

# B-Engrossed House Bill 2048

Ordered by the House June 26  
Including House Amendments dated April 15 and June 26

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Department of Environmental Quality)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Extends]* **Repeals** sunset on architectural paint stewardship *[pilot]* program. Modifies provisions related to architectural paint stewardship *[pilot]* program participation.

Increases certain fees paid by architectural paint stewardship *[pilot]* program participants.

Establishes civil penalties for violations of certain provisions related to architectural paint stewardship *[pilot]* program.

Requires Director of Department of Environmental Quality to submit report regarding architectural paint stewardship *[pilot program]* **programs** to Legislative Assembly.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to paint stewardship; creating new provisions; amending ORS 459.995 and sections 2, 3, 4, 6, 7 and 9, chapter 777, Oregon Laws 2009; repealing sections 13 and 14, chapter 777, Oregon Laws 2009; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

## ARCHITECTURAL PAINT STEWARDSHIP PROGRAM

**SECTION 1.** Section 2, chapter 777, Oregon Laws 2009, is amended to read:

**Sec. 2.** As used in sections 1 to 10, **chapter 777, Oregon Laws 2009** *[of this 2009 Act]*:

(1)(a) "Architectural paint" means interior and exterior architectural coatings sold in containers of five gallons or less.

(b) "Architectural paint" does not mean industrial, original equipment or specialty coatings.

(2) "Architectural paint stewardship assessment" means the amount added to the purchase price of architectural paint sold in this state *[necessary]* to cover the cost of collecting, transporting and processing the post-consumer architectural paint managed through a statewide architectural paint stewardship *[pilot]* program.

(3) "**Cost per gallon**" means the total cost to a stewardship organization, including the amounts held in unallocated reserve funds, of an architectural paint stewardship program during a calendar year divided by the total number of gallons of post-consumer architectural paint collected during the same calendar year.

*[(3)]* (4) "Distributor" means a company that has a contractual relationship with one or more producers to market and sell architectural paint to retailers in this state.

*[(4)]* (5) "Energy recovery" means recovery in which all or a part of the solid waste materials

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 of architectural paint are processed to use the heat content or other forms of energy from the solid  
2 waste materials.

3 **(6) “Environmentally sound management practices” means policies and practices that are**  
4 **to be implemented by a stewardship organization, or by contractors working for a**  
5 **stewardship organization, to ensure compliance with all applicable laws related to the col-**  
6 **lection, storage, transportation, reuse, recycling and disposal of post-consumer architectural**  
7 **paint and that address:**

8 (a) Adequate record keeping;

9 (b) The tracking and documentation of the fate of post-consumer architectural paint  
10 within this state and outside this state; and

11 (c) Adequate environmental liability coverage for professional services and for the oper-  
12 ations of contractors working for a stewardship organization.

13 (7)(a) “Permanent collection site” means a collection site for post-consumer architectural  
14 paint at a fixed location with regular hours of operation.

15 (b) “Permanent collection site” does not mean collection events.

16 [(5)] (8) “Post-consumer architectural paint” means architectural paint not used and no longer  
17 wanted by its purchaser.

18 (9) “Premium service” means the curbside collection of post-consumer architectural  
19 paint by local governments as defined in ORS 174.116, a collection service franchise holder  
20 under ORS 459A.085 or any person authorized by a local government to provide collection  
21 service as defined in ORS 459.005 (3), which is included in rates for the curbside collection  
22 paid by the customers.

23 [(6)] (10) “Producer” means a person that manufactures architectural paint that is sold or of-  
24 fered for sale in this state.

25 [(7)(a)] (11)(a) “Recycling” means any process by which discarded products, components and  
26 by-products are transformed into new usable or marketable materials in a manner in which the  
27 products may lose their original composition.

28 (b) “Recycling” does not include energy recovery or energy generation by means of combusting  
29 discarded products, components and by-products with or without other waste products from post-  
30 consumer architectural paint.

31 (12) “Recycling rate” means the percentage of the total amount of latex post-consumer  
32 architectural paint collected by a stewardship organization in a calendar year that is recycled  
33 during the same calendar year.

34 [(8)] (13) “Retailer” means any person that sells or offers for sale architectural paint at retail  
35 in this state.

36 [(9)] (14) “Reuse” means the return of a product into the economic stream for use in the same  
37 kind of application intended for the use of the product, without a change in the product’s original  
38 composition **or packaging.**

39 [(10)] (15) “Sell” or “sale” means any transfer of title for consideration, including remote sales  
40 conducted through sales outlets, catalogs or the Internet or through any other similar electronic  
41 means.

