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**SUBSTITUTE SENATE BILL 5110**

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**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** Senate Environment, Water & Energy (originally sponsored by Senators Kohl-Welles, Chase, Rockefeller, Kline, Ranker, Shin, Nelson, Fraser, and White)

READ FIRST TIME 02/21/11.

1           AN ACT Relating to carpet stewardship; reenacting and amending RCW  
2 43.21B.110 and 43.21B.110; adding a new section to chapter 42.56 RCW;  
3 adding a new chapter to Title 70 RCW; prescribing penalties; providing  
4 an effective 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) In 2009, discarded carpet equaled 2.9 percent of Washington's  
8 disposed waste by weight. The estimated recycling rate for carpet and  
9 padding in Washington was less than two percent in 2009.

10           (2) The national, voluntary, and industry-led approach to carpet  
11 stewardship, the 2002 memorandum of understanding for carpet  
12 stewardship, has not met its agreed-upon goal of forty percent carpet  
13 recovery and has only achieved a four to five percent recovery rate  
14 nationwide.

15           (3) Numerous products can be manufactured from recycled carpet,  
16 including carpet backing and backing components, carpet fiber, carpet  
17 underlayment, plastics and engineered materials, and erosion control  
18 products.

1           NEW SECTION.    **Sec. 2.**    The definitions in this section apply

2 throughout this chapter unless the context clearly requires otherwise.

3           (1) "Brand" means a name, symbol, word, or mark that identifies the  
4 carpet, rather than its components, and attributes the carpet to the  
5 owner or licensee of the brand as the manufacturer.

6           (2) "Carpet" means a manufactured article that is used in  
7 commercial or residential buildings affixed or placed on the floor or  
8 building walking surface as a decorative or functional building  
9 interior or exterior feature and that is primarily constructed of a top  
10 visible surface of synthetic face fibers or yarns or tufts attached to  
11 a backing system derived from synthetic or natural materials. "Carpet"  
12 includes, but is not limited to, a commercial or a residential  
13 broadloom carpet or modular carpet tiles. "Carpet" includes a pad or  
14 underlayment used in conjunction with a carpet. "Carpet" does not  
15 include handmade rugs, area rugs, or mats.

16           (3) "Carpet stewardship organization" or "organization" means  
17 either of the following:

18           (a) An organization appointed by one or more producers to act as an  
19 agent on behalf of the producer to design, submit, and administer a  
20 product stewardship program under this chapter; or

21           (b) A carpet producer that complies with this chapter as an  
22 individual producer.

23           (4) "Consumer" means a purchaser, owner, or lessee of carpet,  
24 including a person, business, corporation, limited partnership,  
25 nonprofit organization, or governmental entity.

26           (5) "Department" means the department of ecology.

27           (6) "Discarded carpet" means carpet that is no longer used for its  
28 manufactured purpose. However, the term does not include carpet scrap  
29 generated during carpet production.

30           (7) "Market share" means the percentage of carpet by weight  
31 identified for an individual producer that is put on the market in the  
32 state during the reporting period as compared to all carpet identified  
33 for all producers by weight put on the market in the state during the  
34 same reporting period.

35           (8) "Producer" means the person who:

36           (a) Has legal ownership of the brand, brand name, or cobrand of the  
37 carpet sold in Washington state. "Producer" does not include a  
38 retailer who puts its store label on a carpet;

1 (b) Imports carpet branded or manufactured by a producer that meets  
2 the definition under (a) of this subsection and has no physical  
3 presence in the United States; or

4 (c) Sells, at retail or wholesale, carpet, does not have legal  
5 ownership of the brand, and elects to fulfill the responsibilities of  
6 the producer for that carpet.

7 (9) "Product stewardship program" or "program" means the methods,  
8 systems, and services financed and provided by producers of carpet sold  
9 in the state including collecting, transporting, processing, and  
10 recycling of discarded carpet necessary to implement the program.

11 (10) "Product stewardship program plan" or "plan" means a detailed  
12 plan describing the manner in which a product stewardship program will  
13 be implemented.

14 (11) "Recycling" means transforming or remanufacturing waste  
15 materials into a finished product for use other than landfill disposal  
16 or incineration.

