
HOUSE BILL 2540

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Goodman, Harris, Fitzgibbon, and Moscoso

1 AN ACT Relating to paint stewardship; amending RCW 42.56.270;
2 reenacting and amending RCW 43.21B.110 and 43.21B.110; adding a new
3 chapter to Title 70 RCW; prescribing penalties; providing an effective
4 date; and providing an expiration date.

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

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

7 (1) Architectural paints are a solid waste issue. Despite local
8 government moderate-risk waste and other waste collection programs,
9 architectural paint may still present environmental and health and
10 safety risks, especially to workers in the solid waste industry.
11 During waste collection and processing, wet paint can create spills and
12 splashes and oil paint and aerosol containers may rupture, releasing
13 fumes that are hazardous to workers, and the remaining liquids
14 contribute to leachate problems in landfills. Many local governments
15 provide collection sites or events for latex paint in order to provide
16 their residents with reasonable disposal options and to keep latex
17 paint out of the solid waste stream. Drying latex for disposal is
18 difficult for many residents and wastes resources that might 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 more hazardous and hard-to-handle materials.

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

11 (3)(a) It is in the best interest of Washington for paint
12 manufacturers to assume responsibility for development and
13 implementation of a cost-effective paint stewardship program that will:
14 (i) Develop and implement strategies to reduce the generation of
15 postconsumer paint; (ii) promote the reuse of postconsumer paint; and
16 (iii) collect, transport, and process postconsumer paint for end-of-
17 life management, including reuse, recycling, energy recovery, and
18 disposal.

19 (b) The paint stewardship program will follow the waste management
20 hierarchy for managing and reducing leftover paint in the order as
21 follows: Reduce consumer generation of leftover paint; reuse; recycle;
22 provide for energy recovery; and disposal. Requiring paint
23 manufacturers to assume responsibility for the collection, recycling,
24 reuse, transportation, and disposal of postconsumer paint will provide
25 more opportunities for consumers to properly manage their leftover
26 paint, provide fiscal relief for local governments in managing
27 postconsumer paint, keep paint out of the waste stream, and conserve
28 natural resources.

29 (4) This chapter creates an architectural paint recovery program
30 that is enforced by the department.

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

33 (1) "Architectural paint" means interior and exterior architectural
34 coatings, sold in containers of five gallons or less for commercial or
35 homeowner use. "Architectural paint" does not include industrial,
36 original equipment, or specialty coatings.

1 (2) "Architectural paint stewardship assessment" means the amount
2 added to the purchase price of architectural paint sold in this state
3 necessary to cover the cost of collecting, transporting, and processing
4 the postconsumer architectural paint managed through a statewide
5 architectural paint stewardship program.

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

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

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

15 (6) "Environmentally sound management practices" means policies to
16 be implemented by a producer or a stewardship organization to ensure
17 compliance with all applicable laws and rules and also addresses issues
18 such as adequate recordkeeping, tracking and documenting the fate of
19 materials within the state and beyond, and adequate environmental
20 liability coverage for professional services and for the operations of
21 the contractors working on behalf of the producer organization.

22 (7) "Person" means any individual, business, manufacturer,
23 transporter, collector, processor, retailer, charity, nonprofit
24 organization, or government agency.

25 (8) "Postconsumer paint" means architectural paint not used and no
26 longer wanted by a purchaser.

27 (9) "Producer" means a manufacturer of architectural paint that is
28 sold, offered for sale, or distributed in Washington under the
29 producer's own name or brand.

30 (10) "Recycling" means transforming or remanufacturing waste
31 materials into usable or marketable materials for use other than
32 landfill disposal or incineration. Recycling does not include
33 collection, compacting, repackaging, and sorting for the purpose of
34 transport.

35 (11) "Retailer" means any person who offers architectural paint for
36 sale at retail in Washington.

37 (12) "Reuse" means any operation by which an architectural paint

1 product changes ownership and is used for the same purpose for which it
2 was originally purchased.

3 (13) "Sell" or "sale" means any transfer of title for
4 consideration, including remote sales conducted through sales outlets,
5 catalogues, or the internet or any other similar electronic means.