42 [(11) “Sound management practices” means policies to be implemented by a producer or a  
43 stewardship organization to ensure compliance with all applicable laws and that address:]

44 [(a) Adequate record keeping;]

45 [(b) The tracking and documentation of the use, reuse or disposal of post-consumer architectural

1 *paint within this state and outside this state; and]*

2 *[(c) Adequate environmental liability coverage for professional services and for the operations of*  
3 *contractors working for producers or a stewardship organization.]*

4 *[(12)]* **(16)** “Stewardship organization” means a corporation, nonprofit organization or other legal  
5 entity created by a producer or group of producers to implement *[the]* **an** architectural paint  
6 stewardship *[pilot]* program **as** described in sections 1 to 10 *[of this 2009 Act]*, **chapter 777, Oregon**  
7 **Laws 2009.**

8 **SECTION 2.** Section 3, chapter 777, Oregon Laws 2009, is amended to read:

9 **Sec. 3.** (1) A producer or retailer may not sell or offer for sale architectural paint to any person  
10 in this state unless the producer is participating in *[a]* **an approved** statewide architectural paint  
11 stewardship *[pilot]* program organized by a stewardship organization. A retailer is in compliance  
12 with this *[section]* **subsection** if, on the date the architectural paint was ordered from the producer  
13 or its agent, the website maintained by the Department of Environmental Quality lists the producer,  
14 along with the producer’s product brand, as participating in an **approved** architectural paint  
15 stewardship *[pilot]* program.

16 (2)(a) *[At the time of sale to a consumer, a producer or retailer]* **A stewardship organization**  
17 **must provide retailers** selling or offering for sale architectural paint *[must provide the consumer]*  
18 with information on available *[end-of-product-life management options]* **collection opportunities for**  
19 **post-consumer architectural paint** offered through *[an]* **the organization’s** architectural paint  
20 stewardship *[pilot]* program.

21 **(b) A retailer that sells or offers for sale architectural paint must provide the informa-**  
22 **tion described in paragraph (a) of this subsection to the consumer at the time of sale.**

23 **SECTION 3.** Section 4, chapter 777, Oregon Laws 2009, is amended to read:

24 **Sec. 4.** (1) *[No later than March 1, 2010,]* A stewardship organization must submit a plan for a  
25 statewide architectural paint stewardship *[pilot]* program to the Director of the Department of En-  
26 vironmental Quality for approval **under section 6 of this 2013 Act. The plan must address the**  
27 **requirements set forth in subsections (2) and (4) of this section.**

28 (2) The plan must:

29 *[(a) Provide for convenient and available statewide collection of post-consumer architectural paint*  
30 *in urban and rural areas of this state;]*

31 *[(b) Identify each producer participating in the program and the brands of architectural paint sold*  
32 *by each producer; and]*

33 **(a) Specify educational and outreach activities and materials that promote the architec-**  
34 **tural paint stewardship program. Educational and outreach materials must include, but are**  
35 **not limited to, signage, written materials and templates of materials for reproduction by**  
36 **retailers to be provided to the consumer at the time of sale. The materials must:**

37 **(A) Identify collection opportunities for post-consumer architectural paint;**

38 **(B) Explain the architectural paint stewardship assessment described in this section; and**

39 **(C) Promote:**

40 **(i) A reduction in the generation of post-consumer architectural paint; and**

41 **(ii) The reuse, recovery and recycling of post-consumer architectural paint.**

42 **(b) Specify activities related to the establishment and maintenance of a convenient sys-**  
43 **tem for the collection of post-consumer architectural paint as described in section 4 of this**  
44 **2013 Act.**

45 **(c) Establish and provide for the development and implementation of goals to reduce the**

1 **generation of post-consumer architectural paint, including goals for:**

2 (A) Reducing the amount of post-consumer architectural paint that is generated in this  
3 state;

4 (B) Increasing the recycling rate for latex paint; and

5 (C) Increasing public awareness of the architectural paint stewardship program.

6 (d) Promote the reuse of post-consumer architectural paint.

7 (e) Undertake the responsibility of negotiating and executing contracts to collect, trans-  
8 port, recycle and process post-consumer architectural paint for end-of-product-life manage-  
9 ment that includes recycling, energy recovery and disposal.

10 (f) Describe how the end-of-product-life management of post-consumer architectural  
11 paint that is collected under the program will use environmentally sound management  
12 practices that are consistent with ORS 459.015 (2).

13 (g) Reflect compliance by the stewardship organization with section 3, chapter 777,  
14 Oregon Laws 2009.

