
SUBSTITUTE HOUSE BILL 1472

State of Washington

64th Legislature

2015 Regular Session

By House Environment (originally sponsored by Representatives Fitzgibbon, Peterson, Goodman, McBride, Springer, Fey, Farrell, Hudgins, Kagi, Walkinshaw, Gregerson, S. Hunt, Jinkins, Tharinger, and Pollet; by request of Governor Inslee)

1 AN ACT Relating to using chemical action plans to require safer
2 chemicals in Washington; amending RCW 43.21B.110 and 43.21B.110;
3 adding a new section to chapter 39.26 RCW; adding new sections to
4 chapter 43.131 RCW; adding a new chapter to Title 70 RCW; creating a
5 new section; prescribing penalties; providing an effective date; and
6 providing an expiration date.

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

8 NEW SECTION. **Sec. 1.** The legislature finds:

9 (1) Biomonitoring studies reveal adults, children, and even
10 fetuses carry a body burden of toxic chemicals. These include
11 chemicals linked to cancer, brain and nervous system damage, birth
12 defects, developmental delays, and reproductive harm.

13 (2) A growing body of scientific evidence demonstrates that these
14 toxic chemical exposures are taking a toll on public health and
15 playing a role in the incidence and prevalence of many diseases and
16 disorders, including learning and behavioral problems, asthma,
17 reproductive problems, birth defects, obesity, and cancer.

18 (3) An emerging concern is the uncontrolled release of chemical
19 pollutants that come from the diffuse, largely unregulated source of
20 products containing those chemicals. Many chemicals of concern are
21 persistent and therefore remain in the environment for decades.

1 (4) It is the policy of the state to protect public health and
2 the environment by eliminating or reducing the exposure of its
3 residents to toxic chemicals of concern, especially children and
4 other sensitive or high exposure populations.

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

8 (1) "Alternatives assessment" means a process for identifying and
9 comparing potential chemical and nonchemical alternatives currently
10 in existence that can be used to replace the use of a chemical. The
11 objective of an alternatives assessment is to select less toxic
12 chemicals or nonchemical alternatives to replace the use of a
13 chemical in a product and to avoid the unintended consequence of
14 switching to a substitute that presents an equivalent or greater
15 concern. An alternatives assessment follows the guidelines issued by
16 the interstate chemicals clearinghouse, the national academy of
17 sciences, or equivalent methodology. At a minimum, an alternatives
18 assessment includes: An evaluation of chemical hazard, exposure,
19 performance, cost, and availability; information for each alternative
20 considered; and the identification of alternatives.

21 (2) "Biomonitoring" means assessment of human exposures to
22 chemicals by measuring the chemicals or their metabolites in human
23 tissues or specimens, such as blood, breast milk, and urine.

24 (3) "Chemical" means a substance, including metals, with a
25 distinct molecular composition or a group of structurally related
26 substances and includes the breakdown products of the substance or
27 substances that form through decomposition, degradation, or
28 metabolism.

29 (4) "Chemical action plan" means a plan that identifies,
30 characterizes, and evaluates uses and releases of a specific chemical
31 or group of chemicals and identifies actions needed to protect human
32 health and the environment.

33 (5) "Chemical hazard assessment" means an evaluation of the
34 hazards posed by the chemical of concern in a product or a
35 manufacturing process. Chemical hazard assessments follow the
36 guidelines issued by the interstate chemicals clearinghouse, national
37 academy of sciences, or equivalent methodology.

38 (6) "Department" means the department of ecology.

1 (7) "Director" means the director of the department of ecology or
2 the director's designee.

3 (8) "Manufacturer" means any person, firm, association,
4 partnership, corporation, governmental entity, organization, or joint
5 venture that produces a product or is an importer or domestic
6 distributor of a product sold or offered for sale in or into the
7 state. "Manufacturer" does not include small businesses as defined in
8 RCW 19.85.020.

9 (9) "Product" means any item sold for residential or commercial
10 use including any component or product packaging. "Product" does not
11 include the following items, but does include their packaging:

12 (a) Food or beverage;

13 (b) Tobacco products;

14 (c) Drug or biological products regulated by the United States
15 food and drug administration;

16 (d) Products produced under military specifications;

17 (e) Finished products regulated by the federal aviation
18 administration;

19 (f) Chemicals used to produce an agricultural commodity, as
20 defined in RCW 17.21.020; and

21 (g) Any previously owned product sold in casual or isolated sales
22 as defined in RCW 82.04.040 or products sold by nonprofit
23 organizations.