17 (12) "Reporting period" means the period commencing January 1st and  
18 ending December 31st in the same calendar year.

19 (13) "Retailer" means every person who purchases, sells, offers for  
20 sale, or distributes new carpet for sale in this state.

21 (14) "Reuse" means donating or selling collected carpet back into  
22 the market for its original intended use in which the carpet retains  
23 its original purpose and performance characteristics.

24 (15) "Sell" or "sales" means a transfer of title of a carpet for  
25 consideration, including a remote sale conducted through a sales  
26 outlet, catalog, internet web site, or similar electronic means. For  
27 purposes of this chapter, "sell" or "sales" includes a lease through  
28 which a carpet is provided to a consumer by a producer, wholesaler, or  
29 retailer.

30 (16) "Source separated" means carpet that has been separated or  
31 segregated from all other wastes, including but not limited to all  
32 municipal solid waste, at the place where the carpet is discarded.

33 (17) "Wholesaler" means every person who purchases, sells, or  
34 distributes new carpet in this state in a sale that is not a retail  
35 sale, and in which the carpet is intended to be resold.

36 NEW SECTION. **Sec. 3.** (1) By January 1, 2012, a producer of carpet  
37 sold in this state or brought into the state by other means shall

1 participate in a carpet stewardship organization. A producer shall  
2 notify the department of its participation in a carpet stewardship  
3 organization.

4 (2)(a) By January 1, 2012, every carpet stewardship organization  
5 must submit to the department sales data from the years 2002 through  
6 2011. The data must include: (i) The amount of carpet sold in or into  
7 the state by square yards and weight in pounds, separating data for  
8 residential and commercial carpet, providing a total for each and an  
9 overall total; and (ii) the market share, by percentage, of each  
10 producer participating in the carpet stewardship organization.

11 (b) Beginning January 31, 2013, and annually thereafter, carpet  
12 stewardship organizations must submit to the department the previous  
13 year's sales data that includes the amount of carpet sold in or into  
14 the state by square yards and weight in pounds, for residential and  
15 commercial carpet, providing a total for each and an overall total, and  
16 the market share, by percentage, of each producer participating in the  
17 carpet stewardship organization.

18 (c) Beginning January 31, 2013, carpet stewardship organizations  
19 must collect annual fees, as established in section 8 of this act, from  
20 producers selling carpet in or into the state. The total amount of  
21 annual fees collected must not exceed the amount necessary to recover  
22 costs incurred by the department and carpet stewardship organization to  
23 implement the requirements of the carpet stewardship program. Carpet  
24 stewardship organizations must calculate the annual fee based on each  
25 producer's portion of the market share for the previous year.

26 (i) The fees must be sufficient for capital costs of the program  
27 and for the product stewardship program to fund: Education and  
28 outreach efforts; administrative and operational activities; and other  
29 efforts that will advance the purposes of this chapter.

30 (ii) Each carpet stewardship organization must submit an initial  
31 fee of one thousand dollars for each producer represented to cover the  
32 one-time cost of the department's estimated first annual fee as  
33 established in section 8 of this act.

34 (3)(a) A carpet stewardship organization shall submit to the  
35 department a product stewardship program plan that is consistent with  
36 the requirements of this section by January 1, 2014. A carpet  
37 stewardship organization with a department-approved product stewardship  
38 program plan must implement their program by July 1, 2014.

1 (b) A carpet stewardship organization must consult with  
2 stakeholders, including retailers, installers, collectors, recyclers,  
3 and local governments during the development of the product stewardship  
4 program plan.

5 (4) A product stewardship program must:

6 (a) Have in place methods and systems for financing the program and  
7 collecting, transporting, processing for recycling, and recycling  
8 discarded carpet;

9 (b) Be provided throughout the state as established in subsection  
10 (6) of this section at no cost to all entities that remove carpet,  
11 including but not limited to carpet and flooring installers, and  
12 construction and demolition companies. The program may not charge a  
13 fee at the time discarded carpet is collected. Collection services  
14 must include convenient locations for entities that remove carpet and,  
15 at minimum, one public collection location per one hundred thousand  
16 residents, and a minimum of one public collection site per county;