15 (3) The director may exempt a stewardship organization from one or more of the activ-  
16 ities specified in subsection (2) of this section if the director determines that the activity is  
17 impracticable or is unlikely to further the provisions of sections 1 to 10, chapter 777, Oregon  
18 Laws 2009.

19 (4) In addition to the requirements specified in subsection (2) of this section, the plan  
20 must also:

21 (a) Identify each producer participating in the program.

22 (b) Identify the participating brands of architectural paint sold in this state.

23 (c) Identify the processors that manage the post-consumer architectural paint that is  
24 collected under the program.

25 (d) Identify the transporters of post-consumer architectural paint that is collected under  
26 the program.

27 (e) Include an anticipated annual operating budget for the program for the next four  
28 calendar years, beginning with the year in which the plan is submitted to the director, as  
29 described in subsection (5) of this section.

30 [(c)] (f) Include a funding mechanism whereby each architectural paint producer remits to the  
31 stewardship organization payment of an architectural paint stewardship assessment for each con-  
32 tainer of architectural paint the producer sells in this state. The architectural paint stewardship  
33 assessment must be added to the cost of all architectural paint sold to Oregon retailers and dis-  
34 tributors, and each Oregon retailer or distributor shall add the assessment to the purchase price of  
35 all architectural paint sold in this state. The architectural paint stewardship assessment may not  
36 be described as an Oregon recycling fee at the point of retail, and a fee may not be charged to the  
37 consumer at the point of collection of post-consumer architectural paint. To ensure that the funding  
38 mechanism is equitable and sustainable, a uniform architectural paint stewardship assessment must  
39 be established for all architectural paint sold in this state. The architectural paint stewardship as-  
40 sessment must be approved by the director as part of the plan and must be sufficient to recover, but  
41 not exceed, the costs of the architectural paint stewardship *[pilot]* program.

42 (5) The budget required under subsection (4) of this section shall include, but not be  
43 limited to, budget line items relating to:

44 (a) The development and implementation of the educational and outreach activities and  
45 materials required under subsection (2)(a) of this section and the provision of information

1 to retailers required under section 3, chapter 777, Oregon Laws 2009;

2 (b) The collection, transportation and processing of post-consumer architectural paint  
3 as part of the program;

4 (c) The administrative costs of the program to the stewardship organization;

5 (d) The anticipated amount of moneys that the stewardship organization will hold in un-  
6 allocated reserve funds for the program;

7 (e) The administrative fees paid to the Department of Environmental Quality under sec-  
8 tion 9, chapter 777, Oregon Laws 2009; and

9 (f) Any additional budgetary information requested by the director that is necessary for  
10 the director to approve the plan.

11 [(3) Beginning no later than July 1, 2010, or two months after the plan is approved under sub-  
12 section (1) of this section, whichever occurs first, the stewardship organization must:]

13 [(a) Implement an architectural paint stewardship pilot program described in the plan;]

14 [(b) Provide for the development and implementation of strategies to reduce the generation of post-  
15 consumer architectural paint; and]

16 [(c) Promote the reuse of post-consumer architectural paint and undertake the responsibility of ne-  
17 gotiating and executing contracts to collect, transport, recycle and process post-consumer architectural  
18 paint for end-of-product-life management that includes recycling, energy recovery and disposal using  
19 sound management practices.]

20 [(4) A stewardship organization shall promote the architectural paint stewardship pilot program  
21 and provide consumers with educational materials describing collection opportunities for post-consumer  
22 architectural paint and information promoting waste prevention, reuse and recycling. The educational  
23 materials must also make consumers aware that funding for the operation of the architectural paint  
24 stewardship pilot program has been added to the purchase price of all architectural paint sold in this  
25 state.]

26 **SECTION 4. (1) The convenient system for the collection of post-consumer architectural**  
27 **paint required under section 4 (2), chapter 777, Oregon Laws 2009, must ensure that:**

28 (a) One permanent collection site exists for every 30,000 residents in this state.

29 (b) Ninety-five percent of the residents in this state are within 15 miles of a permanent  
30 collection site.

31 (c) For those geographically underserved areas where the population is not within 15  
32 miles of a permanent collection site, at least one but no more than two collection events are  
33 held per year in each geographically underserved area.

34 (2) A stewardship organization is not required to comply with subsection (1)(b) of this  
35 section for a given geographic area if the stewardship organization is able to demonstrate  
36 that, after a good faith effort:

37 (a) The stewardship organization has been unable to identify an appropriate local gov-  
38 ernment as defined in ORS 174.116, collection service franchise holder under ORS 459A.085,  
39 person who provides collection service as defined in ORS 459.005 (3), or a retailer, in the ge-  
40 ographic area to coordinate with to establish a permanent collection site; or

41 (b) The stewardship organization cannot reach feasible, reasonable and mutually agree-  
42 able terms with the appropriate local government, collection service franchise holder, person  
43 who provides collection service, or a retailer, in the geographic area for participation in the  
44 program as a permanent collection site.

