



Sen. Linda Holmes

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LRB103 03297 BDA 72529 a

1 AMENDMENT TO SENATE BILL 839

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 839 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by  
5 changing Section 3.475 and by adding Section 22.23e as  
6 follows:

7 (415 ILCS 5/3.475) (was 415 ILCS 5/3.45)

8 Sec. 3.475. Special waste. "Special waste" means any of  
9 the following:

10 (a) potentially infectious medical waste;

11 (b) hazardous waste, as determined in conformance with  
12 RCRA hazardous waste determination requirements set forth in  
13 Section 722.111 of Title 35 of the Illinois Administrative  
14 Code, including a residue from burning or processing hazardous  
15 waste in a boiler or industrial furnace unless the residue has  
16 been tested in accordance with Section 726.212 of Title 35 of

1 the Illinois Administrative Code and proven to be  
2 nonhazardous;

3 (c) industrial process waste or pollution control waste,  
4 except:

5 (1) any such waste certified by its generator,  
6 pursuant to Section 22.48 of this Act, not to be any of the  
7 following:

8 (A) a liquid, as determined using the paint filter  
9 test set forth in subdivision (3)(A) of subsection (m)  
10 of Section 811.107 of Title 35 of the Illinois  
11 Administrative Code;

12 (B) regulated asbestos-containing waste materials,  
13 as defined under the National Emission Standards for  
14 Hazardous Air Pollutants in 40 CFR Section 61.141;

15 (C) polychlorinated biphenyls (PCB's) regulated  
16 pursuant to 40 CFR Part 761;

17 (D) an industrial process waste or pollution  
18 control waste subject to the waste analysis and  
19 recordkeeping requirements of Section 728.107 of Title  
20 35 of the Illinois Administrative Code under the land  
21 disposal restrictions of Part 728 of Title 35 of the  
22 Illinois Administrative Code; and

23 (E) a waste material generated by processing  
24 recyclable metals by shredding and required to be  
25 managed as a special waste under Section 22.29 of this  
26 Act;

1           (2) any empty portable device or container, including  
2 but not limited to a drum, in which a special waste has  
3 been stored, transported, treated, disposed of, or  
4 otherwise handled, provided that the generator has  
5 certified that the device or container is empty and does  
6 not contain a liquid, as determined pursuant to item (A)  
7 of subdivision (1) of this subsection. For purposes of  
8 this subdivision, "empty portable device or container"  
9 means a device or container in which removal of special  
10 waste, except for a residue that shall not exceed one inch  
11 in thickness, has been accomplished by a practice commonly  
12 employed to remove materials of that type. An inner liner  
13 used to prevent contact between the special waste and the  
14 container shall be removed and managed as a special waste;  
15 or

16           (3) as may otherwise be determined under Section 22.9  
17 of this Act.

18           "Special waste" does not mean fluorescent and high  
19 intensity discharge lamps as defined in subsection (a) of  
20 Section 22.23a of this Act, paint and paint-related waste as  
21 defined in subsection (a) of Section 22.23e of this Act, waste  
22 that is managed in accordance with the universal waste  
23 requirements set forth in Title 35 of the Illinois  
24 Administrative Code, Subtitle G, Chapter I, Subchapter c, Part  
25 733, or waste that is subject to rules adopted pursuant to  
26 subsection (c) (2) of Section 22.23a of this Act or subsection

1 (b) of Section 22.23e of this Act.

2 (Source: P.A. 92-574, eff. 6-26-02.)

3 (415 ILCS 5/22.23e new)

4 Sec. 22.23e. Paint and paint-related wastes.

5 (a) As used in this Section:

6 "Paint" means a pigmented or unpigmented powder coating,  
7 or a pigmented or unpigmented mixture of binder and suitable  
8 liquid, that forms an adherent coating when applied to a  
9 surface. Powder coating is a surface coating that is applied  
10 as a dry powder and is fused into a continuous coating film  
11 through the use of heat. "Paint" includes architectural paint  
12 as defined in the Paint Stewardship Act.

