means any transfer of title for
22 consideration, including remote sales conducted through sales outlets,
23 catalogues, or the internet or any other similar electronic means.

24 (24) "Stewardship organization" means a nonprofit organization
25 created by a producer or group of producers to implement a paint
26 stewardship program required under this chapter.

27 NEW SECTION. **Sec. 3.** (1) All producers of architectural paint
28 selling in or into the state of Washington shall participate in an
29 approved Washington state paint stewardship plan for covered entities
30 through membership in and appropriate funding of a stewardship
31 organization.

32 (2) Producers not participating in a stewardship organization may
33 not sell architectural paint in or into Washington state.

34 (3) Paint retailers are prohibited from selling architectural paint
35 manufactured or distributed by a producer not in compliance with this
36 chapter.

1 NEW SECTION. **Sec. 4.** (1) A stewardship organization representing
2 producers shall submit a plan for the implementation of a paint
3 stewardship program to the department for approval by January 1, 2015.
4 The plan must address the following:

5 (a) Describe how the program proposed under the plan will collect,
6 transport, recycle, and process leftover paint from covered entities
7 for end-of-life management, including reuse, recycling, energy
8 recovery, and disposal, using environmentally sound management
9 practices.

10 (b) Provide stewardship organization contact information and a list
11 of participating brands and producers under the program.

12 (c) Demonstrate sufficient funding for the architectural paint
13 stewardship program as described in the plan. The plan must include a
14 funding mechanism whereby each architectural paint producer remits to
15 the stewardship organization payment of an architectural paint
16 stewardship assessment for each container of architectural paint the
17 producer sells in this state. The plan must include a proposed budget
18 and a description of the process used to determine the architectural
19 paint stewardship assessment. The architectural paint stewardship
20 assessment must be added to the cost of all architectural paint sold to
21 Washington paint retailers and distributors, and each Washington paint
22 retailer or distributor shall add the assessment to the purchase price
23 of all architectural paint sold in this state. No fee may be charged
24 at the time of collection.

25 (d) To ensure that the funding mechanism is equitable and
26 sustainable, a uniform architectural paint stewardship assessment must
27 be established for all architectural paint sold in this state. The
28 architectural paint stewardship assessment must be sufficient to
29 recover, but not exceed, the costs of the architectural paint
30 stewardship program. The plan must require any surplus funds generated
31 from the funding mechanism be put back into the program to either
32 increase and improve program services or reduce the cost of the program
33 and the architectural paint stewardship assessment, or both.

34 (e) The proposed architectural paint stewardship assessment must be
35 reviewed by an independent auditor to ensure that such an assessment is
36 consistent with the budget of the paint stewardship program and the
37 independent auditor shall recommend an amount for the architectural
38 paint stewardship assessment to the department. The department is

1 responsible for the approval of the architectural paint stewardship
2 assessment based on the information provided in the plan and in the
3 auditor's report.

4 (f) Establish goals as practical to reduce the generation of
5 leftover paint, to promote the reuse and recycling of leftover paint,
6 for the overall collection of leftover paint, and for the proper end-
7 of-life management of leftover paint. The goal for overall collection
8 of leftover paint must be based on current or historical household
9 hazardous waste program information from Washington state. The goals
10 may be revised by a stewardship organization based on the information
11 collected annually.

12 (g) Describe the reasonably convenient and available statewide
13 collection system required under section 5 of this act.

14 (h) Describe the criteria to be used for selecting collection
15 locations when there are multiple paint retail stores that want to
16 serve as collection sites in the same geographic area.

17 (i) Describe how leftover paint will be managed using
18 environmentally sound management practices in an economically sound
19 manner, including following the paint waste management hierarchy of:
20 Source reduction; reuse; recycling; energy recovery; and disposal.

21 (j) Describe the process for managing architectural paint
22 containers collected under the program, with an emphasis on recycling
23 containers, where practical.

24 (k) Describe education and outreach efforts to promote the paint
25 stewardship program. The education and outreach efforts must include
26 effective strategies for reaching all sectors of the population and
27 describe how the paint stewardship program will evaluate the
28 effectiveness of its education and outreach.

29 (l) Collection site procedural manuals for architectural paint
30 products, including training procedures and electronic copies of
31 materials that will be provided to collection sites to ensure the use
32 of environmentally sound management practices when handling leftover
33 architectural paint.

34 (m) A list of processors that will be used to manage leftover paint
35 collected by the stewardship organization and a list of potential
36 processors to be used for final disposition.