45 (3) A stewardship organization shall make a good faith effort to coordinate with the ap-

1 appropriate local government, collection service franchise holder or person who provides col-  
2 lection service for the promotion of and payment for a collection event under subsection  
3 (1)(c) of this section. If, after a good faith effort, the stewardship organization is unable to  
4 coordinate with the appropriate local government, collection service franchise holder or  
5 person who provides collection service, the stewardship organization shall promote and pay  
6 for the collection event.

7 (4) A stewardship organization is not required to comply with subsection (1)(c) of this  
8 section for a given geographic area if the Director of the Department of Environmental  
9 Quality agrees with the stewardship organization that holding a collection event in that area  
10 will not be practicable or effective.

11 (5) For purposes of this section, a stewardship organization shall renegotiate a contract  
12 for the establishment of a permanent collection site once every two years unless another  
13 time frame is agreed to by the contracting parties.

14 **SECTION 5.** (1) A stewardship organization must submit to the Director of the Depart-  
15 ment of Environmental Quality for approval an amendment to a plan or updated plan that  
16 has been approved by the director under section 6 of this 2013 Act if, at any time:

17 (a) The stewardship organization makes a change to the architectural paint stewardship  
18 assessment that was approved by the director as part of the plan;

19 (b) The stewardship organization makes a change to the types of post-consumer archi-  
20 tectural paint that will be collected by the stewardship organization under the plan;

21 (c) The stewardship organization makes a change to the goals that were approved by the  
22 director as part of the plan; or

23 (d) The director requests an amendment to the plan in order to address a specific finding  
24 by the director that:

25 (A) The administrative costs to the stewardship organization for the architectural paint  
26 stewardship program equaled 20 percent or more of the organization's total annual budget  
27 for the program during the prior calendar year;

28 (B) The cost per gallon of the program during the prior calendar year was 10 or more  
29 percent higher than the preceding calendar year;

30 (C) The unallocated reserve funds held by the stewardship organization for the program  
31 during the prior calendar year equaled 35 percent or more of the total annual budget for the  
32 program during the year;

33 (D) The total volume, in gallons, of post-consumer architectural paint collected as part  
34 of the program during the prior calendar year was 10 or more percent lower than the pre-  
35 ceding calendar year; or

36 (E) The recycling rate for the program during the prior calendar year was 10 or more  
37 percent lower than the preceding calendar year.

38 (2) A stewardship organization must submit an amendment under subsection (1) of this  
39 section within 120 days after the date of the change by the stewardship organization or the  
40 date of the request by the director.

41 **SECTION 6.** (1) The Director of the Department of Environmental Quality shall approve,  
42 deny or request additional information on a new or updated plan or a plan amendment no  
43 later than 60 days after the date the director receives the plan or amendment from the  
44 stewardship organization.

45 (2) If the director rejects, or requests additional information for, the new plan, updated

1 **plan or amendment, the director must provide the stewardship organization with the reasons**  
2 **in writing. The stewardship organization shall have 60 days from the date that the rejection**  
3 **or request for additional information is received to submit to the director any additional in-**  
4 **formation necessary for the approval of the new plan, updated plan or amendment.**

5 **(3) The director's rejection of, or request for additional information for, an updated plan**  
6 **or amendment submitted under this section does not relieve the stewardship organization**  
7 **from continuing to implement the architectural paint stewardship program in compliance**  
8 **with the approved plan pending a final action by the director on the updated plan or**  
9 **amendment.**

10 **(4)(a) Beginning no later than two months after a new plan, updated plan or amended**  
11 **plan is approved under this section, a stewardship organization must implement an archi-**  
12 **tectural paint stewardship program as described in the new, updated or amended plan.**

13 **(b) A stewardship organization may enter into contracts with local governments as de-**  
14 **defined in ORS 174.116, a collection service franchise holder under ORS 459A.085 or any person**  
15 **who provides collection service as defined in ORS 459.005 (3) in order to implement a program**  
16 **under this subsection. In negotiating a contract with a local government, collection service**  
17 **franchise holder or person who provides collection service, terms of the contract may in-**  
18 **clude, but are not limited to:**

19 **(A) The coverage of costs for accepting post-consumer architectural paint and paint**  
20 **containers into the program through permanent collection sites and collection events;**