17 (c) Include:

18 (i) Interim milestones to:

19 (A) Increase the recycling of discarded carpet throughout the  
20 state;

21 (B) Increase the recyclability of carpets; and

22 (C) Incentivize the market growth of secondary products made from  
23 discarded carpet; and

24 (ii) Five-year performance goals for:

25 (A) Collecting and recycling discarded carpet;

26 (B) Managing discarded carpet consistent with the state's solid  
27 waste management plan; and

28 (C) Collecting source separated carpet that meets acceptable  
29 standards as required under subsection (7)(a) of this section;

30 (d) Describe how discarded carpet will be collected and recycled  
31 throughout the state;

32 (e) Identify each producer participating in the product stewardship  
33 program and provide contact information for each producer and the  
34 brands covered by each producer;

35 (f) Include a proposal for achieving and maintaining performance  
36 standards, beyond the five-year period described in (c) of this  
37 subsection;

1 (g) Provide opportunities for public comment on the product  
2 stewardship program, a summary of comments received, and responses to  
3 those comments both prior to its submittal as a plan to the department  
4 and annually thereafter; and

5 (h) Include education and outreach efforts to consumers, commercial  
6 building owners, carpet installation contractors, and retailers  
7 throughout the state to promote their participation in achieving the  
8 product stewardship program's performance goals. At a minimum, the  
9 education and outreach efforts must include:

10 (i) Written materials and templates of materials for reproduction  
11 to be provided to retailers, local governments, carpet installation  
12 contractors, and consumers at the time of purchase and delivery; and

13 (ii) Information addressing the condition of acceptable carpet as  
14 required in subsection (7)(a) of this section. The product stewardship  
15 program must provide the templates and materials free of charge.

16 (5) The carpet stewardship organization may offer incentives or  
17 payments to collectors if necessary to ensure the carpet stewardship  
18 program requirements are met, as described in subsection (4) of this  
19 section.

20 (6) Carpet stewardship organizations shall implement programs  
21 beginning:

22 (a) July 1, 2014, for the counties of Clark, King, Kitsap, Pierce,  
23 Snohomish, and Spokane;

24 (b) July 1, 2015, for the counties of Benton, Franklin, Walla  
25 Walla, and Yakima;

26 (c) July 1, 2016, for the counties of Chelan, Clallam, Cowlitz,  
27 Grant, Grays Harbor, Island, Lewis, Mason, Skagit, Thurston, and  
28 Whatcom; and

29 (d) July 1, 2017, for the counties of Adams, Asotin, Douglas,  
30 Ferry, Garfield, Jefferson, Kittitas, Klickitat, Whitman, Pacific, Pend  
31 Oreille, Okanogan, Columbia, San Juan, Skamania, Stevens, and Wahkiakum  
32 in the cities where a carpet retailer is located, with a minimum of one  
33 public collection site per county.

34 (7) The program must:

35 (a) Accept all carpet that is source separated, dry, free of paint,  
36 mold, mildew, asbestos, construction or demolition debris, and other  
37 hazardous materials or chemicals that render the carpet unrecyclable;  
38 and

1 (b) Ensure that carpet collected meeting the standards in (a) of  
2 this subsection is processed for recycling or reuse and a minimum of  
3 sixty percent of the processed carpet material by weight is recycled or  
4 reused.

5 (8) The carpet stewardship organization administering a product  
6 stewardship program shall notify the department within thirty days  
7 after instituting a change that affects any part of requirements in  
8 subsection (4) of this section to an approved product stewardship  
9 program.

10 NEW SECTION. **Sec. 4.** (1) The department may adopt rules necessary  
11 to implement, administer, and enforce this chapter.

12 (2) The department or its designee may inspect or review audits of  
13 carpet stewardship organizations or of carpet processing and recycling  
14 facilities used to fulfill the requirements of a product stewardship  
15 program.

16 NEW SECTION. **Sec. 5.** (1) Within sixty days after receiving a  
17 product stewardship program plan for approval, the department shall  
18 review the program, determine whether the program complies with the  
19 requirements of this chapter, and notify the carpet stewardship  
20 organization of its decision to approve or not approve the program.