24 (10) "Product component" means a uniquely identifiable material
25 or coating that is included as a part of a finished product.

26 (11) "Safer alternative" means an alternative that is less
27 hazardous to humans or the environment than the existing chemical or
28 chemical process. A safer alternative to a particular chemical may
29 include a chemical substitute or a change in materials or design that
30 eliminates the need for a chemical alternative.

31 (12) "Summary report" means a report prepared by the department
32 summarizing available alternatives assessments and includes a
33 determination regarding the existence of a safer alternative. The
34 summary report also includes a determination of the completeness of
35 the alternatives assessments reviewed and identifies unsuitable
36 alternatives.

37 (13) "Unsuitable alternative" means an alternative identified
38 through the alternatives assessment process that is not a safer
39 alternative.

1 NEW SECTION. **Sec. 3.** (1) Beginning January 1, 2016, and every
2 two years thereafter, the department, in consultation with the
3 department of health, must select up to four chemicals for the
4 development of chemical action plans as specified in section 5 of
5 this act from the following:

6 (a) Chemicals identified by the United States environmental
7 protection agency in section 304(a)(1) of the clean water act (water
8 quality criteria for human health), that impact Washington state
9 clean water bodies as identified under section 303(d) of the clean
10 water act; or

11 (b) Chemicals that meet the criteria of a high priority chemical
12 as defined in RCW 70.240.010 as applied to humans, plants, or
13 wildlife, and either:

14 (i) Meet the criteria for a high priority chemical of high
15 concern for children as described in RCW 70.240.030(1) (a) through
16 (c); or

17 (ii) Have been shown through environmental monitoring studies to
18 be present in fish, wildlife, air, water, soil, or sediment.

19 (2) The department may conduct environmental monitoring or
20 request the department of health to conduct biomonitoring of a
21 chemical to verify the chemical is present in the state's environment
22 or population or to better understand environmental or human
23 exposures in the state.

24 (3) When selecting chemicals for the development of chemical
25 action plans, the director shall notify the public of the selection,
26 the basis for the selection, and a draft schedule. The notice must be
27 published in the Washington State Register. The department shall
28 provide the public with an opportunity for review and comment before
29 finalizing the schedule.

30 NEW SECTION. **Sec. 4.** (1) The department may require information
31 from manufacturers of products that contain a chemical selected for a
32 chemical action plan under section 3 of this act. Prior to requesting
33 information from a manufacturer under this subsection, the department
34 must consult with the chemical safety committee established in
35 section 6 of this act, as well as with a chemical action plan
36 external advisory committee, if one has been formed yet, to evaluate
37 the particular chemical that is the subject of the information
38 request. The department must make reasonable requests of

1 manufacturers that are limited in their scope and frequency and that
2 are focused on:

3 (a) The most common and prevalent uses of the chemicals or
4 products containing the chemicals, based on the department's existing
5 knowledge about the chemical;

6 (b) Areas where there is an identified gap in public or
7 department knowledge about a chemical; and

8 (c) Chemical uses or products that the department has reason to
9 believe are likely to be responsible for or associated with a
10 significant portion of releases into the environment or public health
11 exposures.

12 (2) Within six months of a request by the department of ecology,
13 manufacturers shall report the following:

14 (a) The name and address of the manufacturer and the name,
15 address, and phone number of a contact person for the manufacturer;

16 (b) The name of the chemical used or produced and its chemical
17 abstracts service registry number;

18 (c) A brief description of the product or product component
19 containing the substance;

20 (d) A description of the function of the chemical in the product;

21 (e) The amount of the chemical used in each unit of the product
22 or product component. The amount may be reported in ranges, rather
23 than the exact amount;

24 (f) An estimate of the number of products containing the chemical
25 that the manufacturer sells in and into Washington each year; and

26 (g) Any other information the manufacturer deems relevant to the
27 appropriate use of the product.

28 (3) In response to an information request from the department
29 under this section, a manufacturer may extrapolate amounts and
30 estimates from national data. The submission must include the
31 information in subsection (2)(a) of this section for each
32 manufacturer. However, the information required by subsection (2)(b)
33 through (g) of this section is not required to be provided in a
34 manner that identifies individual manufacturers.