37 (2) A stewardship organization shall promote a paint stewardship
38 program and provide consumers, covered entities, and retailers with

1 educational and informational materials describing collection
2 opportunities for leftover paint statewide, the architectural paint
3 stewardship assessment used to finance the program, and promotion of
4 waste prevention, reuse, and recycling. These materials may include,
5 but are not limited to, the following:

6 (a) Signage that is prominently displayed and easily visible to the
7 consumer;

8 (b) Written materials and templates of materials for reproduction
9 by paint retailers to be provided to the consumer at the time of
10 purchase or delivery, or both;

11 (c) Advertising or other promotional materials, or both, that
12 include references to the architectural paint stewardship program; and

13 (d) An explanation that the architectural paint stewardship
14 assessment has been added to the purchase price of architectural paint
15 to fund the paint stewardship program in the state. The architectural
16 paint stewardship assessment may not be described as a department
17 recycling fee at the point of retail.

18 (3) Plans must be updated as needed when there are changes to the
19 current program. A new plan or amendment is required to be submitted
20 to the department for approval when:

21 (a) There is a change to the amount of the assessment;

22 (b) There is an addition to the products covered under the program;
23 or

24 (c) There is a revision of the product stewardship organization's
25 goals.

26 NEW SECTION. **Sec. 5.** (1) A stewardship organization's program
27 plan required in section 4 of this act must also describe how the
28 program will provide for reasonably convenient and available statewide
29 collection of leftover paint from covered entities in urban and rural
30 areas of the state, including island communities. The program plan
31 must address how it will utilize the existing solid waste collection,
32 disposal, and recycling system to implement any stewardship program
33 adopted.

34 (2) The program plan must address how it will incorporate and
35 fairly compensate service providers for activities, which may include,
36 but are not limited to:

1 (a) The coverage of costs for accepting postconsumer architectural
2 paint and paint containers through permanent collection sites and
3 collection events;

4 (b) The reuse or processing of postconsumer architectural paint at
5 the permanent collection site; and

6 (c) The collection, transportation, and recycling or proper
7 disposal of postconsumer architectural paint, including curbside
8 services.

9 (3) To ensure adequate collection coverage, the plan must use
10 geographic information modeling to determine the number and
11 distribution of collection sites based on the following criteria: At
12 least ninety percent of Washington residents must have a permanent
13 collection site within a fifteen mile radius; and one additional
14 permanent site must be established for every thirty thousand residents
15 of a population center distributed to provide convenient and reasonably
16 equitable access for residents within each population center, unless
17 otherwise approved by the department. For the portion of the
18 population that does not have a permanent collection location within a
19 fifteen mile radius, the plan must provide collection events no less
20 than once a year. Special consideration is to be made for providing
21 opportunities to island and geographically isolated populations.

22 (4)(a) Nothing in subsection (3) of this section prohibits a
23 program plan from identifying, in lieu of permanent collection sites
24 for a specified area or population, an available curbside service that
25 provides convenient and reasonably equitable access for Washington
26 residents that is at least equivalent to the level of convenience and
27 access that would be provided by a collection site.

28 (b) The producers participating in an approved program plan are
29 responsible for covering all administrative and operational costs
30 associated with the collection, reuse, recycling, transportation, and
31 disposal of paint. A fee may not be charged at the time the unwanted
32 paint is delivered or collected for recycling. However, this does not
33 prohibit collectors providing curbside services from charging customers
34 a fee, as provided by city contract or the Washington utilities and
35 transportation commission, for the additional collection cost of
36 providing this service.

37 (5) The program plan must utilize the existing public and private

1 waste collection services and facilities where cost-effective and
2 mutually agreeable.

3 (6) For purposes of this subsection, a stewardship organization
4 shall renegotiate a contract for the establishment of a permanent
5 collection site once every two years unless another period is agreed to
6 by the contracting parties.

7 (7) The program must utilize the existing government-owned
8 moderate-risk waste infrastructure when selecting collection sites
9 where cost-effective and mutually agreeable.

10 (8) The program must utilize existing paint retail stores as
11 collection sites where cost effective, reasonably feasible, and
12 mutually agreeable.

13 (9) The plan must provide the collection site name and location of
14 each site statewide in Washington accepting architectural paint under
15 the program. The collection coverage in subsections (2) and (3) of
16 this section must be met within the first year of the program, with the
17 goal of having collection sites operational as close to the start date
18 as possible.

19 NEW SECTION. **Sec. 6.** (1) Each stewardship organization shall
20 submit a paint stewardship program plan in accordance with section 4 of
21 this act.