13 "Paint-related waste" is (i) material contaminated with  
14 paint that results from the packaging of paint, wholesale and  
15 retail operations, paint manufacturing, and paint application  
16 or removal activities or (ii) material derived from the  
17 reclamation of paint-related wastes that is recycled in a  
18 manner other than burning for energy recovery or used in a  
19 manner constituting disposal.

20 (b) (1) Paint and paint-related waste that are hazardous  
21 waste are hereby designated as a category of universal waste  
22 subject to the streamlined hazardous waste rules set forth in  
23 35 Ill. Adm. Code 733. Within 60 days after the effective date  
24 of this amendatory Act of the 103rd General Assembly, the  
25 Agency shall propose, and within 180 days after receipt of the

1 Agency's proposal the Board shall adopt, rules that reflect  
2 this designation and that prescribe procedures and standards  
3 for the management of hazardous waste paint and paint-related  
4 waste as a universal waste consistent with the provisions set  
5 forth within this Section.

6 (2) If the United States Environmental Protection Agency  
7 adopts streamlined hazardous waste regulations pertaining to  
8 the management of hazardous waste paint or paint-related  
9 waste, or otherwise exempts such paint or paint-related waste  
10 from regulation as hazardous waste, the Board shall adopt an  
11 equivalent rule in accordance with Section 7.2 of this Act  
12 within 180 days of adoption of the federal regulation. The  
13 equivalent Board rule may serve as an alternative to the rules  
14 adopted under paragraph (1) of this subsection (b).

15 (c) Until the Board adopts rules pursuant to paragraph (1)  
16 of subsection (b) that prescribe procedures and standards for  
17 the management of hazardous waste paint and paint-related  
18 waste by small quantity handlers of universal waste, the  
19 following requirements shall apply to small quantity handlers  
20 of universal waste managing hazardous waste paint and  
21 paint-related waste as a universal waste:

22 (1) Waste Management. A small quantity handler of  
23 universal waste shall manage universal waste paint and  
24 paint-related waste in a way that prevents releases of any  
25 universal waste or any component of universal waste to the  
26 environment, including, but not limited to, in accordance

1       with the following requirements:

2               (A) The small quantity handler of universal waste  
3               shall collect and store universal waste paint and  
4               paint-related waste in containers that are  
5               structurally sound, leakproof, and compatible with the  
6               universal waste paint and paint-related waste.

7               (B) The small quantity handler of universal waste  
8               shall ensure that containers in which the universal  
9               waste paint and paint-related waste are contained do  
10              not leak and remain closed, except when wastes are  
11              being added to or removed from the container.

12              (C) The small quantity handler of universal waste,  
13              upon detection of a release of universal waste paint  
14              and paint-related waste, shall do the following:

15                      (i) Stop the release.

16                      (ii) Contain the released universal waste  
17                      paint and paint-related waste.

18                      (iii) Clean up and properly manage the  
19                      released universal waste paint and paint-related  
20                      waste and other materials generated from the  
21                      cleanup.

22                      (iv) Remove any leaking container from service  
23                      by transferring the contents to another container.

24                      (v) Repair any leaking container before  
25                      returning it to service.

26              (D) A small quantity handler of universal waste

1       shall manage universal waste paint and paint-related  
2       waste that is ignitable or reactive in accordance with  
3       local fire codes.

4       (E) A small quantity handler of universal waste  
5       shall manage universal waste paint and paint-related  
6       waste that are incompatible in separate containers.

7       (F) A small quantity handler of universal waste  
8       shall design, maintain, and operate areas of its  
9       facility where universal waste paints and  
10       paint-related wastes are collected and stored to  
11       minimize the possibility of a fire, explosion, or  
12       unplanned sudden or non-sudden release of universal  
13       waste or hazardous constituents to air, soil, or  
14       surface water which could threaten human health or the  
15       environment.

16       (2) Labeling or marking. Each container in which  
17       universal waste paint and paint-related waste is  
18       accumulated shall be labeled to identify the contents of  
19       the container.

20       (3) Accumulation time limits.