35 (4) The department shall specify the required format for
36 submission of the information required under subsection (2) of this
37 section. The format should be generally consistent with the format
38 specified in other states with substantially similar reporting
39 requirements.

1 (5) Multiple businesses, or a business association, may
2 collaborate and submit a single submission on a chemical found in
3 similar products.

4 (6) Where information submitted by a manufacturer under chapter
5 70.240 RCW is the same as the information required to be submitted by
6 the manufacturer in subsection (2) of this section, that manufacturer
7 is not required to submit the same information again.

8 (7) The department may, by order, require a manufacturer subject
9 to the reporting requirement in subsection (2) of this section to
10 provide additional information that is relevant to the development of
11 a chemical action plan under section 5 of this act. An order by the
12 department must also meet the reasonableness criteria of subsection
13 (1) of this section.

14 NEW SECTION. **Sec. 5.** (1) When developing a chemical action
15 plan, the department shall convene an external advisory committee to
16 provide stakeholder input, expertise, and additional information. All
17 advisory committee meetings must be open to the public. The
18 department must invite representatives from, at minimum, the
19 following organizations and entities to serve as external advisory
20 committee members: Large and small business sectors; a representative
21 of the largest business organization in the state; community,
22 environmental, and public health advocacy groups; local governments;
23 affected and interested businesses; and public health agencies. State
24 agencies and technical experts may be requested to participate.

25 (2) A chemical action plan must include the following types of
26 information, evaluations, and recommendations:

27 (a) Chemical name, properties, uses, and manufacturers;

28 (b) An analysis of the available information on the production,
29 unintentional production, uses, and disposal of the chemical;

30 (c) Information on the potential impacts on human health and the
31 environment associated with the use and release of the chemical; and

32 (d) An evaluation of the regulatory and nonregulatory approaches
33 that influence production, uses, releases, and management of the
34 chemical.

35 (3)(a) A chemical action plan must identify actions needed to
36 eliminate or reduce threats to human health and the environment and
37 include recommendations for managing, reducing, and phasing out the
38 different uses and releases of the chemical to minimize exposure.

1 (b) Recommendations must be based on an evaluation of the
2 following factors:

3 (i) Environmental and human health benefits;

4 (ii) Economic and social impacts;

5 (iii) Feasibility;

6 (iv) Availability and effectiveness of safer substitutes for uses
7 of the chemical; and

8 (v) Consistency with existing federal and state regulatory
9 requirements.

10 NEW SECTION. **Sec. 6.** (1) A permanent chemical safety committee
11 is established in the office of the governor to fulfill the duties
12 outlined in this chapter. The chemical safety committee must be
13 chaired by the director of the department or the director's designee,
14 who shall be a nonvoting member. The voting members of the chemical
15 safety committee are comprised of:

16 (a) One individual designated to represent each major caucus of
17 the house of representatives, to be appointed by the speaker of the
18 house of representatives;

19 (b) One individual designated to represent each major caucus of
20 the senate, to be appointed by the president of the senate;

21 (c) One representative of the largest business association in the
22 state;

23 (d) One representative of a manufacturing business in the state;

24 (e) One representative of a city or county government that
25 operates a municipal wastewater treatment plant or an organization
26 that represents multiple city or county governments;

27 (f) One representative from an environmental or public health
28 organization with a mission related to toxicology;

29 (g) One representative of academia with expertise in economics or
30 business supply chain logistics and management;

31 (h) One representative of academia with expertise in chemistry or
32 chemical engineering;

33 (i) One representative of academia with expertise in
34 environmental science or a related field;

35 (j) One representative of academia with expertise in toxicology
36 or a public health field; and

37 (k) The director of the department of health or the director's
38 designee.

1 (2)(a) The individuals designated in subsection (1)(a) and (b) of
2 this section may be elected members of the house of representatives
3 or senate or may be other individuals designated by the speaker of
4 the house of representatives or the president of the senate. With the
5 exception of the individuals in subsection (1)(a) and (b) of this
6 section, all other members of the committee must be appointed by the
7 governor.

8 (b) The chemical safety committee shall adopt bylaws and
9 operating procedures that may be modified from time to time by the
10 committee.