6 (14) "Stewardship organization" means a corporation, nonprofit
7 organization, or other legal entity created by a producer or group of
8 producers to implement the paint stewardship program required under
9 this chapter.

10 NEW SECTION. **Sec. 3.** (1) A producer or a stewardship organization
11 representing producers shall submit a plan for the implementation of a
12 paint stewardship program to the department for approval by April 1,
13 2014. The plan must address the following:

14 (a) Provide producer or stewardship organization contact
15 information and a list of participating brands and producers under the
16 program.

17 (b)(i) Demonstrate sufficient funding for the architectural paint
18 stewardship program as described in the plan, including administrative,
19 operational, and capital cost. The plan must include a funding
20 mechanism whereby each architectural paint producer remits to the
21 stewardship organization payment of an architectural paint stewardship
22 assessment for each container of architectural paint the producer sells
23 in this state. The architectural paint stewardship assessment must be
24 added to the cost of all architectural paint sold to Washington
25 retailers and distributors, and each Washington retailer or distributor
26 shall add the assessment to the purchase price of all architectural
27 paint sold in this state. No fee may be charged at the time of
28 collection.

29 (ii) To ensure that the funding mechanism is equitable and
30 sustainable, a uniform architectural paint stewardship assessment must
31 be established for all architectural paint sold in the state. The
32 architectural paint stewardship assessment must be approved by the
33 director of the department as part of the plan and must be sufficient
34 to recover, but not exceed, the costs of the architectural paint
35 stewardship program. The plan must require any surplus funds generated
36 from the funding mechanism be put back into the program to reduce the

1 cost of the program, including the architectural paint stewardship
2 assessment.

3 (c) Describe how the program will provide for reasonably convenient
4 and available statewide collection of postconsumer paint in urban and
5 rural areas of the state, including island communities. The plan must
6 determine collection convenience based on population and distance to
7 permanent collection locations that are open to the public at a
8 frequency adequate to meet the needs of the area being served on an
9 ongoing basis. Special consideration must be made for providing
10 opportunities to island and geographically isolated populations, such
11 as providing collection events.

12 (i) The producer or stewardship organization shall utilize the
13 existing government-owned moderate risk waste infrastructure when
14 selecting collection points for postconsumer paint where cost-
15 effective, reasonably feasible, and mutually agreeable.

16 (ii) A retailer may act as a voluntary collection point for
17 postconsumer paint where cost-effective, reasonably feasible, and
18 mutually agreeable.

19 (iii) The plan for the implementation of a paint stewardship
20 program must provide the collection site name, location, and hours of
21 operation of each site statewide accepting architectural paint under
22 the program.

23 (d) Establish goals to reduce the generation of postconsumer paint,
24 to promote the reuse of postconsumer paint, and for the proper end-of-
25 life management of postconsumer paint based on current or historical
26 household hazardous waste program information, whichever provided the
27 highest level of service to Washington residents. The goals may be
28 revised by the manufacturer or stewardship organization based on the
29 information collected annually.

30 (e) Describe how postconsumer paint will be managed using
31 environmentally sound management practices and in the most economically
32 sound manner, including following the waste-management hierarchy of
33 source reduction, reuse, recycling, energy recovery, and disposal.

34 (f) Describe education and outreach efforts to promote the paint
35 stewardship program. The education and outreach efforts must include
36 effective strategies for reaching all sectors of the population. The
37 plan must describe how the paint stewardship program will evaluate the
38 effectiveness of its education and outreach efforts.

1 (2) By July 1, 2014, or three months after approval of the paint
2 stewardship program plan under subsection (1) of this section,
3 whichever occurs first, a producer of architectural paint sold at
4 retail, or a stewardship organization of which a producer is a member,
5 shall implement an approved paint stewardship program plan.

6 (3) A producer or a stewardship organization of which a producer is
7 a member shall promote a paint stewardship program and provide
8 consumers and retailers with educational and informational materials
9 describing collection opportunities for postconsumer paint statewide,
10 the architectural paint stewardship assessment used to finance the
11 program, and promotion of waste prevention, reuse, and recycling.
12 These materials may include, but are not limited to, the following:

13 (a) Signage that is prominently displayed and easily visible to the
14 consumer.

