

4926--C

Cal. No. 194

2015-2016 Regular Sessions

I N S E N A T E

April 23, 2015

Introduced by Sens. O'MARA, ADDABBO, BOYLE, GALLIVAN, HOYLMAN, LATIMER, PANEPINTO, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report -- ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the environmental conservation law, in relation to establishing the paint stewardship program

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Article 27 of the environmental conservation law is amended  
2 by adding a new title 20 to read as follows:

3 TITLE 20

4 PAINT STEWARDSHIP PROGRAM

5 SECTION 27-2001. DEFINITIONS.  
6 27-2003. PAINT STEWARDSHIP PROGRAM.  
7 27-2005. REGULATIONS.  
8 27-2007. REPORTING.

9 S 27-2001. DEFINITIONS.

10 WHEN USED IN THIS TITLE:

11 1. "ARCHITECTURAL PAINT" MEANS INTERIOR AND EXTERIOR ARCHITECTURAL  
12 COATINGS SOLD IN CONTAINERS OF FIVE GALLONS OR LESS. ARCHITECTURAL PAINT  
13 DOES NOT INCLUDE INDUSTRIAL, ORIGINAL EQUIPMENT OR SPECIALTY COATINGS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD05196-06-6

1 2. "DISTRIBUTOR" MEANS A PERSON THAT HAS A CONTRACTUAL RELATIONSHIP  
2 WITH ONE OR MORE PRODUCERS TO MARKET AND SELL ARCHITECTURAL PAINT TO  
3 RETAILERS OR DIRECTLY TO CONSUMERS OR END-USERS IN THE STATE.

4 3. "ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES" MEANS PROCEDURES FOR  
5 THE COLLECTION, STORAGE, TRANSPORTATION, REUSE, RECYCLING AND DISPOSAL  
6 OF ARCHITECTURAL PAINT, TO BE IMPLEMENTED BY THE PRODUCER OR REPRESENTATIVE ORGANIZATION OR SUCH REPRESENTATIVE ORGANIZATION'S CONTRACTED  
7 PARTNERS TO ENSURE COMPLIANCE WITH ALL APPLICABLE FEDERAL, STATE AND  
8 LOCAL LAWS, REGULATIONS AND ORDINANCES AND THE PROTECTION OF HUMAN  
9 HEALTH AND THE ENVIRONMENT. ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES  
10 INCLUDE, BUT ARE NOT LIMITED TO, RECORD KEEPING, THE TRACKING AND DOCUMENTING OF THE FATE OF POST-CONSUMER PAINT IN AND OUTSIDE OF THE STATE,  
11 AND ENVIRONMENTAL LIABILITY COVERAGE FOR PROFESSIONAL SERVICES AND FOR  
12 THE OPERATIONS OF THE CONTRACTORS WORKING ON BEHALF OF THE PRODUCER OR  
13 REPRESENTATIVE ORGANIZATION.

14 4. "PAINT STEWARDSHIP ASSESSMENT" MEANS THE AMOUNT ADDED TO THE  
15 PURCHASE PRICE OF ARCHITECTURAL PAINT SOLD IN THE STATE THAT IS NECESSARY TO COVER THE COST OF COLLECTING, TRANSPORTING AND PROCESSING POST-  
16 CONSUMER PAINT BY THE PRODUCER OR REPRESENTATIVE ORGANIZATION PURSUANT  
17 TO THE PAINT STEWARDSHIP PROGRAM.

18 5. "PAINT STEWARDSHIP PROGRAM" OR "PROGRAM" MEANS A PROGRAM FOR THE  
19 MANAGEMENT OF POST-CONSUMER PAINT OPERATED BY A PRODUCER OR REPRESENTATIVE ORGANIZATION.

20 6. "POST-CONSUMER PAINT" MEANS ARCHITECTURAL PAINT THAT IS NOT USED  
21 AND THAT IS NO LONGER WANTED BY A PURCHASER OF ARCHITECTURAL PAINT.

22 7. "PRODUCER" MEANS A MANUFACTURER OF ARCHITECTURAL PAINT WHO SELLS,  
23 OFFERS FOR SALE, DISTRIBUTES OR CONTRACTS TO DISTRIBUTE ARCHITECTURAL  
24 PAINT IN THE STATE.

25 8. "RECYCLING" MEANS THE SERIES OF ACTIVITIES BY WHICH RECYCLABLES ARE  
26 COLLECTED, SORTED, PROCESSED AND CONVERTED INTO RAW MATERIALS OR USED IN  
27 THE PRODUCTION OF NEW PRODUCTS. THIS TERM EXCLUDES THERMAL TREATMENT OR  
28 THE USE OF WASTE AS A FUEL SUBSTITUTE OR FOR ENERGY PRODUCTION.

29 9. "REPRESENTATIVE ORGANIZATION" MEANS A NONPROFIT ORGANIZATION  
30 CREATED BY PRODUCERS TO IMPLEMENT THE PAINT STEWARDSHIP PROGRAM  
31 DESCRIBED IN SECTION 27-2003 OF THIS TITLE.

32 10. "RETAILER" MEANS ANY PERSON WHO OFFERS ARCHITECTURAL PAINT FOR  
33 SALE AT RETAIL IN THE STATE.