21 **(B) The processing of post-consumer architectural paint at the permanent collection site;**  
22 **or**

23 **(C) The transportation, recovery and disposal of post-consumer architectural paint.**

24 **(5) Nothing in this section shall be construed to limit the power of a local government,**  
25 **a collection service franchise holder, or any person authorized by a local government to**  
26 **provide collection service, to offer premium service.**

27 **SECTION 7. If a stewardship organization makes any of the changes described in this**  
28 **section to an architectural paint stewardship program as provided for in a plan approved by**  
29 **the Director of the Department of Environmental Quality under section 6 of this 2013 Act,**  
30 **the organization shall notify the director in writing, within 30 days of the date of the change**  
31 **to the program, of:**

32 **(1) A change in the location or the number of permanent collection sites identified in the**  
33 **plan;**

34 **(2) A change in the producers or brands of architectural paint sold in this state that are**  
35 **participating in the program;**

36 **(3) A change in the processors that manage the post-consumer architectural paint col-**  
37 **lected by the stewardship organization under the program; or**

38 **(4) A change in the transporters of the post-consumer architectural paint collected by**  
39 **the stewardship organization under the program.**

40 **SECTION 8. Section 6, chapter 777, Oregon Laws 2009, is amended to read:**

41 **Sec. 6. (1) No later than [September 1, 2011, and by September 1 of each subsequent] April 1 of**  
42 **each year, a stewardship organization must submit [a] an annual report to the Director of the De-**  
43 **partment of Environmental Quality describing the operation during the prior calendar year of**  
44 **an architectural paint stewardship [pilot] program approved by the director under [section 4 of this**  
45 **2009 Act] section 6 of this 2013 Act. At a minimum, the report must contain:**

1        [1] (a) A description of the methods used to collect, transport, recycle and process post-  
2 consumer architectural paint in this state;

3        [2] *The volume and type of post-consumer architectural paint collected in all regions of this*  
4 *state;*]

5        **(b) A calculation of the total volume in gallons of post-consumer architectural paint**  
6 **collected by the program, categorized by latex, alkyd and any other type of paint;**

7        **(c) For each permanent collection site and collection event under the program:**

8        **(A) A calculation of the total volume in gallons of post-consumer architectural paint**  
9 **collected at the site or event;**

10       **(B) The address or, if no address is available, the physical location of the site or event;**  
11 **and**

12       **(C) A description of whether the site or event is:**

13       **(i) A permanent collection site located at a retailer;**

14       **(ii) A permanent collection site or collection event for the program located within the**  
15 **local solid waste collection infrastructure; or**

16       **(iii) A collection event promoted and paid for by a stewardship organization;**

17       **(d) An estimate of the total weight and disposition of all paint containers collected by the**  
18 **program;**

19        [3] (e) The **total** volume of post-consumer architectural paint collected [*in this state*] **under the**  
20 **program, categorized** by method of disposition, including reuse, recycling, energy recovery and  
21 disposal;

22       **(f) The data, conversion factors and any changes from prior years in the methodology**  
23 **used to complete the analysis required to comply with paragraphs (b) to (e) of this sub-**  
24 **section;**

25        [4] (g) An independent financial audit of the program;

26        [5] (h) A description of program [*costs*] **revenues and costs for the prior year that follows**  
27 **the budget requirements provided in section 4, chapter 777, Oregon Laws 2009, and that fur-**  
28 **ther describes:**

29        **(A) The total cost of the program during the prior year calculated as a per capita amount**  
30 **for each resident of this state;**

31        **(B) The cost per gallon of the program during the prior year;**

32        **(C) The use by the stewardship organization of any revenues from the program during**  
33 **the past year that exceeded the total costs of the program, including a description of the**  
34 **amount held by the stewardship organization in unallocated reserve funds at the end of the**  
35 **reporting period; and**

36        **(D) If requested by the director, any additional budgetary information necessary for the**  
37 **director to determine whether the stewardship organization must amend the plan under**  
38 **section 5 (1)(d) of this 2013 Act;**

39        **(i) An updated budget for the next calendar year that follows the budget requirements**  
40 **provided in section 4, chapter 777, Oregon Laws 2009;**

41        [6] (j) An evaluation of the operation of the program's funding mechanism;

42        [7] (k) Samples of educational **and outreach** materials provided to consumers of architectural  
43 paint, an evaluation of the methods used to disseminate those materials and an assessment of the  
44 effectiveness of the education and outreach, including levels of waste prevention and reuse; [*and*]

45        [8] *An analysis of the environmental costs and benefits of collecting and recycling latex paint.*]



1 (L) Documentation of compliance with the requirements of section 4 (2)(b), chapter 777,  
2 Oregon Laws 2009, and section 4 of this 2013 Act;

3 (m) A description of the activities undertaken to achieve, and the progress made toward  
4 achieving, the program goals as provided for in the program plan; and

5 (n) Notification to the director of any additional proposed changes to the operation of the  
6 program for the following calendar year, or a statement that the stewardship organization  
7 intends to continue to implement the program in the manner approved by the director under  
8 section 6 of this 2013 Act.