22 (2) Each stewardship organization shall develop and distribute a
23 collection site procedural manual to collection sites to ensure proper
24 management of architectural paints at collection locations.

25 (3) A stewardship organization shall implement the paint
26 stewardship plan by July 1, 2015, or three months after approval of a
27 paint stewardship program plan under section 4 of this act, whichever
28 comes later.

29 (4) A stewardship organization shall submit an annual report by
30 October 15th following the first year or partial year of operations and
31 every year thereafter, structured to be used as a basis for annual plan
32 review by the department. The report must be based on the requirements
33 outlined in section 9 of this act.

34 (5) A stewardship organization shall work with producers,
35 distributors, and retailers to provide consumers with educational and
36 informational materials describing collection opportunities for

1 leftover paint statewide and promotion of waste prevention, reuse, and
2 recycling of leftover paint.

3 (6) A stewardship organization shall pay an annual administrative
4 fee, described in section 7 of this act, in an amount sufficient to
5 cover only the department's cost of administering and enforcing a paint
6 stewardship program established under this chapter.

7 NEW SECTION. **Sec. 7.** (1) The department shall review the plan
8 within one hundred twenty days of receipt, and make a determination
9 whether or not to approve the plan. The department shall provide a
10 letter of approval for the plan if it provides for the establishment of
11 a stewardship program that meets the requirements of sections 4 and 5
12 of this act. If a plan is rejected, the department shall provide the
13 reasons for rejecting the plan to the stewardship organization. The
14 stewardship organization must submit a new plan within sixty days after
15 receipt of the letter of disapproval.

16 (2) When a plan or an amendment to an approved plan is submitted
17 under this section, the department shall make the proposed plan or
18 amendment available for public review and comment for at least thirty
19 days.

20 (3) The department shall actively supervise the conduct of a
21 stewardship organization in determination and implementation of the
22 architectural paint stewardship assessment specified in section 4(1) of
23 this act.

24 (4) Beginning April 1, 2014, and annually thereafter, the
25 department shall determine the department's costs required to be paid
26 by each stewardship organization sufficient to cover only the
27 department's costs of administering and enforcing paint stewardship
28 programs under this chapter. The total amount of yearly reimbursement
29 must not exceed the amount necessary to recover costs incurred by the
30 department in connection with the administration, oversight, and
31 enforcement of the requirements of this chapter. Any unspent money
32 from the previous twelve-month period must be retained in the paint
33 product stewardship account created in section 11 of this act and
34 applied to reduce the payments by stewardship organizations in the
35 following year.

36 (a) The department shall estimate the annual fee for the period of
37 July 1st through June 30th and notify each stewardship organization by

1 April 1st of the prior fiscal year. If there is more than one
2 stewardship organization implementing a paint stewardship program in
3 Washington, the fee will be divided equally between programs. The
4 department shall make the proposed annual fee, along with an accounting
5 of the costs, available for public review and comment for at least
6 thirty days.

7 (b) The department shall collect annual fees from each stewardship
8 organization by June 30, 2015, and annually thereafter.

9 (5) The department shall enforce this chapter.

10 (a) A civil penalty may be administratively imposed by the
11 department on any person who violates this chapter in an amount of up
12 to one thousand dollars per violation per day.

13 (b) A person who intentionally, knowingly, or negligently violates
14 this chapter may be assessed a civil penalty by the department of up to
15 ten thousand dollars per violation per day.

16 (c) Any person who incurs a penalty may appeal the penalty
17 prescribed under this section to the pollution control hearings board
18 created under chapter 43.21B RCW.

19 (6) By July 1, 2015, or upon the date the first plan is approved,
20 whichever date is earlier, the department shall post on its web site a
21 list of producers and their brands for which the department has
22 approved a plan pursuant to section 4 of this act. The department
23 shall update the list of producers and brands participating under an
24 approved program plan no less than once every six months based on
25 information provided to the department from a stewardship organization.

26 (7) A producer that is not listed on the department's web site
27 pursuant to this section, but demonstrates to the satisfaction of the
28 department that it is in compliance with this chapter, must be added to
29 the web site within fourteen days.

30 (8) The department shall review each annual report required
31 pursuant to section 9 of this act within ninety days of its submission
32 to ensure compliance with section 9(1) of this act.

33 (9) The department may request additional information from the
34 stewardship organization outside the annual reporting requirements in
35 section 9 of this act.

36 (10) The department may adopt rules as necessary for the purpose of
37 implementing, administering, and enforcing this chapter.