21 (2) A product stewardship program may not be approved if the  
22 department determines that the program will have the effect of reducing  
23 the level of recycling of discarded carpet that has been achieved since  
24 the effective date of this section or if the product stewardship  
25 program does not meet program elements as required in section 3 of this  
26 act.

27 (3) The department shall describe the reasons for its decision to  
28 not approve a product stewardship program in the notice to a carpet  
29 stewardship organization. The carpet stewardship organization shall  
30 revise and resubmit the product stewardship program within sixty days  
31 after receiving notice that the program was not approved. The  
32 department shall review and approve or not approve the revised product  
33 stewardship program within sixty days after receipt.

34 (4) On and after July 1, 2014, a product stewardship program not  
35 approved by the department is not in compliance with this chapter. The

1 department must list any producer relying on such a product stewardship  
2 program as noncompliant with the requirements of this chapter.

3 (5) The department must make all approved product stewardship  
4 programs and annual reports available for public review on the  
5 department's web site and at the department's headquarters. By July 1,  
6 2014, and no later than July 1st annually thereafter, the department  
7 shall post a notice on its web site listing producers that are and are  
8 not in compliance with this chapter.

9 (6) The decision of the department to approve or to not approve a  
10 product stewardship program under this section is appealable to the  
11 pollution control hearings board as provided in RCW 43.21B.130.

12 NEW SECTION. **Sec. 6.** (1) Beginning July 1, 2015, and each year  
13 thereafter, a carpet stewardship organization must submit to the  
14 department an annual report describing its activities to achieve the  
15 purposes of this chapter.

16 (2) The report must demonstrate that the carpet stewardship  
17 organization's product stewardship program has met the performance  
18 goals of the program including achieving continuous meaningful  
19 improvement in the rate of recycling discarded carpet subject to the  
20 program. Further, the report must include all of the following:

21 (a) A description of how the product stewardship program has  
22 implemented all of its required elements, including collecting,  
23 transporting, processing, and recycling activities and how the program  
24 has been implemented throughout the state as required in section 3(4)  
25 and (6) of this act;

26 (b) The amount of carpet sold in the state, by square yards and  
27 weight in pounds, for residential and commercial carpet and provide an  
28 overall total, during the reporting period;

29 (c) The amount of discarded carpet recycled and reused, by weight  
30 in pounds, during the reporting period;

31 (d) The names and locations of carpet processing and recycling  
32 facilities used by the product stewardship program and recycled and  
33 reused end uses of collected carpet by weight, during the reporting  
34 period;

35 (e) The amount of discarded carpet collected but not recycled or  
36 reused, by weight, and its ultimate disposition;



1 (f) The total cost of implementing the product stewardship program  
2 and an evaluation of the funding mechanism;

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

6 (h) Examples of educational materials that were provided to  
7 consumers, commercial building owners, carpet installation contractors,  
8 and retailers during the reporting period and a summary of outreach  
9 efforts, including timeline and frequency; and

10 (i) A summary of public comments received regarding the product  
11 stewardship program and response to those comments.

12 (3) Proprietary information submitted to the department under this  
13 chapter is exempt from public disclosure.

14 NEW SECTION. **Sec. 7.** (1) Beginning March 1, 2012, a producer that  
15 offers carpet for sale in this state, but is not participating in a  
16 carpet stewardship organization, is not in compliance with this  
17 chapter.

18 (2) No producer may sell or offer for sale carpet in or into the  
19 state unless the producer of the carpet is participating in an approved  
20 product stewardship program. The department shall send a written  
21 warning and a copy of this chapter and any rules adopted to implement  
22 this chapter to a producer that is not participating in an approved  
23 program. The written warning must inform the producer that it must  
24 participate in an approved program within thirty days of the notice.

25 (3) A producer that is not listed on the department's internet web  
26 site as required in section 5(5) of this act, but demonstrates to the  
27 satisfaction of the department that the producer is in compliance with  
28 this chapter before the next notice is required to be posted, may  
29 request a certification letter from the department stating that the  
30 producer is in compliance with this chapter. The letter constitutes  
31 proof of compliance with this chapter.