9 (2) No later than June 15 of each year, the director shall meet with interested  
10 stakeholders to review the annual reports submitted to the director under this section. The  
11 director shall post to the website maintained by the Department of Environmental Quality  
12 a copy of the minutes of the meeting within 30 days of the date of the meeting.

13 **SECTION 9.** Notwithstanding section 6 (1), chapter 777, Oregon Laws 2009, a stewardship  
14 organization that submitted a plan for a statewide architectural paint stewardship pilot  
15 program to the Director of the Department of Environmental Quality before the effective  
16 date of this 2013 Act shall submit to the director not later than April 1, 2014, a report for  
17 the period beginning July 1, 2013, and ending December 31, 2013, that fulfills all the require-  
18 ments of section 6, chapter 777, Oregon Laws 2009.

19 **SECTION 10.** Section 9, chapter 777, Oregon Laws 2009, is amended to read:

20 **Sec. 9.** (1) The Department of Environmental Quality shall charge the following fees to be paid  
21 by a stewardship organization for administering sections 1 to 10 [of this 2009 Act], **chapter 777,**  
22 **Oregon Laws 2009:**

23 (a) \$10,000 when the plan **or updated plan** specified in section 4 [of this 2009 Act], **chapter 777,**  
24 **Oregon Laws 2009,** is submitted to the [department] **Director of the Department of Environ-**  
25 **mental Quality;** and

26 (b) [\$10,000] **\$40,000** each year [thereafter] **that an approved architectural paint stewardship**  
27 **program is implemented** for administrative costs related to the [architectural paint stewardship  
28 pilot] program.

29 [(2) The department may establish a schedule of fees in lieu of the fees specified in subsection (1)  
30 of this section that is based on an average of the results of the financial audits described in section 6  
31 of this 2009 Act and that do not exceed 0.05 percent of the average architectural paint stewardship pilot  
32 program costs reported in the financial audits.]

33 [(3)] (2) Fees collected by the department under this section shall be deposited in the Product  
34 Stewardship Fund established under section 10 [of this 2009 Act], **chapter 777, Oregon Laws 2009.**

35 **SECTION 11.** Section 7, chapter 777, Oregon Laws 2009, as amended by section 1, chapter 146,  
36 Oregon Laws 2011, is amended to read:

37 **Sec. 7.** (1)(a) Except for the financial, cost, production or sales data and records specified in  
38 paragraph (b) of this subsection, the Department of Environmental Quality may not disclose any fi-  
39 nancial, cost, production or sales data and records of a stewardship organization, or of a specific  
40 producer, obtained by the department as part of the approval of a plan, **or updated plan,** for a  
41 statewide architectural paint stewardship [pilot] program pursuant to section 4, chapter 777, Oregon  
42 Laws 2009, or as part of an annual report submitted pursuant to section 6, chapter 777, Oregon Laws  
43 2009.

44 (b) If the Department of Environmental Quality determines that disclosure is necessary for the  
45 public to adequately understand the derivation of the architectural paint stewardship assessment

1 described in section 4, chapter 777, Oregon Laws 2009, the level of the services or associated costs  
2 that are anticipated under the assessment or the services or associated costs that are delivered  
3 under the assessment, the department may disclose, in aggregate form, information contained in the  
4 financial, cost, production or sales data and records related to the level of service and associated  
5 costs for the following services offered by the statewide architectural paint stewardship [*pilot*] pro-  
6 gram:

7 (A) Collection, reuse, transportation, recycling, energy recovery, disposal and other processing  
8 of waste paint;

9 (B) Waste reduction efforts;

10 (C) Education and promotion; and

11 (D) Administration.

12 (2) The Department of Environmental Quality may not disclose the names of brands by specific  
13 producers obtained by the department as part of the approval of a plan for a statewide architectural  
14 paint stewardship [*pilot*] program pursuant to section 4, chapter 777, Oregon Laws 2009. The de-  
15 partment may disclose separate lists indicating participating producers and participating brands of  
16 the statewide architectural paint stewardship [*pilot*] program.