1 NEW SECTION. **Sec. 8.** (1) A producer or paint retailer may not
2 sell or offer for sale to any person in the state architectural paint
3 unless the producer or brand of architectural paint is participating in
4 an approved stewardship plan under this chapter. A retailer complies
5 with the requirements of this section if, on the date the architectural
6 paint was ordered from the producer or its agent, the producer of the
7 paint was listed on the department's web site as a producer
8 implementing an approved paint stewardship program plan. However, a
9 retailer may sell any paint purchased prior to the effective date of
10 this section.

11 (2) A paint wholesaler or a paint retailer that distributes or
12 sells architectural paint shall monitor the department's web site to
13 determine if the sale of a producer's architectural paint is in
14 compliance with this chapter.

15 (3) At the time of sale to a consumer, a producer, a stewardship
16 organization, or a paint retailer selling or offering architectural
17 paint for sale in Washington shall provide the consumer with
18 information regarding available end-of-life management options for
19 architectural paint collected through a paint stewardship program or a
20 brand of paint being sold under the program.

21 (4) A paint retailer that collects leftover architectural paint
22 must follow the collection site procedure manual developed by a
23 stewardship organization to ensure the use of environmentally sound
24 management practices when handling architectural paints at collection
25 locations.

26 (5) Neither a retailer of architectural paint, nor any other
27 retailer, is required to serve as a leftover paint collection facility.

28 NEW SECTION. **Sec. 9.** (1) By October 15, 2016, and annually
29 thereafter, a stewardship organization shall submit to the department
30 a report describing the stewardship program that the stewardship
31 organization implemented during the previous fiscal year. The report
32 must include all of the following:

33 (a) A description of the methods the stewardship organization used
34 to reduce, reuse, collect, transport, recycle, and process leftover
35 paint statewide in Washington;

36 (b) The volume of latex and oil-based architectural paint collected

1 by the stewardship organization in the preceding fiscal year in
2 Washington;

3 (c) The total volume of leftover paint, by collection site,
4 collected by the stewardship organization in Washington, including any
5 increase in total volume of paint collected each year, cost of the
6 program per gallon of paint collected, and the per capita cost of the
7 program;

8 (d) The volume of latex and oil-based architectural paint collected
9 by method of disposition, including reuse, recycling, energy recovery,
10 and disposal;

11 (e) An estimate of the total weight of all paint containers
12 collected by the program and the amount recycled;

13 (f) A list of all processors through to final disposition that are
14 used to manage leftover paint collected by the stewardship organization
15 in the preceding year and the volumes each processor accepted and under
16 what disposition method;

17 (g) A list of all the producers participating in the plan;

18 (h) The total volume of architectural paint sold in Washington
19 during the preceding year based on the collected architectural paint
20 stewardship assessment by the stewardship organization;

21 (i) An independent financial audit of the paint stewardship program
22 implemented by the stewardship organization, including a breakdown of
23 the program's expenses such as collection, recycling, education, and
24 overhead;

25 (j) The total cost of implementing the paint stewardship program
26 broken out by administrative, collection, transportation and
27 disposition, and communications costs;

28 (k) An evaluation of the effectiveness of the paint stewardship
29 program from year to year, and anticipated steps, if needed, to improve
30 performance throughout the state; and

31 (l) A summary of outreach and education activities undertaken and
32 samples of the educational materials that the stewardship organization
33 provided to consumers of architectural paint during the first year of
34 the program and any changes to those materials in subsequent years.

35 (2) All reports submitted to the department must be available to
36 the general public through the internet. Proprietary information
37 submitted to the department under this chapter is exempt from public
38 disclosure under RCW 42.56.270. The department may use and disclose

1 such information in summary or aggregated form that does not directly
2 or indirectly identify financial, production, or sales data of an
3 individual producer or stewardship organization.

4 NEW SECTION. **Sec. 10.** Producers or stewardship organizations
5 acting on behalf of producers that prepare, submit, and implement a
6 paint stewardship plan pursuant to section 4 of this act and thereby
7 are subject to regulation by the department are granted immunity from
8 state laws relating to antitrust, restraint of trade, unfair trade
9 practices, and other regulation of trade and commerce, for the limited
10 purpose of planning and reporting on a paint stewardship program and
11 proposing and establishing the architectural paint stewardship
12 assessment required in section 4(1)(c) and (d) of this act.