15 (b) Written materials and templates of materials for reproduction
16 by retailers to be provided to the consumer at the time of purchase or
17 delivery, or both.

18 (c) Advertising or other promotional materials, or both, that
19 include references to the architectural paint stewardship program.

20 NEW SECTION. **Sec. 4.** (1) The department shall review a plan
21 required under section 3 of this act within one hundred twenty days of
22 receipt, and make a determination whether or not to approve the plan.
23 The department shall provide a letter of approval for the plan if the
24 plan provides for the establishment of a paint stewardship program that
25 meets the requirements of section 3 of this act. If a plan is
26 rejected, the department shall provide the reasons for rejecting the
27 plan to the producer or stewardship organization. The producer or
28 stewardship organization must submit a new plan within sixty days after
29 receipt of the letter of disapproval.

30 (2) When a plan required under section 3 of this act or an
31 amendment to an approved plan is submitted under this section, the
32 department shall make the proposed plan or amendment available for
33 public review and comment for at least fifteen days.

34 (3) The department shall enforce this chapter.

35 (a) The stewardship organization shall pay the department an annual
36 administrative fee pursuant to (b) of this subsection.

1 (b) The department shall impose fees in an amount that is
2 sufficient to cover the department's full costs of administering and
3 enforcing this chapter, including any program development costs or
4 regulatory costs incurred by the department prior to the submittal of
5 the stewardship plans required by section 3 of this act. Fee revenues
6 collected under this section may only be used to administer and enforce
7 this chapter.

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

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

14 (4) On July 1, 2014, or upon the date the first plan required under
15 section 3 of this act is approved, whichever date is earlier, the
16 department shall post on its web site a list of producers and brands
17 for which the department has approved a plan pursuant to section 3 of
18 this act. The department shall update the list of producers and brands
19 participating under an approved program plan at least once every six
20 months.

21 (5) A producer that is not listed on the department's web site
22 pursuant to this section, but demonstrates to the satisfaction of the
23 department that it is in compliance with this chapter, may request a
24 certification letter from the department stating that the producer is
25 in compliance. The producer who receives such a letter is deemed to be
26 in compliance with this chapter.

27 (6) A wholesaler or a retailer that distributes or sells
28 architectural paint shall monitor the department's internet site to
29 determine if the sale of a producer's architectural paint is in
30 compliance with this chapter.

31 NEW SECTION. **Sec. 5.** A producer or retailer may not sell or offer
32 for sale to any person in Washington architectural paint unless the
33 producer of a paint brand or a stewardship organization of which the
34 producer is a member is implementing an approved paint stewardship
35 program plan as required by section 3 of this act. A retailer is in
36 compliance with the requirements of this section if, on the date the

1 architectural paint was ordered from the producer or its agent, the
2 producer of the paint is listed on the department's web site as a
3 producer implementing an approved paint stewardship program plan.

4 NEW SECTION. **Sec. 6.** A producer or stewardship organization that
5 manages a paint stewardship program pursuant to this chapter is granted
6 immunity from state laws relating to antitrust, restraint of trade,
7 unfair trade practices, and other regulation of trade and commerce for
8 the limited purpose of establishing and operating a paint stewardship
9 program. The activities of a stewardship organization that comply with
10 the provisions of this chapter may not be considered to be in restraint
11 of trade, a conspiracy, or a combination thereof, nor any other
12 unlawful activity in violation of any provision of Title 9 or 9A RCW or
13 chapter 19.86 RCW.

14 NEW SECTION. **Sec. 7.** (1) By October 1, 2015, or fifteen months
15 after an approved plan required under section 3 of this act is
16 implemented, whichever occurs first, and annually thereafter, a
17 producer or a stewardship organization of which the producer is a
18 member shall submit to the department a report describing the paint
19 stewardship program that the producer or stewardship organization is
20 implementing. The report must include all of the following:

21 (a) A description of the methods the producer or stewardship
22 organization used to reduce, reuse, collect, transport, recycle, and
23 process postconsumer paint statewide;

24 (b) The volume by product type of postconsumer paint collected by
25 the producer or stewardship organization in the preceding year in
26 Washington;

