

**Enrolled**  
**House Bill 2048**

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)

CHAPTER .....

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

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

(a) Adequate record keeping;

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

(c) **Adequate environmental liability coverage for professional services and for the operations of contractors working for a stewardship organization.**

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

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

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

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

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

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

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

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

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

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

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

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

*[(a)] Adequate record keeping;*

*[(b)] The tracking and documentation of the use, reuse or disposal of post-consumer architectural paint within this state and outside this state; and]*

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

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

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

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

(2)(a) *[At the time of sale to a consumer, a producer or retailer]* **A stewardship organization must provide retailers** selling or offering for sale architectural paint *[must provide the consumer]*

with information on available [*end-of-product-life management options*] **collection opportunities for post-consumer architectural paint** offered through [*an*] **the organization's** architectural paint stewardship [*pilot*] program.

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

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

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

(2) The plan must:

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

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

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

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

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

**(C) Promote:**

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

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

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

**(c) Establish and provide for the development and implementation of goals to reduce the generation of post-consumer architectural paint, including goals for:**

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

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

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

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

**(e) Undertake the responsibility of negotiating and executing contracts to collect, transport, recycle and process post-consumer architectural paint for end-of-product-life management that includes recycling, energy recovery and disposal.**

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

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

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

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

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

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

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

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

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

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

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

**(a) The development and implementation of the educational and outreach activities and materials required under subsection (2)(a) of this section and the provision of information to retailers required under section 3, chapter 777, Oregon Laws 2009;**

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

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

**(d) The anticipated amount of moneys that the stewardship organization will hold in unallocated reserve funds for the program;**

**(e) The administrative fees paid to the Department of Environmental Quality under section 9, chapter 777, Oregon Laws 2009; and**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) If the director rejects, or requests additional information for, the new plan, updated plan or amendment, the director must provide the stewardship organization with the reasons in writing. The stewardship organization shall have 60 days from the date that the rejection or request for additional information is received to submit to the director any additional information necessary for the approval of the new plan, updated plan or amendment.

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

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

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

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

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

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

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

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

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

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

(3) A change in the processors that manage the post-consumer architectural paint collected by the stewardship organization under the program; or

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

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

**Sec. 6.** (1) No later than [*September 1, 2011, and by September 1 of each subsequent*] **April 1 of each year**, a stewardship organization must submit [*a*] **an annual report** to the Director of the Department of Environmental Quality describing the **operation during the prior calendar year of**

an architectural paint stewardship [*pilot*] program approved by the director under [section 4 of this 2009 Act] **section 6 of this 2013 Act**. At a minimum, the report must contain:

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

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

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

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

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

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

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

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

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

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

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

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

(f) The data, conversion factors and any changes from prior years in the methodology used to complete the analysis required to comply with paragraphs (b) to (e) of this subsection;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) If the Department of Environmental Quality determines that disclosure is necessary for the public to adequately understand the derivation of the architectural paint stewardship assessment described in section 4, chapter 777, Oregon Laws 2009, the level of the services or associated costs that are anticipated under the assessment or the services or associated costs that are delivered under the assessment, the department may disclose, in aggregate form, information contained in the financial, cost, production or sales data and records related to the level of service and associated costs for the following services offered by the statewide architectural paint stewardship [pilot] program:

- (A) Collection, reuse, transportation, recycling, energy recovery, disposal and other processing of waste paint;
- (B) Waste reduction efforts;
- (C) Education and promotion; and
- (D) Administration.

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

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

**SECTION 12. No later than June 1 of each year, the Director of the Department of Environmental Quality shall publish an estimate of the total volume, in gallons, of post-consumer architectural paint collected in each wasteshed or metropolitan service district as part of an architectural paint stewardship program during the prior calendar year. For each wasteshed or metropolitan service district, the director shall also publish, stated as a percentage, the portion of the total volume in gallons of post-consumer architectural paint collected under the program at each of the following:**

- (1) Permanent collection sites located at a retailer;
- (2) Permanent collection sites and collection events for the program located within the local solid waste collection infrastructure; and
- (3) Collection events promoted and paid for by a stewardship organization.

## PENALTIES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 15.** The amendments to ORS 459.995 by section 14 of this 2013 Act become operative on July 1, 2014.

#### SUNSET PROVISIONS

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

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

#### REPORT

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

## MISCELLANEOUS

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

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

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

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

**SECTION 21.** (1)(a) The amendments to sections 2, 3, 4, 6 and 7, chapter 777, Oregon Laws 2009, by sections 1 to 3, 8 and 11 of this 2013 Act apply to the plans and updated plans that must be submitted to the Director of the Department of Environmental Quality on and after the effective date of this 2013 Act.

(b) A stewardship organization may continue to operate and report under a plan approved by the director before the effective date of this 2013 Act until the updated plan required to be submitted to the director pursuant to section 20 (2) of this 2013 Act is approved.

(2) The amendments to section 9, chapter 777, Oregon Laws 2009, by section 10 of this 2013 Act apply to:

(a) Plans specified in section 4, chapter 777, Oregon Laws 2009, as amended by section 3 of this 2013 Act, submitted to the director on and after the effective date of this 2013 Act.

(b) Administrative costs related to architectural paint stewardship programs for calendar years beginning on or after January 1, 2013.

(3) The amendments to section 4, chapter 777, Oregon Laws 2009, by section 3 of this 2013 Act related to architectural paint stewardship assessments apply to payments of assessments remitted to stewardship organizations on or after the effective date of this 2013 Act.

(4)(a) The amendments to ORS 459.995 by section 13 of this 2013 Act apply to violations of sections 3, 4 and 6, chapter 777, Oregon Laws 2009, as amended by sections 2, 3 and 8 of this 2013 Act, and sections 4 to 7 and 9 of this 2013 Act, that occur on or after the effective date of this 2013 Act.

(b) The amendments to ORS 459.995 by section 14 of this 2013 Act apply to violations of sections 3, 4 and 6, chapter 777, Oregon Laws 2009, as amended by sections 2, 3 and 8 of this 2013 Act, and sections 4 to 7 of this 2013 Act, that occur on or after July 1, 2014.

**SECTION 22.** Sections 4 to 7, 9 and 12 of this 2013 Act are added to and made a part of sections 1 to 10, chapter 777, Oregon Laws 2009.

## EMERGENCY CLAUSE

**SECTION 23.** This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

**Passed by House June 27, 2013**

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate July 1, 2013**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2013

**Approved:**

.....M,....., 2013

.....  
John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2013

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Kate Brown, Secretary of State