13 NEW SECTION. **Sec. 11.** The paint product stewardship account is
14 created in the state treasury. All receipts received by the department
15 from stewardship organizations must be deposited in the account.
16 Moneys in the account may be spent only after appropriation.
17 Expenditures from the account may be used by the department only for
18 administering and enforcing paint stewardship programs.

19 NEW SECTION. **Sec. 12.** This chapter is void if a federal law, or
20 a combination of federal laws, takes effect that establishes a national
21 program for the collection and recycling of architectural paint that
22 substantially meets the intent of this chapter, including the creation
23 of a funding mechanism for collection, transportation, recycling, and
24 proper disposal of all architectural paint in the United States.

25 NEW SECTION. **Sec. 13.** Nothing in this chapter changes or limits
26 the authority of the Washington utilities and transportation commission
27 to regulate collection of solid waste, including curbside collection of
28 residential recyclable materials, nor does this chapter change or limit
29 the authority of a city or town to provide the service itself or by
30 contract under RCW 81.77.020.

31 **Sec. 14.** RCW 43.21B.110 and 2013 c 291 s 33 are each amended to
32 read as follows:

33 (1) The hearings board shall only have jurisdiction to hear and

1 decide appeals from the following decisions of the department, the
2 director, local conservation districts, the air pollution control
3 boards or authorities as established pursuant to chapter 70.94 RCW,
4 local health departments, the department of natural resources, the
5 department of fish and wildlife, the parks and recreation commission,
6 and authorized public entities described in chapter 79.100 RCW:

7 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
8 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
9 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

10 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
11 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
12 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

15 (d) Except as provided in RCW 90.03.210(2), the issuance,
16 modification, or termination of any permit, certificate, or license by
17 the department or any air authority in the exercise of its
18 jurisdiction, including the issuance or termination of a waste disposal
19 permit, the denial of an application for a waste disposal permit, the
20 modification of the conditions or the terms of a waste disposal permit,
21 or a decision to approve or deny an application for a solid waste
22 permit exemption under RCW 70.95.300.

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

25 (f) Decisions of local health departments regarding the issuance
26 and enforcement of permits to use or dispose of biosolids under RCW
27 70.95J.080.

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

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

37 (i) Any other decision by the department or an air authority which

1 pursuant to law must be decided as an adjudicative proceeding under
2 chapter 34.05 RCW.

3 (j) Decisions of the department of natural resources, the
4 department of fish and wildlife, and the department that are reviewable
5 under chapter 76.09 RCW, and the department of natural resources'
6 appeals of county, city, or town objections under RCW 76.09.050(7).

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

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

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

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

18 (o) Appeals from penalties imposed by the department of ecology
19 under chapter 70.-- RCW (the new chapter created in section 18 of this
20 act).

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

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

25 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
26 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

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

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

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

34 **Sec. 15.** RCW 43.21B.110 and 2013 c 291 s 34 are each amended to
35 read as follows:

36 (1) The hearings board shall only have jurisdiction to hear and
37 decide appeals from the following decisions of the department, the

1 director, local conservation districts, the air pollution control
2 boards or authorities as established pursuant to chapter 70.94 RCW,
3 local health departments, the department of natural resources, the
4 department of fish and wildlife, the parks and recreation commission,
5 and authorized public entities described in chapter 79.100 RCW:

6 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
7 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
8 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

9 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
10 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
11 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

12 (c) Except as provided in RCW 90.03.210(2), the issuance,
13 modification, or termination of any permit, certificate, or license by
14 the department or any air authority in the exercise of its
15 jurisdiction, including the issuance or termination of a waste disposal
16 permit, the denial of an application for a waste disposal permit, the
17 modification of the conditions or the terms of a waste disposal permit,
18 or a decision to approve or deny an application for a solid waste
19 permit exemption under RCW 70.95.300.

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

22 (e) Decisions of local health departments regarding the issuance
23 and enforcement of permits to use or dispose of biosolids under RCW
24 70.95J.080.

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

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

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

37 (i) Decisions of the department of natural resources, the

1 department of fish and wildlife, and the department that are reviewable
2 under chapter 76.09 RCW, and the department of natural resources'
3 appeals of county, city, or town objections under RCW 76.09.050(7).

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

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

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10 reviewable under RCW 78.44.270.

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25 90.44.220.

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27 repeal rules.

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

31 NEW SECTION. Sec. 16. Section 14 of this act expires June 30,
32 2019.

33 NEW SECTION. Sec. 17. Section 15 of this act takes effect June
34 30, 2019.

1 NEW SECTION. **Sec. 18.** Sections 1 through 13 of this act
2 constitute a new chapter in Title 70 RCW.

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