27 (c) The total volume of postconsumer paint collected by the
28 producer or stewardship organization in Washington by method of
29 disposition, including reuse, recycling, energy recovery, and disposal;

30 (d) The total volume of architectural paint sold in Washington
31 during the preceding year either by producer or by producers
32 participating in the stewardship organization;

33 (e) An independent financial audit of the paint stewardship program
34 implemented by the producer or the stewardship organization;

35 (f) The total cost of implementing the architectural paint
36 stewardship program;

1 (g) An evaluation of the effectiveness of the product stewardship
2 program, and anticipated steps, if needed, to improve performance
3 throughout the state; and

4 (h) Samples of the educational materials that the producer or
5 stewardship organization provided to consumers of architectural paint
6 during the first year of the program and any changes to those materials
7 in subsequent years.

8 (2) All reports submitted to the department must be available to
9 the general public through the department's web site. Proprietary
10 information submitted to the department under this chapter is exempt
11 from public disclosure under RCW 42.56.270. The department may use and
12 disclose this information in summary or aggregated form that does not
13 directly or indirectly identify financial, production, or sales data of
14 an individual producer or product stewardship organization.

15 NEW SECTION. **Sec. 8.** The department may adopt rules as necessary
16 for the purpose of implementing, administering, and enforcing this
17 chapter.

18 NEW SECTION. **Sec. 9.** The paint product stewardship account is
19 created in the state treasury. All receipts received by the department
20 from producers and paint stewardship organizations under this chapter
21 must be deposited in the account. Moneys in the account may be spent
22 only after appropriation. Expenditures from the account may be used by
23 the department only for administering and implementing product
24 stewardship programs under this chapter.

25 NEW SECTION. **Sec. 10.** (1) This chapter is void if a federal law,
26 or a combination of federal laws, take effect establishing a national
27 program for the collection and recycling of architectural paints that
28 substantially meets the intent of this chapter, including the creation
29 of a funding mechanism for collection, transportation, recycling, and
30 proper disposal of all architectural paints in the United States.

31 (2) Upon the establishment of a federal law or laws under
32 subsection (1) of this section, the department must provide written
33 notification to the secretary of the senate, chief clerk of the house
34 of representatives, and the office of the code reviser.

1 NEW SECTION. **Sec. 11.** Nothing in this chapter changes or limits
2 the authority of the Washington utilities and transportation commission
3 to regulate collection of solid waste, including curbside collection of
4 residential recyclable materials, nor does this chapter change or limit
5 the authority of a city or town to provide the service itself or by
6 contract under RCW 81.77.020.

7 NEW SECTION. **Sec. 12.** The decisions of the department in
8 enforcing this chapter are appealable to the pollution control hearings
9 board under RCW 43.21B.110.

10 **Sec. 13.** RCW 42.56.270 and 2011 1st sp.s. c 14 s 15 are each
11 amended to read as follows:

12 The following financial, commercial, and proprietary information is
13 exempt from disclosure under this chapter:

14 (1) Valuable formulae, designs, drawings, computer source code or
15 object code, and research data obtained by any agency within five years
16 of the request for disclosure when disclosure would produce private
17 gain and public loss;

18 (2) Financial information supplied by or on behalf of a person,
19 firm, or corporation for the purpose of qualifying to submit a bid or
20 proposal for (a) a ferry system construction or repair contract as
21 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
22 or improvement as required by RCW 47.28.070;

23 (3) Financial and commercial information and records supplied by
24 private persons pertaining to export services provided under chapters
25 43.163 and 53.31 RCW, and by persons pertaining to export projects
26 under RCW 43.23.035;

27 (4) Financial and commercial information and records supplied by
28 businesses or individuals during application for loans or program
29 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
30 43.168 RCW, or during application for economic development loans or
31 program services provided by any local agency;

32 (5) Financial information, business plans, examination reports, and
33 any information produced or obtained in evaluating or examining a
34 business and industrial development corporation organized or seeking
35 certification under chapter 31.24 RCW;

1 (6) Financial and commercial information supplied to the state
2 investment board by any person when the information relates to the
3 investment of public trust or retirement funds and when disclosure
4 would result in loss to such funds or in private loss to the providers
5 of this information;

6 (7) Financial and valuable trade information under RCW 51.36.120;