21       (A) A small quantity handler of universal waste  
22       may accumulate universal waste paint and paint-related  
23       waste for no longer than one year from the date the  
24       universal waste is generated. However, handlers may  
25       accumulate universal waste for longer than one year if  
26       the activity is solely for the purpose of accumulating

1           quantities to facilitate proper recovery, treatment,  
2           or disposal. The handler bears the burden of proving  
3           that this activity is solely for the purpose of  
4           accumulation of the quantities of universal waste  
5           necessary to facilitate proper recovery, treatment, or  
6           disposal.

7           (B) A small quantity handler of universal waste  
8           who accumulates universal waste must be able to  
9           demonstrate the length of time that the universal  
10           waste has been accumulated. The handler may make this  
11           demonstration by any of the following methods:

12                   (i) placing the universal waste paint and  
13                   paint-related waste in a container and marking or  
14                   labeling the container with the earliest date that  
15                   universal waste paint or paint-related waste in  
16                   the container became a waste or was received;

17                   (ii) marking or labeling each individual item  
18                   of universal waste paint and paint-related waste  
19                   with the date the universal waste paint and  
20                   paint-related waste became a waste or was  
21                   received;

22                   (iii) maintaining an inventory system on-site  
23                   that identifies the date each unit of universal  
24                   waste paint and paint-related waste became a waste  
25                   or was received;

26                   (iv) placing universal waste paint and



1           paint-related waste in a specific accumulation  
2           area and identifying the earliest date that any of  
3           the universal waste paint and paint-related waste  
4           in the area became a waste or was received; or

5           (v) any other method that clearly demonstrates  
6           the length of time the universal waste paint and  
7           paint-related waste have been accumulated from the  
8           date they become a waste or are received.

9           (4) Employee training. A small quantity handler of  
10          universal waste shall inform all employees who handle or  
11          have responsibility for managing universal waste paint and  
12          paint-related waste. The information shall describe proper  
13          handling and emergency procedures appropriate to the  
14          universal waste paint and paint-related waste.

15          (5) Response to releases.

16           (A) A small quantity handler of universal waste  
17           must immediately contain all releases of universal  
18           waste paint and paint-related waste and other residues  
19           from universal waste paint and paint-related waste.

20           (B) A small quantity handler of universal waste  
21           must determine whether any material resulting from the  
22           release is hazardous waste and, if so, must manage the  
23           hazardous waste in compliance with all applicable  
24           hazardous waste requirements of this Act and rules  
25           adopted under this Act. The handler is considered the  
26           generator of the material resulting from the release

1 and must manage the material in compliance with this  
2 Act and rules adopted under this Act.

3 (6) Off-site shipments.

4 (A) A small quantity handler of universal waste is  
5 prohibited from sending or taking universal waste  
6 paint and paint-related waste to a place other than  
7 another universal waste handler, a destination  
8 facility, or a foreign destination.

9 (B) If a small quantity handler of universal waste  
10 self-transport universal waste paint and  
11 paint-related waste offsite, the handler becomes a  
12 universal waste transporter for those  
13 self-transportation activities and shall comply with  
14 the Board's existing rules for universal waste  
15 transporters.

16 (C) If universal waste paint and paint-related  
17 waste being offered for off-site transportation meets  
18 the definition of hazardous materials under 49 CFR  
19 Parts 171 to 180, a small quantity handler of  
20 universal waste shall package, label, mark and placard  
21 the shipment, and prepare the proper shipping papers  
22 in accordance with the applicable United States  
23 Department of Transportation regulations under 49 CFR  
24 Parts 172 to 180.

25 (D) Prior to sending a shipment of universal waste  
26 paint and paint-related waste to another universal

1 waste handler, the originating handler shall ensure  
2 that the receiving handler agrees to receive the  
3 shipment.

4 (E) If a small quantity handler of universal waste  
5 sends a shipment of universal waste paint and  
6 paint-related waste to another handler or to a  
7 destination facility and if the shipment is rejected  
8 by the receiving handler or destination facility, the  
9 originating handler shall either:

10 (i) receive the universal waste paint and  
11 paint-related waste back when notified that the  
12 shipment has been rejected; or

13 (ii) agree with the receiving handler on a  
14 destination facility to which the shipment will be  
15 sent.

