
SUBSTITUTE HOUSE BILL 2450

State of Washington 62nd Legislature 2012 Regular Session

By House Environment (originally sponsored by Representatives Tharinger, Wylie, Zeiger, Lytton, Fitzgibbon, Upthegrove, Pollet, Ormsby, Kenney, and Moscoso)

READ FIRST TIME 01/31/12.

1 AN ACT Relating to adopting the Washington small rechargeable
2 battery stewardship act; reenacting and amending RCW 43.21B.110 and
3 43.21B.110; adding a new chapter to Title 70 RCW; creating a new
4 section; prescribing penalties; providing an effective date; and
5 providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds and declares that
8 it is in the public interest of the citizens of Washington to encourage
9 the recovery and reuse of materials, such as metals, that replace the
10 output of mining and other extractive industries; that it is desirable
11 to reduce the volume of the solid waste stream and resulting burdens on
12 municipalities and to ensure the proper handling of used small
13 rechargeable batteries; that it is important to ensure that all
14 entities supplying small rechargeable batteries to residents of
15 Washington, whether as stand alone units or as easily removable
16 components of products, bear the same battery stewardship obligations;
17 and that addressing certain existing and future barriers to
18 implementation of voluntary industry programs to collect and recycle
19 used small rechargeable batteries will facilitate these interests.

1 (2) Therefore, for these reasons, it is the intent of the
2 legislature to create a small rechargeable battery stewardship program.

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

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

6 (2) "Easily removable" means readily detachable by a consumer
7 without the use of tools or with the use of common household tools.

8 (3) "Free rider used small rechargeable battery" means a used small
9 rechargeable battery that section 3 of this act requires be covered by
10 a qualified used small battery stewardship program but as to which no
11 manufacturer or marketer of the battery operated or participated in a
12 qualified program at the time the used battery was collected.

13 (4) "Participate" means to appoint an organization to act as an
14 agent to administer a qualified used small rechargeable battery
15 stewardship program and to have that appointment accepted by the
16 qualified program.

17 (5) "Place of business" means a location at which a retailer sells
18 or offers for sale small rechargeable batteries or portable
19 rechargeable products to consumers.

20 (6) "Portable rechargeable product" means a product that is
21 packaged with or contains one or more easily removable small
22 rechargeable batteries at the time of sale or offering for sale and is
23 not a medical device.

24 (7) "Portable rechargeable product manufacturer or marketer" means
25 every person, firm, or corporation that: (a) Produces portable
26 rechargeable products sold, offered for sale, or distributed in
27 Washington under a brand name it owns or licenses that are packaged
28 with or contain one or more easily removable small rechargeable
29 batteries; (b) packages or arranges for the packaging of products
30 packaged with or containing one or more easily removable small
31 rechargeable batteries at the time of sale in Washington under a brand
32 name it owns or licenses; (c) imports into the United States products
33 packaged with or containing one or more easily removable small
34 rechargeable batteries at the time of sale, offering for sale or
35 distribution that are sold, offered for sale, or distributed in
36 Washington under a brand name it owns or licenses; or (d) otherwise

1 makes available to retail or internet purchasers in Washington portable
2 rechargeable products.

3 (8) "Private label retailer" means a retailer who sells small
4 rechargeable batteries under one or more brand names it owns or
5 licenses.

6 (9) "Retailer" means a person or other entity who sells or offers
7 to sell small rechargeable batteries, or portable rechargeable
8 products, at retail through any means including, but not limited to,
9 remote offerings such as sales outlets, catalogs, or the internet, but
10 does not include any sale that is a wholesale transaction with a
11 distributor or manufacturer.

12 (10) "Qualified used small rechargeable battery stewardship
13 program" or "qualified program" means a program for the collection,
14 transportation, recycling, and disposal of used small rechargeable
15 batteries that has been certified under section 4 of this act to meet
16 the requirements set forth in section 4(2) of this act.

17 (11) "Small nonrechargeable battery" means a battery weighing less
18 than eleven pounds that is not designed to be recharged for repeated
19 use.

