

RCW 70A.515.040 Plan for the implementation of a paint stewardship program—Plan components—Funding mechanism—Collection—Promotion of a paint stewardship program—New plan or plan amendment.

(1) A stewardship organization representing producers shall submit a plan for the implementation of a paint stewardship program to the department for approval by May 30, 2020, or within one year of July 28, 2019, whichever comes later. The plan must include the following components:

(a) A description of how the program proposed under the plan will collect, transport, recycle, and process leftover paint from covered entities for end-of-life management, including reuse, recycling, energy recovery, and disposal, using environmentally sound management practices;

(b) Stewardship organization contact information and a list of participating brands and producers under the program;

(c) A demonstration of sufficient funding for the architectural paint stewardship program as described in the plan. The plan must 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, unless the distributor or paint retailer has negotiated a voluntary agreement with the producer and stewardship organization to remit the architectural paint stewardship assessment directly to the stewardship organization on behalf of the producer for the producer's architectural paint sold by the distributor or paint retailer in the state. The plan must include a proposed budget and a description of the process used to determine the architectural paint stewardship assessment. The architectural paint stewardship assessment must be added to the cost of all architectural paint sold to Washington paint retailers and distributors, unless the distributor or paint retailer has negotiated an agreement voluntarily with the producer and stewardship organization to remit the assessment directly to the stewardship organization on behalf of the producer for the producer's architectural paint sold by the distributor or paint retailer in the state. Each Washington paint retailer or distributor must add the assessment to the purchase price of all architectural paint sold in this state. Manufacturers may not require retailers to opt to participate in a voluntary remittance agreement;

(d) The establishment in the plan of a uniform architectural paint stewardship assessment for all architectural paint sold in this state, in order to ensure that the funding mechanism is equitable and sustainable. For purposes of establishing the assessment, the plan must categorize the sizes of paint containers sold at retail and determine a uniform assessment amount that applies to each category of container size. The architectural paint stewardship assessment must be sufficient to recover the costs of the architectural paint stewardship program. With the exception of the annual administration costs paid to the department under RCW 70A.515.060(4), the department may not control or have spending authority related to the funds received by the stewardship organization from the assessment. Funds received by the stewardship organization are not state funds and are not eligible to be transferred for other state purposes in an appropriations act. The plan must require that any surplus funds generated from the funding mechanism that exceed a reserve greater than the most recent year's operating expenditures be put back into the program to either

increase and improve program services or reduce the cost of the program and the architectural paint stewardship assessment, or both;

(e) A review by an independent financial auditor of the proposed architectural paint stewardship assessment to ensure that any added cost to paint sold in the state as a result of the paint stewardship program does not exceed the costs of the program. In a report to the department, the independent auditor must verify that the amount added to each unit of paint will cover the costs of the paint stewardship program;

(f) Assignment to the department of responsibility for the approval of the architectural paint stewardship assessment based on the information provided in the plan and the auditor's report;

(g) A description of the educational outreach strategy to reduce the generation of leftover paint, to promote the reuse and recycling of leftover paint, for the overall collection of leftover paint, and for the proper end-of-life management of leftover paint. The strategies may be revised by a stewardship organization based on the information collected annually;

(h) A description of the reasonably convenient and available statewide collection system, including:

(i) A description of how the program will provide for reasonably convenient and available statewide collection of leftover paint from covered entities in urban and rural areas of the state, including island communities;

(ii) A description of how the program will incorporate existing public and private waste collection services and facilities for activities, which may include, but is not limited to:

(A) The reuse or processing of leftover architectural paint at the permanent collection site; and

(B) The collection, transportation, and recycling or proper disposal of leftover architectural paint;

(i) A description of how leftover paint will be managed using environmentally sound management practices, including reasonably following the paint waste management hierarchy of: Source reduction; reuse; recycling; energy recovery; and disposal;

(j) A description of education and outreach efforts to promote the paint stewardship program. The education and outreach efforts must include strategies for reaching all sectors of the population and describe how the paint stewardship program will evaluate the effectiveness of its education and outreach;

(k) A description of collection site procedural manuals for architectural paint products, including training procedures and electronic copies of materials that will be provided to collection sites; and

(1) A list of transporters that will be used to manage leftover paint collected by the stewardship organization and a list of potential processors to be used for final disposition.

(2) (a) To ensure adequate collection coverage, the plan must use geographic information modeling and the information required under subsection (1)(h) of this section to determine the number and distribution of collection sites based on the following criteria: At least ninety percent of Washington residents must have a permanent collection site within a fifteen-mile radius; and unless otherwise approved by the department, one additional permanent site must be established for every thirty thousand residents of an urbanized area and for every urban cluster of at least thirty thousand residents

distributed to provide convenient and reasonably equitable access for residents within each.

(b) For the portion of the population that does not have a permanent collection location within a fifteen-mile radius, the plan must provide residents a reasonable opportunity to drop off leftover paint at collection events. The stewardship organization, in consultation with the department and the local community, will determine a reasonable frequency and location of these collection events, to be held in underserved areas. Special consideration is to be made for providing opportunities to island and geographically isolated populations.

(3) (a) Nothing in subsection (2) of this section prohibits a program plan from identifying an available curbside service for a specific area or population that provides convenient and reasonably equitable access for Washington residents that is at least equivalent to the level of convenience and access that would be provided by a collection site.

(b) A fee may not be charged at the time the unwanted paint is delivered or collected for management. However, this subsection (3) (b) does not prohibit collectors providing curbside services from charging customers a fee, as provided by city contract or by the Washington utilities and transportation commission under the authority of chapter 81.77 RCW, for the additional collection cost of providing this service.

(4) The program plan must utilize the existing public and private waste collection services and facilities where cost-effective and mutually agreeable.

(5) The program must utilize existing paint retail stores as collection sites where cost-effective and mutually agreeable.

(6) The plan must provide the collection site name and location of each site statewide in Washington accepting architectural paint under the program.

(7) A stewardship organization shall promote a paint stewardship program and provide consumers, covered entities, and paint retailers with educational and informational materials describing collection opportunities for leftover paint statewide, the architectural paint stewardship assessment used to finance the program, and promotion of waste prevention, reuse, and recycling. These materials may include, but are not limited to, the following:

(a) Signage that is prominently displayed and easily visible to the consumer;

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

(c) Advertising or other promotional materials, or both, that include references to the architectural paint stewardship program; and

(d) An explanation that the architectural paint stewardship assessment has been added to the purchase price of architectural paint to fund the paint stewardship program in the state. The architectural paint stewardship assessment may not be described as a department recycling fee at the point of retail.

(8) A stewardship organization must submit a new plan or plan amendment to the department for approval when there is a change to the amount of the assessment, if required by the department, or every five years, if the department deems it necessary. [2020 c 20 § 1459; 2019 c 344 § 4. Formerly RCW 70.375.040.]