7 (8) Financial, commercial, operations, and technical and research
8 information and data submitted to or obtained by the clean Washington
9 center in applications for, or delivery of, program services under
10 chapter 70.95H RCW;

11 (9) Financial and commercial information requested by the public
12 stadium authority from any person or organization that leases or uses
13 the stadium and exhibition center as defined in RCW 36.102.010;

14 (10)(a) Financial information, including but not limited to account
15 numbers and values, and other identification numbers supplied by or on
16 behalf of a person, firm, corporation, limited liability company,
17 partnership, or other entity related to an application for a horse
18 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
19 license, gambling license, or lottery retail license;

20 (b) Internal control documents, independent auditors' reports and
21 financial statements, and supporting documents: (i) Of house-banked
22 social card game licensees required by the gambling commission pursuant
23 to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes
24 with an approved tribal/state compact for class III gaming;

25 (11) Proprietary data, trade secrets, or other information that
26 relates to: (a) A vendor's unique methods of conducting business; (b)
27 data unique to the product or services of the vendor; or (c)
28 determining prices or rates to be charged for services, submitted by
29 any vendor to the department of social and health services for purposes
30 of the development, acquisition, or implementation of state purchased
31 health care as defined in RCW 41.05.011;

32 (12)(a) When supplied to and in the records of the department of
33 commerce:

34 (i) Financial and proprietary information collected from any person
35 and provided to the department of commerce pursuant to RCW
36 43.330.050(8); and

37 (ii) Financial or proprietary information collected from any person
38 and provided to the department of commerce or the office of the

1 governor in connection with the siting, recruitment, expansion,
2 retention, or relocation of that person's business and until a siting
3 decision is made, identifying information of any person supplying
4 information under this subsection and the locations being considered
5 for siting, relocation, or expansion of a business;

6 (b) When developed by the department of commerce based on
7 information as described in (a)(i) of this subsection, any work product
8 is not exempt from disclosure;

9 (c) For the purposes of this subsection, "siting decision" means
10 the decision to acquire or not to acquire a site;

11 (d) If there is no written contact for a period of sixty days to
12 the department of commerce from a person connected with siting,
13 recruitment, expansion, retention, or relocation of that person's
14 business, information described in (a)(ii) of this subsection will be
15 available to the public under this chapter;

16 (13) Financial and proprietary information submitted to or obtained
17 by the department of ecology or the authority created under chapter
18 70.95N RCW to implement chapter 70.95N RCW;

19 (14) Financial, commercial, operations, and technical and research
20 information and data submitted to or obtained by the life sciences
21 discovery fund authority in applications for, or delivery of, grants
22 under chapter 43.350 RCW, to the extent that such information, if
23 revealed, would reasonably be expected to result in private loss to the
24 providers of this information;

25 (15) Financial and commercial information provided as evidence to
26 the department of licensing as required by RCW 19.112.110 or
27 19.112.120, except information disclosed in aggregate form that does
28 not permit the identification of information related to individual fuel
29 licensees;

30 (16) Any production records, mineral assessments, and trade secrets
31 submitted by a permit holder, mine operator, or landowner to the
32 department of natural resources under RCW 78.44.085;

33 (17)(a) Farm plans developed by conservation districts, unless
34 permission to release the farm plan is granted by the landowner or
35 operator who requested the plan, or the farm plan is used for the
36 application or issuance of a permit;

37 (b) Farm plans developed under chapter 90.48 RCW and not under the

1 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to
2 RCW 42.56.610 and 90.64.190;

3 (18) Financial, commercial, operations, and technical and research
4 information and data submitted to or obtained by a health sciences and
5 services authority in applications for, or delivery of, grants under
6 RCW 35.104.010 through 35.104.060, to the extent that such information,
7 if revealed, would reasonably be expected to result in private loss to
8 providers of this information;

9 (19) Information gathered under chapter 19.85 RCW or RCW 34.05.328
10 that can be identified to a particular business;

11 (20) Financial and commercial information submitted to or obtained
12 by the University of Washington, other than information the university
13 is required to disclose under RCW 28B.20.150, when the information
14 relates to investments in private funds, to the extent that such
15 information, if revealed, would reasonably be expected to result in
16 loss to the University of Washington consolidated endowment fund or to
17 result in private loss to the providers of this information; ~~((and))~~

18 (21) Financial, commercial, operations, and technical and research
19 information and data submitted to or obtained by innovate Washington in
20 applications for, or delivery of, grants and loans under chapter 43.333
21 RCW, to the extent that such information, if revealed, would reasonably
22 be expected to result in private loss to the providers of this
23 information; and

24 (22) Proprietary information submitted by the department of ecology
25 under section 7 of this act.