20 (12) "Small nonrechargeable battery manufacturer or marketer" means
21 a person who: (a) Produces small nonrechargeable batteries sold,
22 offered for sale, or distributed in Washington under a brand name it
23 owns or licenses; (b) packages or arranges for the packaging of small
24 nonrechargeable batteries for sale, offering for sale, or distribution
25 in Washington under a brand name it owns or licenses; (c) imports into
26 the United States small nonrechargeable batteries that are sold,
27 offered for sale, or distributed in Washington under a brand name it
28 owns or licenses; or (d) otherwise makes available to purchasers in
29 Washington small nonrechargeable batteries, whether as stand alone
30 items or as components of products.

31 (13) "Small rechargeable battery" means one or more voltaic or
32 galvanic cells, electrically connected to produce electric energy and
33 designed to be recharged and weighing less than eleven pounds, or an
34 assembly of small rechargeable batteries in a container that has a
35 single positive and negative connection (commonly known as a battery
36 pack) that weighs less than eleven pounds, but does not include: (a)
37 A battery that is not easily removable or is not intended or designed
38 to be removed from the product, other than by the manufacturer; (b) a

1 battery or battery pack used to start an internal combustion engine or
2 as the principal or supplemental electric power source for a vehicle
3 such as, but not limited to, an automobile, bicycle, boat, truck,
4 tractor, golf cart, or wheelchair; (c) a battery or battery pack
5 designed for use by a commercial, industrial, or institutional facility
6 for load leveling or storage of electricity generated by an alternative
7 power source, such as solar or wind driven generators; or (d) a battery
8 or battery pack designed for use by a commercial, industrial, or
9 institutional facility as a backup power source for memory or program
10 instruction storage or timekeeping.

11 (14) "Small rechargeable battery manufacturer or marketer" means
12 every person, firm, or corporation that: (a) Produces small
13 rechargeable batteries sold, offered for sale, or distributed in
14 Washington under a brand name it owns or licenses; (b) packages or
15 arranges for the packaging of small rechargeable batteries for sale,
16 offering for sale, or distribution in Washington under a brand name it
17 owns or licenses; (c) imports into the United States small rechargeable
18 batteries that are sold, offered for sale, or distributed in Washington
19 under a brand name it owns or licenses; (d) is a private label
20 retailer; or (e) otherwise makes available to retail or internet
21 purchasers in Washington small rechargeable batteries, whether as stand
22 alone items or otherwise.

23 NEW SECTION. **Sec. 3.** No later than one hundred eighty days after
24 the effective date of this section, each small rechargeable battery
25 manufacturer or marketer, including private label retailers, and each
26 portable rechargeable product manufacturer or marketer that has a
27 reasonable basis to know that either the batteries or the products, or
28 both, that it manufactures are being sold or offered for sale in
29 Washington by retailers, shall operate a qualified program or
30 participate in a qualified program operated by another entity unless:

31 (1) The manufacturer, marketer, or private label retailer is
32 participating in a program under section 10 of this act; or

33 (2) The supplier of each of the small rechargeable batteries or
34 portable rechargeable products it makes available to retailers or
35 internet customers in Washington has provided for the collection and
36 reclamation of that battery or the battery in the product through the
37 supplier's or another entity's participation in a qualified program.

1 NEW SECTION. **Sec. 4.** (1) Any entity seeking to have a used small
2 rechargeable battery stewardship program certified as a qualified
3 program must submit a plan for that program to the department for
4 review no later than one hundred twenty days prior to the date the
5 entity intends to operate the program as a qualified program. The
6 department shall acknowledge receipt of the submission within fourteen
7 days and state in that acknowledgment whether the plan submission
8 appears, on its face, to include all of the elements required by
9 subsection (2) of this section.

10 (2) Within ninety days of acknowledging receipt of a plan submitted
11 under subsection (1) of this section, the department shall certify any
12 submitted used small rechargeable battery stewardship program as a
13 qualified program if:

14 (a) The submission was accompanied by a fee of five thousand
15 dollars, payable to the used battery stewardship account created in
16 section 8 of this act;

17 (b) All return acceptance, recycling, and other handling services,
18 including postcollection transportation, are provided free to
19 consumers;