32 (4) No one may distribute or sell carpet in or into the state from  
33 producers who are not in compliance with this chapter. In-state  
34 wholesalers, distributors, and retailers who have: (a) Possession of  
35 carpet on the date that restrictions on the sale of carpet become  
36 effective may exhaust their existing stock through sales; and (b)

1 specified and bid for a project prior to the effective date of this  
2 section or prior to the date a producer has been determined to be out  
3 of compliance may complete the specified project.

4 (5) The department shall serve, or send with delivery confirmation,  
5 a written warning explaining the violation to any person known to be  
6 distributing or selling carpet in or into the state from producers who  
7 are not participating in a product stewardship program or who are not  
8 in compliance with this chapter and any rules adopted under this  
9 chapter.

10 NEW SECTION. **Sec. 8.** (1) Beginning January 1, 2013, and annually  
11 thereafter, the department shall establish an annual fee sufficient to  
12 cover the costs of administering and enforcing product stewardship  
13 programs under this chapter. The total amount of annual fees collected  
14 must not exceed the amount necessary to recover costs incurred by the  
15 department in connection with the administration, oversight, and  
16 enforcement of the requirements of this chapter. Any unspent money  
17 from the previous year must be retained in the carpet product  
18 stewardship account created in section 11 of this act and applied to  
19 reduce the payments by carpet stewardship organizations in the  
20 following year. The department shall establish a fee based on market  
21 share data provided by carpet stewardship organizations as required in  
22 section 3(2)(b) of this act.

23 (2) The department must estimate the annual fee for the period of  
24 July 1st through June 30th and notify the carpet stewardship  
25 organizations by March 1st of each year. The department must collect  
26 the annual fee from the carpet stewardship organizations by June 30th.

27 NEW SECTION. **Sec. 9.** Any person acquiring a producer, or who has  
28 acquired a producer, has all responsibility for the acquired producer's  
29 carpet, including carpet manufactured prior to July 1, 2011, unless  
30 that responsibility remains with another entity under the purchase  
31 agreement. The acquiring producer must provide the department a letter  
32 from the entity that accepts responsibility for the carpet. Cobranding  
33 producers may negotiate with retailers for responsibility for those  
34 products and must notify the department of the results of their  
35 negotiations.

1        NEW SECTION.    **Sec. 10.** 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 such service itself or by  
6 contract under RCW 81.77.020.

7        NEW SECTION.    **Sec. 11.** The carpet product stewardship account is  
8 created in the state treasury. All receipts received by the department  
9 from producers and carpet stewardship organizations must be deposited  
10 in the account. Expenditures from the account may be used by the  
11 department only for administering and implementing product stewardship  
12 programs. Moneys in the account may be spent only after appropriation.

13        **Sec. 12.** RCW 43.21B.110 and 2010 c 210 s 7 and 2010 c 84 s 2 are  
14 each reenacted and amended to read as follows:

15        (1) The hearings board shall only have jurisdiction to hear and  
16 decide appeals from the following decisions of the department, the  
17 director, local conservation districts, the air pollution control  
18 boards or authorities as established pursuant to chapter 70.94 RCW,  
19 local health departments, the department of natural resources, the  
20 department of fish and wildlife, and the parks and recreation  
21 commission:

22        (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,  
23 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,  
24 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

25        (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
26 43.27A.190, 70.94.211, 70.94.332, section 5 of this act, 70.105.095,  
27 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

30        (d) Except as provided in RCW 90.03.210(2), the issuance,  
31 modification, or termination of any permit, certificate, or license by  
32 the department or any air authority in the exercise of its  
33 jurisdiction, including the issuance or termination of a waste disposal  
34 permit, the denial of an application for a waste disposal permit, the  
35 modification of the conditions or the terms of a waste disposal permit,

1 or a decision to approve or deny an application for a solid waste  
2 permit exemption under RCW 70.95.300.

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

5 (f) Decisions of local health departments regarding the issuance  
6 and enforcement of permits to use or dispose of biosolids under RCW  
7 70.95J.080.

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

11 (h) Decisions of local conservation districts related to the denial  
12 of approval or denial of certification of a dairy nutrient management  
13 plan; conditions contained in a plan; application of any dairy nutrient  
14 management practices, standards, methods, and technologies to a  
15 particular dairy farm; and failure to adhere to the plan review and  
16 approval timelines in RCW 90.64.026.