11 (c) The members of the chemical safety committee are appointed to
12 four-year terms and must be appointed by April 2016. No member of the
13 chemical safety committee may have a financial interest in the
14 outcome of business before the committee. A committee member with a
15 financial interest in the outcome of a particular item of business in
16 front of the committee may temporarily be recused from the committee
17 for all committee activities related to that item of business, in
18 which case a temporary replacement that meets the same criteria as in
19 subsection (1) of this section must be appointed by the governor. All
20 other committee vacancies must be filled for the remainder of the
21 term by an appointment by the governor that meets the criteria in
22 subsection (1) of this section, or by the speaker of the house of
23 representatives for the appointees under subsection (1)(a) of this
24 section or the president of the senate for the appointees under
25 subsection (1)(b) of this section.

26 (d) A chemical safety committee member is eligible to serve on a
27 chemical action plan external advisory committee. Chemical safety
28 committee members are encouraged to closely follow the development of
29 each chemical action plan under this chapter and to attend meetings
30 of chemical action plan external advisory committees.

31 (3)(a) The chemical safety committee shall meet in June of each
32 year beginning June 2016, and up to three other times per year as
33 needed to consult on information requests, to evaluate the need for
34 alternative assessments, and to evaluate completed alternatives
35 assessments.

36 (b) Members of the chemical safety committee must be reimbursed
37 for travel expenses as provided in RCW 43.03.050 and 43.03.060.

38 (c) Meetings of the chemical safety committee must be facilitated
39 by the William D. Ruckelshaus Center or a facilitator of the
40 committee's choice.

1 (4)(a) Upon the completion of each chemical action plan, the
2 department shall report the findings to the chemical safety
3 committee.

4 (b) If a chemical action plan recommends an alternatives
5 assessment, upon an affirmative vote by eight of the thirteen members
6 of the chemical safety committee, the chemical safety committee must
7 recommend to the department that a manufacturer or manufacturers
8 conduct an alternatives assessment as specified in section 7 of this
9 act. The scope of an alternatives assessment recommended by the
10 chemical safety committee must be:

11 (i) A single type of use of a chemical in a specific type of
12 manufacturing process; or

13 (ii) The inclusion of a chemical in a specific type of product.

14 (c) The chemical safety committee may not recommend that the
15 department require manufacturers to perform an alternatives
16 assessment for greater types of uses or products or by a greater
17 number of manufacturers than is necessary to address significant
18 sources of environmental or public health exposures to the chemical.

19 NEW SECTION. **Sec. 7.** (1) Consistent with a recommendation by
20 the chemical safety committee pursuant to section 6 of this act, the
21 department is authorized to require manufacturers, by order, to
22 conduct alternatives assessments, as detailed in this section.

23 (2)(a) If ordered by the department, a manufacturer of a product
24 that contains a chemical for which a chemical action plan has been
25 completed under section 5 of this act or under chapter 173-333 WAC
26 must submit an alternatives assessment to the department for each use
27 of the chemical specified by the department.

28 (b) The manufacturer must submit the alternatives assessment to
29 the department and the chemical safety committee established in
30 section 6 of this act within one year of receipt of the department's
31 order. The department, in consultation with the chemical safety
32 committee, may grant an extension on a case-by-case basis for good
33 cause if the manufacturer shows that additional time is necessary to
34 complete an alternatives assessment or would substantially improve
35 the quality of the alternatives assessment. Multiple businesses, or a
36 business association, may collaborate and submit a single
37 alternatives assessment on a chemical found in similar products.

1 (c) In lieu of an alternatives assessment, a manufacturer may
2 submit a certificate of compliance, as described in section 9(3) of
3 this act, if:

4 (i) The manufacturer has ceased using the chemical for which it
5 would be required to do an alternatives assessment; or

6 (ii) The manufacturer can demonstrate its plans to phase out the
7 use of the chemical within two years of the department's order.

8 (3) If the chemical safety committee determines that the
9 alternatives assessment does not meet the definition or objectives of
10 an alternatives assessment, the department may contract with an
11 independent scientific organization to conduct an independent
12 alternatives assessment. Any alternatives assessment conducted by the
13 independent contractor must include a process to involve interested
14 parties.

15 (4) The chemical safety committee may rely on existing
16 information indicating that a safer alternative for a chemical exists
17 if that information is equivalent to an alternatives assessment.

18 NEW SECTION. **Sec. 8.** (1)(a) The department, in consultation
19 with the department of health, shall prepare a summary report of all
20 reviewed alternatives assessments and other relevant information
21 assembled under section 7 of this act. The summary report must
22 include a determination of whether a safer alternative exists and
23 identify unsuitable alternatives.