20 (c) The submitting entity has provided to the department and
21 committed to the department to post on the internet, promptly upon
22 receipt of notice that the program is a qualified program, a written
23 program plan that includes the following information: (i) The name,
24 address, and contact information for the operator of the qualified
25 program; (ii) contact information for all participating small
26 rechargeable battery manufacturers or marketers, portable rechargeable
27 product manufacturers or marketers, and all other such manufacturers or
28 marketers whose responsibilities under this chapter are fulfilled by
29 virtue of participation in the qualified program of another
30 manufacturer or marketer; (iii) a description of the qualified program,
31 including but not limited to an identification of all facilities that
32 will be used through final disposition for sorting and reclamation of
33 all used small rechargeable batteries collected; (iv) a certification
34 that all used small rechargeable batteries being collected will be
35 handled in compliance with all applicable laws and regulations and will
36 be sent for reclamation to lawfully permitted facilities; and (v)
37 locations to which Washington residents can take used small
38 rechargeable batteries;

1 (d) The program does not require a retailer to accept more than
2 five used rechargeable batteries from a person on a single day;

3 (e) Unless the program is operated by a small rechargeable battery
4 manufacturer or marketer or portable rechargeable product manufacturer
5 or marketer who limits its program solely to accepting batteries or
6 products bearing its own brand, the program provides for the recycling
7 of all used small rechargeable batteries, regardless of:

8 (i) Brand or other information displayed on the collected used
9 small rechargeable batteries; or

10 (ii) When or by whom the used small rechargeable batteries were put
11 into the marketplace; and

12 (f) The program includes, at a minimum, the following elements:

13 (i) Education and outreach activities to maximize collections;

14 (ii) Participation as either a multijurisdictional program that
15 collects used small rechargeable batteries and has collected in
16 Washington at least one hundred thousand pounds of these batteries in
17 the last twelve months and does so in each year thereafter, or
18 participates as a single jurisdiction program that collects at least
19 one hundred thousand pounds of used small rechargeable batteries in
20 Washington in its first year of operation in Washington and each year
21 thereafter;

22 (iii)(A) Retailer collection of used small rechargeable batteries
23 at multiple locations; (B) collection of used small rechargeable
24 batteries from governmental collection facilities; (C) the provision of
25 at least one used small rechargeable battery collection location in
26 each county in the state; and (D) the provision of one collection site
27 for each city or town with a population greater than ten thousand,
28 which may be the same as the location in a county; and

29 (iv) Identification of all sorting and reclamation facilities used
30 in the program through final disposition, which must be properly
31 permitted and comply with all pertinent laws and regulations and be
32 audited regularly, with copies of the facility audit reports available
33 to the public upon request.

34 (3) The department must not certify a plan if a solid waste
35 collection company operating under a certificate granted under chapter
36 81.77 RCW or under contract with a municipal corporation is providing
37 a substantially similar service within the same territory as that
38 proposed in the plan.

1 (4) If the department fails to notify the entity submitting the
2 program plan within the time limit established in subsection (1) of
3 this section that the plan for the program appears or does not appear,
4 on its face, to include all requirements of subsection (2) of this
5 section, or to notify the entity submitting the program plan within the
6 time limit established in subsection (2) of this section that the
7 program is certified or that the certification is denied, the program
8 is considered to be certified as a qualified program. In the event
9 that the department notifies the entity submitting the program plan
10 within the time limits established in subsection (1) or (2) of this
11 section that the program is deficient, the department shall notify the
12 plan submitter of the deficiencies and allow a reasonable period of not
13 less than thirty days for resubmission of the program plan. A program
14 plan resubmitted during that resubmission period is not required to pay
15 an additional fee under subsection (2)(a) of this section.

16 (5) Promptly upon certification of a qualified program, or upon
17 qualification in accordance with subsection (4) of this section, the
18 submitter of a qualified program shall post on the internet the written
19 program plan described in subsection (2)(c) of this section. By March
20 1st of the year following certification of a qualified program, and of
21 every year thereafter until the program is terminated, the operator of
22 a qualified program shall pay to the used battery stewardship account
23 established under section 8 of this act an annual fee of five thousand
24 dollars and shall make available on the internet and provide to the
25 department at such address as the department may direct a report: (a)
26 Describing its funding, collections, outreach efforts, and recycling
27 success; (b) identifying the small rechargeable battery manufacturers
28 and marketers, including private label retailers, and portable
29 rechargeable product manufacturers and marketers who participate in it;
30 and (c) describing the mechanisms employed and identifying entities
31 involved in the final disposition of collected materials, except that
32 if a qualified program operating in Washington is part of a program
33 that also operates in jurisdictions outside of Washington, the funding
34 information need not be reported on a Washington-specific basis.