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

20 (j) Decisions of the department of natural resources, the  
21 department of fish and wildlife, and the department that are reviewable  
22 under chapter 76.09 RCW, and the department of natural resources'  
23 appeals of county, city, or town objections under RCW 76.09.050(7).

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

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

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

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

35 (2) The following hearings shall not be conducted by the hearings  
36 board:

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

1 (b) Hearings conducted by the department pursuant to RCW 70.94.332,  
2 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

3 (c) Appeals of decisions by the department under RCW 90.03.110 and  
4 90.44.220.

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

7 ~~((e) Appeals of decisions by the department as provided in chapter  
8 43.21B RCW.))~~

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

12 **Sec. 13.** RCW 43.21B.110 and 2010 c 210 s 8 and 2010 c 84 s 3 are  
13 each reenacted and amended to read as follows:

14 (1) The hearings board shall only have jurisdiction to hear and  
15 decide appeals from the following decisions of the department, the  
16 director, local conservation districts, the air pollution control  
17 boards or authorities as established pursuant to chapter 70.94 RCW,  
18 local health departments, the department of natural resources, the  
19 department of fish and wildlife, and the parks and recreation  
20 commission:

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22 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,  
23 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

24 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
25 43.27A.190, 70.94.211, 70.94.332, section 5 of this act, 70.105.095,  
26 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

27 (c) Except as provided in RCW 90.03.210(2), the issuance,  
28 modification, or termination of any permit, certificate, or license by  
29 the department or any air authority in the exercise of its  
30 jurisdiction, including the issuance or termination of a waste disposal  
31 permit, the denial of an application for a waste disposal permit, the  
32 modification of the conditions or the terms of a waste disposal permit,  
33 or a decision to approve or deny an application for a solid waste  
34 permit exemption under RCW 70.95.300.

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

1 (e) Decisions of local health departments regarding the issuance  
2 and enforcement of permits to use or dispose of biosolids under RCW  
3 70.95J.080.

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

7 (g) Decisions of local conservation districts related to the denial  
8 of approval or denial of certification of a dairy nutrient management  
9 plan; conditions contained in a plan; application of any dairy nutrient  
10 management practices, standards, methods, and technologies to a  
11 particular dairy farm; and failure to adhere to the plan review and  
12 approval timelines in RCW 90.64.026.

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

16 (i) Decisions of the department of natural resources, the  
17 department of fish and wildlife, and the department that are reviewable  
18 under chapter 76.09 RCW, and the department of natural resources'  
19 appeals of county, city, or town objections under RCW 76.09.050(7).

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

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

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

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

31 (2) The following hearings shall not be conducted by the hearings  
32 board:

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

35 (b) Hearings conducted by the department pursuant to RCW 70.94.332,  
36 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

37 (c) Appeals of decisions by the department under RCW 90.03.110 and  
38 90.44.220.

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

3 ~~((e) Appeals of decisions by the department as provided in chapter  
4 43.211 RCW.))~~

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

8 NEW SECTION. **Sec. 14.** By December 1, 2016, the department shall  
9 report to the appropriate committees of the legislature concerning the  
10 status of adoption and implementation of product stewardship programs  
11 and recommendations for revisions to improve the rate of carpet  
12 recycling and other goals of this chapter.

13 NEW SECTION. **Sec. 15.** If any provision of this act or its  
14 application to any person or circumstance is held invalid, the  
15 remainder of the act or the application of the provision to other  
16 persons or circumstances is not affected.

17 NEW SECTION. **Sec. 16.** Section 12 of this act expires June 30,  
18 2019.

19 NEW SECTION. **Sec. 17.** Section 13 of this act takes effect June  
20 30, 2019.

21 NEW SECTION. **Sec. 18.** A new section is added to chapter 42.56 RCW  
22 to read as follows:

23 Proprietary data submitted to the department of ecology under  
24 section 7(3) of this act is exempt from disclosure under this chapter.

25 NEW SECTION. **Sec. 19.** Sections 1 through 11 and 14 of this act  
26 constitute a new chapter in Title 70 RCW.

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