24 (b) In order for the department to determine that a safer
25 alternative exists, nine of the thirteen members of the chemical
26 safety committee must make an affirmative vote to find that a safer
27 alternative has been identified for use of a chemical in a product or
28 process. The chemical safety committee may seek the input of the
29 department and the department of health prior to voting to determine
30 whether a safer alternative exists. The chemical safety committee may
31 also contract out for independent scientific, economic, or other
32 technical analysis of a submitted alternatives assessment in order to
33 inform the committee's evaluation. In making its determination, the
34 chemical safety committee shall evaluate whether the alternatives
35 assessment submitted by manufacturers:

36 (i) Follows the guidelines on alternatives assessment issued by
37 the interstate chemicals clearinghouse, the national academy of
38 sciences, or equivalent methodology;

1 (ii) Identifies safer alternatives as defined in this subsection
2 (1); and

3 (iii) Identifies unsuitable alternatives as defined in this
4 subsection (1).

5 (2) If the department determines that a safer alternative does
6 not exist, then the department and the chemical safety committee may
7 reevaluate information on the availability of safer alternatives not
8 more often than once every five years.

9 NEW SECTION. **Sec. 9.** (1)(a) If the chemical safety committee
10 established in section 6 of this act determines that a safer
11 alternative exists, based on a completed alternatives assessment or
12 equivalent information, the chemical safety committee must recommend
13 that the department prohibit, by rule, specific uses of the chemical,
14 consistent with (b) of this subsection.

15 (b) If the chemical safety committee determines that a safer
16 alternative exists consistent with (a) of this subsection, the
17 department may, by rule, prohibit specific uses of the chemical, or
18 prohibit the sale, offer for sale, or distribution of a specific
19 product or products containing the chemical. Manufacturers may not
20 use a chemical determined by the department, based on the evaluation
21 of the chemical safety committee, to be an unsuitable alternative to
22 replace a chemical restricted under this section.

23 (2) The department shall establish reasonable deadlines for
24 manufacturers to comply with any prohibition adopted under subsection
25 (1) of this section. In setting reasonable deadlines, the department
26 shall consider information such as existing product inventory. No
27 prohibition may take effect sooner than twelve months after rule
28 adoption.

29 (3) Manufacturers of a product that is subject to a chemical
30 content prohibition shall make available within ninety days of a
31 request by the department a certificate of compliance stating that
32 the product meets the requirements of the prohibition adopted under
33 subsection (1) of this section. A certificate of compliance must
34 include the following:

35 (a) Chemical names and chemical abstracts service registry
36 numbers for all chemicals that currently contribute to the specific
37 function previously served by the prohibited chemical;

38 (b) How the manufacturer is meeting the function of the
39 prohibited chemical with a safer alternative; and

1 (c) The signature of an authorized official of the manufacturer.

2 NEW SECTION. **Sec. 10.** (1) A manufacturer violating a
3 requirement of this chapter, a rule adopted under this chapter, or an
4 order issued under this chapter, is subject to a civil penalty not to
5 exceed five thousand dollars for each violation in the case of a
6 first offense. Manufacturers who are repeat violators are subject to
7 a civil penalty not to exceed ten thousand dollars for each repeat
8 offense.

9 (2) Any penalty provided for in this section, and any order
10 issued by the department under this chapter, maybe appealed to the
11 pollution control hearings board.

12 (3) All penalties collected under this chapter shall be deposited
13 in the state toxics control account created in RCW 70.105D.070.

14 NEW SECTION. **Sec. 11.** Manufacturers submitting information or
15 records to the department may request that the information or records
16 be made available only for the confidential use of the director, the
17 department, or the appropriate division of the department. The
18 director shall give consideration to the request and if such action
19 would not be detrimental to the public interest and is otherwise
20 within accord with the policies and purposes of chapter 43.21A RCW,
21 the director may grant the request for the information to remain
22 confidential as authorized in RCW 43.21A.160. Records kept
23 confidential by the department may be shared with the chemical safety
24 committee established in section 6 of this act. Under the procedures
25 established under RCW 43.21A.160, the department must keep
26 confidential any records furnished by a manufacturer under this
27 chapter that relate to proprietary manufacturing processes or
28 chemical formulations used in products or processes.