16 (F) A small quantity handler of universal waste  
17 may reject a shipment containing universal waste paint  
18 and paint-related waste, or a portion of a shipment  
19 containing universal waste paint and paint-related  
20 waste, received from another handler. If a handler  
21 rejects a shipment or a portion of a shipment, the  
22 rejecting handler shall contact the originating  
23 handler to notify the originating handler of the  
24 rejection and to discuss reshipment of the load. The  
25 receiving handler shall:

26 (i) send the shipment back to the originating

1 handler; or

2 (ii) if agreed to by both the originating and  
3 receiving handler, send the shipment to a  
4 destination facility.

5 (G) If a small quantity handler of universal waste  
6 receives a shipment of nonhazardous, non-universal  
7 waste, the handler may manage the waste in any way that  
8 is in compliance with applicable law.

9 (d) Until the Board adopts rules pursuant to subsection  
10 (b), the following additional requirements shall apply:

11 (1) Paints and paint-related wastes that are exempt  
12 household wastes or very small quantity generator wastes  
13 under existing Board rules remain exempt from the  
14 hazardous waste rules but may be managed as universal  
15 wastes under 35 Ill. Adm. Code 733.108.

16 (2) Universal waste transporters that transport paints  
17 or paint-related wastes that are universal wastes are  
18 subject to the existing Board rules for universal waste  
19 transporters.

20 (3) Universal waste destination facilities that manage  
21 paints or paint-related wastes that are universal wastes  
22 are subject to the existing Board rules for universal  
23 waste destination facilities.

24 Section 10. The Paint Stewardship Act is amended by  
25 changing Sections 15, 25, and 40 as follows:

1 (415 ILCS 175/15)

2 Sec. 15. Paint stewardship program plan.

3 (a) Each manufacturer of architectural paint sold or  
4 offered for sale at retail in the State shall submit to the  
5 Agency a plan for the establishment of a postconsumer paint  
6 stewardship program. The program shall seek to reduce the  
7 generation of postconsumer paint, promote its reuse and  
8 recycling, and manage the postconsumer paint waste stream  
9 using environmentally sound management practices.

10 (b) A plan submitted under this Section shall:

11 (1) Provide a list of participating manufacturers and  
12 brands covered by the program.

13 (2) Provide information on the architectural paint  
14 products covered under the program, such as interior or  
15 exterior water-based and oil-based coatings, primers,  
16 sealers, or wood coatings.

17 (3) Describe how it will provide for the statewide  
18 collection of postconsumer architectural paint in the  
19 State. The manufacturer or representative organization may  
20 coordinate the program with existing household hazardous  
21 waste collection infrastructure as is mutually agreeable  
22 with the person operating the household waste collection  
23 infrastructure.

24 (4) Provide a goal of sufficient number and geographic  
25 distribution of collection sites, collection services, or

1 collection events for postconsumer architectural paint to  
2 meet the following criteria:

3 (A) at least 90% of State residents shall have a  
4 collection site, collection service, or collection  
5 event within a 15-mile radius; and

6 (B) at least one collection site, collection  
7 service, or collection event for every 50,000  
8 residents of the State.

9 (5) Describe how postconsumer paint will be managed  
10 using the following strategies: reuse, recycling, and  
11 disposal.

12 (6) Describe education and outreach efforts to inform  
13 consumers about the program. These efforts should include:

14 (A) information about collection opportunities for  
15 postconsumer paint;

16 (B) information about the fee for the operation of  
17 the program that shall be included in the purchase  
18 price of all architectural paint sold in the State;  
19 and

20 (C) efforts to promote the source reduction,  
21 reuse, and recycling of architectural paint.

22 (7) Include a certification from an independent  
23 auditor that any added fee to paint sold in the State as a  
24 result of the postconsumer paint stewardship program does  
25 not exceed the costs to operate and sustain the program in  
26 accordance with sound management practices. The

1 independent auditor shall verify that the amount added to  
2 each unit of paint will cover the costs and sustain the  
3 postconsumer paint stewardship program.