17 (3) Nothing in this section shall impose additional reporting obligations on a stewardship or-  
18 ganization beyond those specified in sections 1 to 10, chapter 777, Oregon Laws 2009.

19 **SECTION 12. No later than June 1 of each year, the Director of the Department of En-**  
20 **vironmental Quality shall publish an estimate of the total volume, in gallons, of post-**  
21 **consumer architectural paint collected in each watershed or metropolitan service district as**  
22 **part of an architectural paint stewardship program during the prior calendar year. For each**  
23 **watershed or metropolitan service district, the director shall also publish, stated as a per-**  
24 **centage, the portion of the total volume in gallons of post-consumer architectural paint col-**  
25 **lected under the program at each of the following:**

26 (1) Permanent collection sites located at a retailer;

27 (2) Permanent collection sites and collection events for the program located within the  
28 local solid waste collection infrastructure; and

29 (3) Collection events promoted and paid for by a stewardship organization.

30  
31 **PENALTIES**

32  
33 **SECTION 13.** ORS 459.995 is amended to read:

34 459.995. (1) Except as provided in subsection (2) of this section, in addition to any other penalty  
35 provided by law:

36 (a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to 459.405, 459.705 to 459.790,  
37 459A.005 to 459A.620, 459A.310 to 459A.335, 459A.675 to 459A.685 or 646A.080, or any rule or order  
38 of the Environmental Quality Commission pertaining to the disposal, collection, storage or reuse or  
39 recycling of solid wastes, as defined by ORS 459.005, or any rule or order pertaining to the disposal,  
40 storage or transportation of waste tires, as defined by ORS 459.705, or any rule or order pertaining  
41 to the sale of novelty items that contain encapsulated liquid mercury, [*shall incur*] **incurs** a civil  
42 penalty not to exceed \$25,000 [*a*] **per** day for each day of the violation.

43 (b) Any person who violates the provisions of ORS 459.420 to 459.426 [*shall incur*] **incurs** a civil  
44 penalty not to exceed \$500 for each violation. Each battery that is disposed of improperly [*shall*  
45 *be*] **is** a separate violation. Each day an establishment fails to post the notice required under ORS

1 459.426 *[shall be]* is a separate violation.

2 (c) For each day a city, county or metropolitan service district fails to provide the opportunity  
3 to recycle as required under ORS 459A.005, the city, county or metropolitan service district *[shall*  
4 *incur]* **incurs** a civil penalty not to exceed \$500 for each violation.

5 (d) Any person who violates the provisions of ORS 459.247 (1)(f) *[shall incur]* **incurs** a civil  
6 penalty not to exceed \$500 for each violation. Each covered electronic device that is disposed of  
7 improperly *[shall be]* is a separate violation.

8 **(e) Any retailer that violates the provisions of section 3 (1) or (2)(b), chapter 777, Oregon**  
9 **Laws 2009, incurs a civil penalty not to exceed \$100 per day for each day of the violation.**

10 **(f) Any producer that violates the provisions of section 3 (1), chapter 777, Oregon Laws**  
11 **2009, incurs a civil penalty not to exceed \$1,000 per day for each day of the violation.**

12 **(g) Any stewardship organization that violates the provisions of section 3 (2)(a), 4 or 6,**  
13 **chapter 777, Oregon Laws 2009, sections 4 to 7 of this 2013 Act, or section 9 of this 2013 Act,**  
14 **incurs a civil penalty not to exceed \$1,000 per day for each day of the violation.**

15 (2) Any product manufacturer or package manufacturer who violates ORS 459A.650 to 459A.665  
16 or any rule adopted under ORS 459A.650 to 459A.665 *[shall incur]* **incurs** a civil penalty not to ex-  
17 ceed \$1,000 per day for each day of the violation. A violation of ORS 459A.650 to 459A.665 *[shall*  
18 *not be]* **is not** subject to additional penalties under subsection (1) of this section.

19 (3) Any civil penalty authorized by subsection (1) or (2) of this section shall be imposed in the  
20 manner provided by ORS 468.135.

21 **SECTION 14.** ORS 459.995, as amended by section 13 of this 2013 Act, is amended to read:

22 459.995. (1) Except as provided in subsection (2) of this section, in addition to any other penalty  
23 provided by law:

24 (a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to 459.405, 459.705 to 459.790,  
25 459A.005 to 459A.620, 459A.310 to 459A.335, 459A.675 to 459A.685 or 646A.080, or any rule or order  
26 of the Environmental Quality Commission pertaining to the disposal, collection, storage or reuse or  
27 recycling of solid wastes, as defined by ORS 459.005, or any rule or order pertaining to the disposal,  
28 storage or transportation of waste tires, as defined by ORS 459.705, or any rule or order pertaining  
29 to the sale of novelty items that contain encapsulated liquid mercury, incurs a civil penalty not to  
30 exceed \$25,000 per day for each day of the violation.