29 NEW SECTION. **Sec. 12.** The department may adopt rules as
30 necessary for the purpose of implementing, administering, and
31 enforcing this chapter.

32 NEW SECTION. **Sec. 13.** A new section is added to chapter 39.26
33 RCW to read as follows:

34 (1) The department shall establish purchasing and procurement
35 policies that provide a preference for products and products in
36 packaging that do not contain persistent, bioaccumulative, and toxic

1 chemicals as defined in chapter 173-333 WAC as of the effective date
2 of this section.

3 (2) No agency may knowingly purchase products or products in
4 packaging containing chemicals identified in subsection (1) of this
5 section unless there is no cost-effective and technologically
6 feasible alternative. When all available products contain a chemical
7 identified in subsection (1) of this section, a preference must be
8 given to alternative products that contain lesser amounts of
9 chemicals identified in subsection (1) of this section.

10 (3) Nothing in this section requires the department or any other
11 state agency to breach an existing contract or dispose of stock that
12 has been ordered or is in the possession of the department or other
13 state agency as of the effective date of this section.

14 (4) This section does not require the department or any other
15 agency to test every product procured.

16 (5) The department or any other agency may request suppliers of
17 products to provide testing data from an accredited laboratory or
18 testing facility documenting levels of a chemical identified in
19 subsection (1) of this section in products or product packaging.
20 Requested or voluntarily received testing data from businesses,
21 manufacturers, organizations, and individuals must be submitted for
22 review to the department of ecology.

23 **Sec. 14.** RCW 43.21B.110 and 2013 c 291 s 33 are each amended to
24 read as follows:

25 (1) The hearings board shall only have jurisdiction to hear and
26 decide appeals from the following decisions of the department, the
27 director, local conservation districts, the air pollution control
28 boards or authorities as established pursuant to chapter 70.94 RCW,
29 local health departments, the department of natural resources, the
30 department of fish and wildlife, the parks and recreation commission,
31 and authorized public entities described in chapter 79.100 RCW:

32 (a) Civil penalties imposed pursuant to RCW 18.104.155,
33 70.94.431, 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250,
34 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and
35 90.64.102.

36 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
37 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
38 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

3 (d) Except as provided in RCW 90.03.210(2), the issuance,
4 modification, or termination of any permit, certificate, or license
5 by the department or any air authority in the exercise of its
6 jurisdiction, including the issuance or termination of a waste
7 disposal permit, the denial of an application for a waste disposal
8 permit, the modification of the conditions or the terms of a waste
9 disposal permit, or a decision to approve or deny an application for
10 a solid waste permit exemption under RCW 70.95.300.

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

13 (f) Decisions of local health departments regarding the issuance
14 and enforcement of permits to use or dispose of biosolids under RCW
15 70.95J.080.

16 (g) Decisions of the department regarding waste-derived
17 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
18 decisions of the department regarding waste-derived soil amendments
19 under RCW 70.95.205.

20 (h) Decisions of local conservation districts related to the
21 denial of approval or denial of certification of a dairy nutrient
22 management plan; conditions contained in a plan; application of any
23 dairy nutrient management practices, standards, methods, and
24 technologies to a particular dairy farm; and failure to adhere to the
25 plan review and approval timelines in RCW 90.64.026.

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

29 (j) Decisions of the department of natural resources, the
30 department of fish and wildlife, and the department that are
31 reviewable under chapter 76.09 RCW, and the department of natural
32 resources' appeals of county, city, or town objections under RCW
33 76.09.050(7).

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

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

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

1 (n) Decisions of an authorized public entity under RCW 79.100.010
2 to take temporary possession or custody of a vessel or to contest the
3 amount of reimbursement owed that are reviewable by the hearings
4 board under RCW 79.100.120.

5 (o) Decisions regarding a restriction, order, or penalty issued
6 under chapter 70.--- RCW (the new chapter created in section 16 of
7 this act).

8 (2) The following hearings shall not be conducted by the hearings
9 board:

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

12 (b) Hearings conducted by the department pursuant to RCW
13 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and
14 90.44.180.

15 (c) Appeals of decisions by the department under RCW 90.03.110
16 and 90.44.220.