35 (6) The department shall maintain on the internet a list of all
36 qualified programs, including a link to the qualified programs'
37 internet web sites.

1 (7)(a) A qualified program plan may be amended by submission to the
2 department of a revised version of the qualified program plan showing
3 proposed amendments and an administrative fee of five hundred dollars.
4 Plans must be updated as needed when there are changes to the qualified
5 program. A new plan or plan amendment must be submitted to the
6 department for approval when: (i) There is an addition to the products
7 covered under the qualified program; or (ii) there is a significant
8 change in the operation of the program.

9 (b) Within sixty days of receipt of an amendment to a qualified
10 program plan, the department shall acknowledge that the amended program
11 remains a qualified program, if the amended program plan continues to
12 meet the requirements of subsection (2) of this section, or shall
13 inform the submitter with specificity of any deficiencies and allow a
14 reasonable period for submission of revised amendments. Unless, within
15 sixty days of submission of the further revised version of the
16 qualified program, the department notifies the submitter with
17 specificity of a continuing failure to meet the requirements of
18 subsection (2) of this section, the revised plan is thereafter a
19 qualified program plan. If at either the submission or resubmission
20 stage the department informs the submitter of deficiencies, the
21 unamended qualified program plan remains effective unless the qualified
22 program plan is terminated by its operator.

23 (8) A qualified program may be terminated by its operator at any
24 time after the operator gives six months' notice to program
25 participants of the termination date.

26 NEW SECTION. **Sec. 5.** (1) If a governmental entity that operates,
27 contracts for, establishes minimum requirements for, or supervises a
28 location at which residents may drop off materials for recycling agrees
29 with the operator of a qualified program on the terms of the qualified
30 program's support for the collection of used small rechargeable
31 batteries and for segregation of those batteries from other collected
32 materials into containers provided by the qualified program, the
33 qualified program shall provide appropriate containers and make any
34 mutually agreed upon payments.

35 (2) If a governmental entity that operates, contracts for,
36 establishes minimum requirements for, or supervises the operation of a
37 curbside collection program that includes used small rechargeable

1 batteries agrees with the operator of a qualified program on the terms
2 of the qualified program's support for those activities, the qualified
3 program shall provide to the consolidation facilities supporting that
4 curbside collection program containers for use in sorting and shipping
5 those used small rechargeable batteries and make any mutually agreed
6 upon payments.

7 NEW SECTION. **Sec. 6.** (1) Beginning one year after the effective
8 date of this section, no retailer may sell or offer for sale in
9 Washington a small rechargeable battery unless it is marked with an
10 identification of the small rechargeable battery manufacturer or
11 marketer.

12 (2) Beginning one year after the effective date of this section, no
13 retailer may sell or offer for sale in Washington a portable
14 rechargeable product unless the battery packaged with or contained in
15 the portable rechargeable product is marked with an identification of
16 the battery manufacturer or marketer.

17 (3) No retailer having a place of business in Washington shall be
18 obliged to participate in a qualified used small rechargeable battery
19 stewardship program unless it is a private label retailer. Any private
20 label retailer who does not operate a program that meets the
21 requirements of section 4(2)(d) of this act or is not participating in
22 another qualified program shall cooperate with an operator of a
23 qualified program who requests such cooperation by displaying a
24 collection container provided by the operator and otherwise complying
25 with that program, without requiring payment by the qualified program.

26 (4) Retailers that sell or offer to sell small rechargeable
27 batteries or portable rechargeable products to consumers in Washington,
28 whether through places of business or through nonretail outlets such as
29 catalogs, by mail, telephone, or the internet, shall inform consumers
30 with visible signage or equivalent alternative mechanisms of qualified
31 programs that provide opportunities to return used small rechargeable
32 batteries for recycling in Washington.