4 (8) Describe how the paint stewardship program will  
5 incorporate and compensate service providers for  
6 activities conducted under the program that may include:

7 (A) the collection of postconsumer architectural  
8 paint and architectural paint containers through  
9 permanent collection sites, collection events, or  
10 curbside services;

11 (B) the reuse or processing of postconsumer  
12 architectural paint at a permanent collection site;  
13 and

14 (C) the transportation, recycling, and proper  
15 disposal of postconsumer architectural paint.

16 (c) Independent audits conducted for the purposes of this  
17 Act must be conducted in accordance with generally accepted  
18 auditing standards. The work product of the independent  
19 auditor shall be submitted to the Agency as part of the annual  
20 report required by Section 40. The cost of any work performed  
21 by the independent auditor shall be funded by the program.

22 (d) Not later than 90 ~~60~~ days after submission of the plan  
23 under this Section, the Agency shall determine in writing  
24 whether to approve the plan as submitted or disapprove the  
25 plan. The Agency shall approve a plan if it contains all of the  
26 information required under subsection (b). If the plan is

1 disapproved, the manufacturer or representative organization  
2 shall resubmit a plan within 45 calendar days of receipt of the  
3 notice of disapproval.

4 (e) If a manufacturer or representative organization  
5 determines that the paint stewardship fee should be adjusted  
6 because the independent audit reveals that the cost of  
7 administering the program exceeds the revenues generated by  
8 the paint stewardship fee, the manufacturer or representative  
9 organization shall submit to the Agency a justification for  
10 the adjustment as well as financial reports to support the  
11 adjustment, including a 5-year projection of the financial  
12 status of the organization. The submission shall include a  
13 certification from an independent auditor that the proposed  
14 fee adjustment will generate revenues necessary and sufficient  
15 to pay the program expenses, including any accumulated debt,  
16 and develop a reasonable reserve level sufficient to sustain  
17 the program. The Agency shall approve the fee adjustment if  
18 the submission contains all of the information required under  
19 this subsection.

20 (f) Within 45 calendar days after Agency approval of a  
21 plan, the Agency shall post on its website, and the  
22 manufacturer or representative organization shall post on its  
23 website, the names of the manufacturers participating in the  
24 plan, the brands of architectural paint covered by the  
25 program, and a copy of the plan.

26 (g) Each manufacturer under the plan shall include in the



1 price of any architectural paint sold to retailers or  
2 distributors in the State the per container amount of the fee  
3 set forth in the plan or fee adjustment. If a representative  
4 organization is implementing the plan for a manufacturer, the  
5 manufacturer is responsible for filing, reporting, and  
6 remitting the paint stewardship fee assessment for each  
7 container of architectural paint to the representative  
8 organization. A retailer or distributor shall not deduct the  
9 amount of the fee from the purchase price of any paint it  
10 sells.

11 (Source: P.A. 103-372, eff. 1-1-24.)

12 (415 ILCS 175/25)

13 Sec. 25. Plan submission. The plan required by Section 15  
14 shall be submitted not later than July 1, 2025 ~~12 months~~ after  
15 the effective date of this Act.

16 (Source: P.A. 103-372, eff. 1-1-24.)

17 (415 ILCS 175/40)

18 Sec. 40. Annual report. By July 1, 2028 ~~2026~~, and each July  
19 thereafter, a manufacturer or representative organization  
20 shall submit a report to the Agency that details the  
21 implementation of the manufacturer's or representative  
22 organization's program during the prior calendar year. The  
23 report shall include:

24 (1) a description of the methods used to collect and

1 transport the postconsumer paint collected by the program;

2 (2) the volume and type of postconsumer paint  
3 collected and a description of the methods used to process  
4 the paint, including reuse, recycling, and other methods;

5 (3) samples of the educational materials provided to  
6 consumers of architectural paint; and

7 (4) the total cost of the program and an independent  
8 financial audit of the program. An independent financial  
9 auditor shall be chosen by the manufacturer or  
10 representative organization.

11 The Agency and the manufacturer or manufacturer's  
12 representative organization shall post a copy of each annual  
13 report on their websites.

14 (Source: P.A. 103-372, eff. 1-1-24.)".