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

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

22 **Sec. 15.** RCW 43.21B.110 and 2013 c 291 s 34 are each amended to
23 read as follows:

24 (1) The hearings board shall only have jurisdiction to hear and
25 decide appeals from the following decisions of the department, the
26 director, local conservation districts, the air pollution control
27 boards or authorities as established pursuant to chapter 70.94 RCW,
28 local health departments, the department of natural resources, the
29 department of fish and wildlife, the parks and recreation commission,
30 and authorized public entities described in chapter 79.100 RCW:

31 (a) Civil penalties imposed pursuant to RCW 18.104.155,
32 70.94.431, 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250,
33 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and
34 90.64.102.

35 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
36 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
37 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

38 (c) Except as provided in RCW 90.03.210(2), the issuance,
39 modification, or termination of any permit, certificate, or license

1 by the department or any air authority in the exercise of its
2 jurisdiction, including the issuance or termination of a waste
3 disposal permit, the denial of an application for a waste disposal
4 permit, the modification of the conditions or the terms of a waste
5 disposal permit, or a decision to approve or deny an application for
6 a solid waste permit exemption under RCW 70.95.300.

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

9 (e) Decisions of local health departments regarding the issuance
10 and enforcement of permits to use or dispose of biosolids under RCW
11 70.95J.080.

12 (f) Decisions of the department regarding waste-derived
13 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
14 decisions of the department regarding waste-derived soil amendments
15 under RCW 70.95.205.

16 (g) Decisions of local conservation districts related to the
17 denial of approval or denial of certification of a dairy nutrient
18 management plan; conditions contained in a plan; application of any
19 dairy nutrient management practices, standards, methods, and
20 technologies to a particular dairy farm; and failure to adhere to the
21 plan review and approval timelines in RCW 90.64.026.

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

25 (i) Decisions of the department of natural resources, the
26 department of fish and wildlife, and the department that are
27 reviewable under chapter 76.09 RCW, and the department of natural
28 resources' appeals of county, city, or town objections under RCW
29 76.09.050(7).

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

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

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

37 (m) Decisions of an authorized public entity under RCW 79.100.010
38 to take temporary possession or custody of a vessel or to contest the
39 amount of reimbursement owed that are reviewable by the hearings
40 board under RCW 79.100.120.

1 (n) Decisions regarding a restriction, order, or penalty issued
2 under chapter 70.--- RCW (the new chapter created in section 16 of
3 this act).

4 (2) The following hearings shall not be conducted by the hearings
5 board:

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

8 (b) Hearings conducted by the department pursuant to RCW
9 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and
10 90.44.180.

11 (c) Appeals of decisions by the department under RCW 90.03.110
12 and 90.44.220.

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

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

18 NEW SECTION. Sec. 16. Sections 1 through 12 of this act
19 constitute a new chapter in Title 70 RCW.

20 NEW SECTION. Sec. 17. A new section is added to chapter 43.131
21 RCW to read as follows:

22 The chemical safety committee established in section 6 of this
23 act and authority of the department of ecology to do the following
24 under the authority of chapter 70.--- RCW (the new chapter created in
25 section 16 of this act) expires June 30, 2025: Require manufacturers
26 to provide information on chemicals and conduct alternatives
27 assessments; prepare summary reports on alternatives assessments;
28 prohibit the use of chemicals and the sale, offer for sale, or
29 distribution of a product containing a prohibited chemical; and
30 assess penalties.

31 NEW SECTION. Sec. 18. A new section is added to chapter 43.131
32 RCW to read as follows:

33 The following acts or parts of acts, as now existing or hereafter
34 amended, are each repealed, effective June 30, 2026:

- 35 (1) Section 1 of this act;
36 (2) Section 2 of this act;
37 (3) Section 3 of this act;

- 1 (4) Section 4 of this act;
- 2 (5) Section 5 of this act;
- 3 (6) Section 6 of this act;
- 4 (7) Section 7 of this act;
- 5 (8) Section 8 of this act;
- 6 (9) Section 9 of this act;
- 7 (10) Section 10 of this act;
- 8 (11) Section 11 of this act; and
- 9 (12) Section 12 of this act.

10 NEW SECTION. **Sec. 19.** This act may be known and cited as the
11 toxics reduction act.

12 NEW SECTION. **Sec. 20.** Section 14 of this act expires June 30,
13 2019.

14 NEW SECTION. **Sec. 21.** Section 15 of this act takes effect June
15 30, 2019.

16 NEW SECTION. **Sec. 22.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

--- END ---