33 (5) Any retailer that has a physical presence in Washington and is
34 cooperating with a qualified program:

35 (a) Shall ensure that all used batteries placed in any collection
36 container located at the retailer's facility are protected from short
37 circuiting in accordance with the instructions of the operator of the

1 program, and shall take reasonable steps to prevent the placement into
2 any such container of materials other than properly protected used
3 small rechargeable batteries; and

4 (b) May require the operator of a qualified program to pay the
5 retailer for the reasonable cost of cooperating with the plan if the
6 qualified program does not provide all unique materials associated with
7 its implementation to the retailer, at no cost to the retailer, or the
8 qualified program fails to provide a mechanism for the reasonable and
9 timely collection and transportation of collected used small
10 rechargeable batteries from the locations at which the operator of the
11 qualified program has requested the retailer's cooperation.

12 (6) Except as provided in subsection (5)(b) of this section, a
13 retailer may not require the operator of a qualified program to pay the
14 retailer for the cost of cooperating with that program.

15 (7) An operator of a qualified program may not require a retailer
16 to pay a fee to participate in that operator's program.

17 (8) Any person who provides to a retailer a small rechargeable
18 battery or portable rechargeable product whose manufacturer or marketer
19 is not in compliance with section 3 of this act shall, upon request by
20 the retailer, designate a location to which the retailer may ship the
21 battery or product for further handling and reimburse the retailer for
22 all costs incurred by the retailer in shipping the battery or product
23 to the designated location.

24 NEW SECTION. **Sec. 7.** All activities undertaken by any qualified
25 program or a participant in such a program to establish and operate the
26 program, to coordinate that program with a program to collect used
27 electronic waste under electronic product recycling act, chapter 70.95N
28 RCW, or to coordinate with or participate in a program described in
29 section 10 of this act, shall not be considered to violate the unfair
30 business practices--consumer protection act, chapter 19.86 RCW.

31 NEW SECTION. **Sec. 8.** (1) Any person who violates section 3 or 10
32 of this act shall be liable for a civil penalty recoverable in a
33 proceeding before the department in the amount of five thousand dollars
34 for the first violation, ten thousand dollars for the second violation,
35 and fifty thousand dollars for the third or subsequent violation. Any

1 person who violates section 6 of this act is liable for a civil penalty
2 recoverable in a proceeding before the department in the amount of one
3 thousand dollars.

4 (2) At least ninety days prior to seeking to assess any penalty
5 authorized by subsection (1) of this section, the department shall
6 notify the alleged violator of the department's intention to seek a
7 penalty. The department may reduce or provide relief from any penalty
8 recoverable under subsection (1) of this section if, within the ninety
9 days of receipt of such a notice, the recipient has come into
10 compliance with this chapter. Any person that incurs a penalty under
11 this chapter may appeal the penalty to the pollution control hearings
12 board created under chapter 43.21B RCW.

13 (3) The used battery stewardship account is created in the custody
14 of the state treasurer. All receipts from payments made under section
15 4 (2) and (5) of this act and penalties levied under this chapter must
16 be deposited into the account. Expenditures from the account may be
17 used solely by the department for the purposes of fulfilling department
18 responsibilities specified in this chapter. Funds in the account may
19 not be diverted for any purpose or activity other than those specified
20 in this section. Only the director of the department or the director's
21 designee may authorize expenditures from the account. The account is
22 subject to allotment procedures under chapter 43.88 RCW, but an
23 appropriation is not required for expenditures.

24 NEW SECTION. **Sec. 9.** (1) The operator of a qualified used small
25 rechargeable battery stewardship program that incurs costs in excess of
26 five thousand dollars in collecting, handling, recycling, or properly
27 disposing in Washington of free rider used small rechargeable batteries
28 originating from a small rechargeable battery manufacturer or marketer
29 or portable rechargeable product manufacturer or marketer who: (a) Was
30 required by section 3 of this act to operate or participate in a
31 qualified program, did not at the time the used battery was collected
32 participate in a qualified program and was not covered by the
33 participation by another manufacturer in a qualified program; and (b)
34 can reasonably be identified from a brand or marking on a used small
35 rechargeable battery or other information, may bring a civil action or
36 actions to recover costs, damages, and fees specified in subsection (2)
37 of this section, and if successful must be awarded such amounts.