31 (b) Any person who violates the provisions of ORS 459.420 to 459.426 incurs a civil penalty not  
32 to exceed \$500 for each violation. Each battery that is disposed of improperly is a separate violation.  
33 Each day an establishment fails to post the notice required under ORS 459.426 is a separate vio-  
34 lation.

35 (c) For each day a city, county or metropolitan service district fails to provide the opportunity  
36 to recycle as required under ORS 459A.005, the city, county or metropolitan service district incurs  
37 a civil penalty not to exceed \$500 for each violation.

38 (d) Any person who violates the provisions of ORS 459.247 (1)(f) incurs a civil penalty not to  
39 exceed \$500 for each violation. Each covered electronic device that is disposed of improperly is a  
40 separate violation.

41 (e) Any retailer that violates the provisions of section 3 (1) or (2)(b), chapter 777, Oregon Laws  
42 2009, incurs a civil penalty not to exceed \$100 per day for each day of the violation.

43 (f) Any producer that violates the provisions of section 3 (1), chapter 777, Oregon Laws 2009,  
44 incurs a civil penalty not to exceed \$1,000 per day for each day of the violation.

45 (g) Any stewardship organization that violates the provisions of section 3 (2)(a), 4 or 6, chapter

1 777, Oregon Laws 2009, **or** sections 4 to 7 of this 2013 Act, [*or section 9 of this 2013 Act,*] incurs a  
2 civil penalty not to exceed \$1,000 per day for each day of the violation.

3 (2) Any product manufacturer or package manufacturer who violates ORS 459A.650 to 459A.665  
4 or any rule adopted under ORS 459A.650 to 459A.665 incurs a civil penalty not to exceed \$1,000 per  
5 day for each day of the violation. A violation of ORS 459A.650 to 459A.665 is not subject to addi-  
6 tional penalties under subsection (1) of this section.

7 (3) Any civil penalty authorized by subsection (1) or (2) of this section shall be imposed in the  
8 manner provided by ORS 468.135.

9 **SECTION 15. The amendments to ORS 459.995 by section 14 of this 2013 Act become op-**  
10 **erative on July 1, 2014.**

11  
12 **SUNSET PROVISIONS**

13  
14 **SECTION 16. Sections 13 and 14, chapter 777, Oregon Laws 2009, are repealed.**

15 **SECTION 17. Section 9 of this 2013 Act is repealed on June 30, 2014.**

16  
17 **REPORT**

18  
19 **SECTION 18. No later than November 1, 2018, the Director of the Department of Envi-**  
20 **ronmental Quality shall submit to the Legislative Assembly a report describing the results**  
21 **of any existing architectural paint stewardship programs and, if necessary, recommending**  
22 **any modifications to sections 1 to 10, chapter 777, Oregon Laws 2009, that would serve to**  
23 **improve the functioning and efficiency of the programs. The report must include an ac-**  
24 **counting of the administrative fees paid by stewardship organizations to the Department of**  
25 **Environmental Quality under section 9, chapter 777, Oregon Laws 2009.**

26  
27 **MISCELLANEOUS**

28  
29 **SECTION 19. The unit captions used in this 2013 Act are provided only for the conven-**  
30 **ience of the reader and do not become part of the statutory law of this state or express any**  
31 **legislative intent in the enactment of this 2013 Act.**

32 **SECTION 20. (1) Initial plans for statewide architectural paint stewardship programs**  
33 **under section 4, chapter 777, Oregon Laws 2009, as amended by section 3 of this 2013 Act,**  
34 **must be submitted to the Director of the Department of Environmental Quality not later**  
35 **than January 1, 2014.**

36 (2) A stewardship organization that submitted a plan for a statewide architectural paint  
37 stewardship pilot program to the director before the effective date of this 2013 Act, or that  
38 had a plan approved by the director before the effective date of this 2013 Act, must submit  
39 an updated plan under section 4, chapter 777, Oregon Laws 2009, as amended by section 3 of  
40 this 2013 Act, to the director not later than January 1, 2014.

41 (3) If requested by the director in writing, a stewardship organization that submitted an  
42 initial plan or an updated plan under subsection (1) or (2) of this section must submit a  
43 subsequent updated plan under section 4, chapter 777, Oregon Laws 2009, as amended by  
44 section 3 of this 2013 Act, to the director not later than January 1, 2018, and up to once every  
45 four years thereafter.