26 NEW SECTION. **Sec. 14.** Sections 1 through 12 of this act
27 constitute a new chapter in Title 70 RCW.

28 **Sec. 15.** RCW 43.21B.110 and 2010 c 210 s 7 and 2010 c 84 s 2 are
29 each reenacted and amended to read as follows:

30 (1) The hearings board shall only have jurisdiction to hear and
31 decide appeals from the following decisions of the department, the
32 director, local conservation districts, the air pollution control
33 boards or authorities as established pursuant to chapter 70.94 RCW,
34 local health departments, the department of natural resources, the
35 department of fish and wildlife, and the parks and recreation
36 commission:

1 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
2 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
3 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

4 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
5 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
6 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

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

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

19 (f) Decisions of local health departments regarding the issuance
20 and enforcement of permits to use or dispose of biosolids under RCW
21 70.95J.080.

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

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

31 (i) Any other decision by the department or an air authority which
32 pursuant to law must be decided as an adjudicative proceeding under
33 chapter 34.05 RCW.

34 (j) Decisions of the department of natural resources, the
35 department of fish and wildlife, and the department that are reviewable
36 under chapter 76.09 RCW, and the department of natural resources'
37 appeals of county, city, or town objections under RCW 76.09.050(7).

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

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

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

8 (n) Decisions of a state agency that is an authorized public entity
9 under RCW 79.100.010 to take temporary possession or custody of a
10 vessel or to contest the amount of reimbursement owed that are
11 reviewable under RCW 79.100.120.

12 (o) Appeals of decisions of the department made under chapter 70.--
13 RCW (the new chapter created in section 14 of this act).

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

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

18 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
19 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

20 (c) Appeals of decisions by the department under RCW 90.03.110 and
21 90.44.220.

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

24 ~~((e) Appeals of decisions by the department as provided in chapter~~
25 ~~43.21B RCW.))~~

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

29 **Sec. 16.** RCW 43.21B.110 and 2010 c 210 s 8 and 2010 c 84 s 3 are
30 each reenacted and amended to read as follows:

31 (1) The hearings board shall only have jurisdiction to hear and
32 decide appeals from the following decisions of the department, the
33 director, local conservation districts, the air pollution control
34 boards or authorities as established pursuant to chapter 70.94 RCW,
35 local health departments, the department of natural resources, the
36 department of fish and wildlife, and the parks and recreation
37 commission:

1 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
2 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
3 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

4 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
5 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
6 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

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

17 (e) Decisions of local health departments regarding the issuance
18 and enforcement of permits to use or dispose of biosolids under RCW
19 70.95J.080.

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

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

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

32 (i) Decisions of the department of natural resources, the
33 department of fish and wildlife, and the department that are reviewable
34 under chapter 76.09 RCW, and the department of natural resources'
35 appeals of county, city, or town objections under RCW 76.09.050(7).

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

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

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

6 (m) Decisions of a state agency that is an authorized public entity
7 under RCW 79.100.010 to take temporary possession or custody of a
8 vessel or to contest the amount of reimbursement owed that are
9 reviewable under RCW 79.100.120.

10 (n) Appeals of decisions of the department made under chapter 70.--
11 RCW (the new chapter created in section 14 of this act).

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

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

16 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
17 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

18 (c) Appeals of decisions by the department under RCW 90.03.110 and
19 90.44.220.

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

22 ~~((e) Appeals of decisions by the department as provided in chapter~~
23 ~~43.211 RCW.))~~

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

27 NEW SECTION. Sec. 17. Section 15 of this act expires June 30,
28 2019.

29 NEW SECTION. Sec. 18. Section 16 of this act takes effect June
30 30, 2019.

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