1 (2) In an action brought pursuant to subsection (1) of this
2 section, the plaintiff operator of a qualified program shall recover
3 from the defendant small rechargeable battery manufacturer or marketer
4 or portable rechargeable product manufacturer or marketer the costs the
5 plaintiff incurred in collecting, handling, recycling, or properly
6 disposing of free rider used small rechargeable batteries reasonably
7 identified as having originated from the defendant small rechargeable
8 battery manufacturer or marketer or portable rechargeable product
9 manufacturer or marketer, plus an amount of damages equal to no less
10 than three times those costs, plus the plaintiff's attorneys' fees and
11 costs of litigation.

12 (3) An action to recover the costs specified in this section may be
13 brought in any court in the state, without regard to the amount in
14 dispute.

15 (4) Nothing in this section requires the operator of a qualified
16 program to make its program available through any retailer or other
17 entity.

18 NEW SECTION. **Sec. 10.** Any entity that operates a statewide or
19 national program for the stewardship of multiple brands of used small
20 nonrechargeable batteries on behalf of more than one nonrechargeable
21 battery manufacturer or retailer shall provide to all small
22 rechargeable battery manufacturers and marketers and portable
23 rechargeable product manufacturers and marketers subject to this
24 chapter the opportunity to participate in that entity's program. Such
25 an entity may impose on the small rechargeable battery manufacturer or
26 marketer or portable rechargeable product manufacturer or marketer fees
27 no greater than the share of the total cost of the program of
28 collecting, handling, and processing small rechargeable batteries that
29 is equal to a reasonable estimate of the percentage that represents the
30 share of sales of small rechargeable batteries sold in Washington for
31 which the small rechargeable battery manufacturer or portable
32 rechargeable product manufacturer would be responsible under section 3
33 of this act, compared to the total number of small rechargeable
34 batteries sold in Washington as either individual units or in portable
35 rechargeable products. Any small rechargeable battery manufacturer or
36 marketer or portable product manufacturer or marketer who participates
37 in such a program is deemed to be in compliance with this chapter.

1 NEW SECTION. **Sec. 11.** This chapter is void if a federal law, or
2 a combination of federal laws, takes effect that establishes a national
3 program for the collection and recycling of both used small
4 nonrechargeable batteries and used small rechargeable batteries.

5 NEW SECTION. **Sec. 12.** This chapter may be known and cited as the
6 "Washington small rechargeable battery stewardship act."

7 NEW SECTION. **Sec. 13.** Sections 2 through 12 and 16 of this act
8 constitute a new chapter in Title 70 RCW.

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

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

18 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
19 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
20 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

21 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
22 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
23 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

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

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

1 (f) 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 (g) 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 (h) 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 (i) 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 (j) 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 (k) Forest health hazard orders issued by the commissioner of
21 public lands under RCW 76.06.180.

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

27 (n) 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 (o) Appeals of decisions of the department under chapter 70.--- RCW
32 (the new chapter created in section 13 of this act).

33 (2) The following hearings shall not be conducted by the hearings
34 board:

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

37 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
38 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

1 (c) Appeals of decisions by the department under RCW 90.03.110 and
2 90.44.220.

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

5 ~~((e) Appeals of decisions by the department as provided in chapter
6 43.21B RCW.))~~

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

10 **Sec. 15.** RCW 43.21B.110 and 2010 c 210 s 8 and 2010 c 84 s 3 are
11 each reenacted and amended to read as follows:

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

19 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
20 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
21 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

22 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
23 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
24 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

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

35 (e) Decisions of local health departments regarding the issuance
36 and enforcement of permits to use or dispose of biosolids under RCW
37 70.95J.080.

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

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

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

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

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

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

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

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

28 (n) Appeals of decisions of the department under chapter 70.--- RCW
29 (the new chapter created in section 13 of this act).

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

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

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

36 (c) Appeals of decisions by the department under RCW 90.03.110 and
37 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. 16.** Nothing in this chapter alters or limits
9 the authority of the utilities and transportation commission to
10 regulate collection of solid waste, including curbside collection of
11 residential recyclable materials, nor does this chapter alter or limit
12 the authority of a city or town to provide such services itself or by
13 contract under RCW 81.77.020.

14 NEW SECTION. **Sec. 17.** Section 14 of this act expires June 30,
15 2019.

16 NEW SECTION. **Sec. 18.** Section 15 of this act takes effect June
17 30, 2019.

18 NEW SECTION. **Sec. 19.** If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 remainder of the act or the application of the provision to other
21 persons or circumstances is not affected.

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