34 11. "REUSE" MEANS THE RETURN OF A PRODUCT INTO THE ECONOMIC STREAM FOR  
35 USE IN THE SAME KIND OF APPLICATION AS THE PRODUCT WAS ORIGINALLY  
36 INTENDED TO BE USED, WITHOUT A CHANGE IN THE PRODUCT'S IDENTITY.

37 12. "SELL" OR "SALE" MEANS ANY TRANSFER FOR CONSIDERATION OF TITLE OR  
38 THE RIGHT TO USE, FROM A MANUFACTURER OR RETAILER TO A PERSON, INCLUDING, BUT NOT LIMITED TO, TRANSACTIONS CONDUCTED THROUGH RETAIL SALES  
39 OUTLETS, CATALOGS, MAIL, THE TELEPHONE, THE INTERNET, OR ANY ELECTRONIC  
40 MEANS; THIS DOES NOT INCLUDE SAMPLES, DONATIONS, AND REUSE.

41 S 27-2003. PAINT STEWARDSHIP PROGRAM.

42 1. ON OR BEFORE MARCH FIRST, TWO THOUSAND SEVENTEEN, A PRODUCER OR A  
43 REPRESENTATIVE ORGANIZATION SHALL SUBMIT A PLAN FOR THE ESTABLISHMENT OF  
44 A PAINT STEWARDSHIP PROGRAM TO THE DEPARTMENT FOR APPROVAL. THE PROGRAM  
45 SHALL MINIMIZE THE PUBLIC SECTOR INVOLVEMENT IN THE MANAGEMENT OF POST-  
46 CONSUMER PAINT BY REDUCING THE GENERATION OF POST-CONSUMER PAINT, NEGOTIATING AGREEMENTS TO COLLECT, TRANSPORT, REUSE, RECYCLE, AND/OR BURN  
47 FOR ENERGY RECOVERY AT AN APPROPRIATELY LICENSED FACILITY POST-CONSUMER  
48 PAINT USING ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES. THE PROGRAM  
49 SHALL MINIMIZE THE PUBLIC SECTOR INVOLVEMENT IN THE MANAGEMENT OF POST-  
50 CONSUMER PAINT BY REDUCING THE GENERATION OF POST-CONSUMER PAINT, NEGOTIATING AGREEMENTS TO COLLECT, TRANSPORT, REUSE, RECYCLE, AND/OR BURN  
51 FOR ENERGY RECOVERY AT AN APPROPRIATELY LICENSED FACILITY POST-CONSUMER  
52 PAINT USING ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES. THE PROGRAM  
53 SHALL MINIMIZE THE PUBLIC SECTOR INVOLVEMENT IN THE MANAGEMENT OF POST-  
54 CONSUMER PAINT BY REDUCING THE GENERATION OF POST-CONSUMER PAINT, NEGOTIATING AGREEMENTS TO COLLECT, TRANSPORT, REUSE, RECYCLE, AND/OR BURN  
55 FOR ENERGY RECOVERY AT AN APPROPRIATELY LICENSED FACILITY POST-CONSUMER  
56 PAINT USING ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES. THE PROGRAM

1 TIATING AGREEMENTS TO COLLECT, TRANSPORT, REUSE, RECYCLE, AND/OR COMBUST  
2 FOR ENERGY RECOVERY AT AN APPROPRIATELY AUTHORIZED FACILITY, INCLUDING  
3 PERMITTEES, POST-CONSUMER PAINT USING ENVIRONMENTALLY SOUND MANAGEMENT  
4 PRACTICES.

5 2. THE PROGRAM SHALL PROVIDE FOR CONVENIENT AND AVAILABLE STATE-WIDE  
6 COLLECTION OF POST-CONSUMER PAINT THAT, AT A MINIMUM, PROVIDES AT LEAST  
7 ONE PERMANENT COLLECTION SITE LOCATED WITHIN A FIFTEEN MILE RADIUS OF  
8 ALL "INCORPORATED CITIES" AND "CENSUS-DESIGNATED PLACES" IN THE STATE;  
9 AND ONE ADDITIONAL PERMANENT COLLECTION SITE FOR EVERY THIRTY THOUSAND  
10 PEOPLE LOCATED IN THOSE AREAS, UNLESS OTHERWISE APPROVED BY THE DEPART-  
11 MENT. WHERE A PERMANENT COLLECTION SITE CANNOT BE LOCATED WITHIN A  
12 FIFTEEN MILE RADIUS OF AN INCORPORATED CITY OR CENSUS-DESIGNATED PLACE,  
13 THE PROGRAM SHALL PROVIDE FOR AT LEAST ONE COLLECTION EVENT ANNUALLY.  
14 THE PROGRAM SHALL NOT CHARGE A FEE TO THE CONSUMER AT THE TIME OF  
15 COLLECTION OF POST-CONSUMER ARCHITECTURAL PAINT.

16 3. THE PLAN SUBMITTED TO THE DEPARTMENT PURSUANT TO THIS SECTION  
17 SHALL:

18 (A) IDENTIFY EACH PRODUCER PARTICIPATING IN THE PAINT STEWARDSHIP  
19 PROGRAM AND THE BRANDS OF ARCHITECTURAL PAINT SOLD IN THE STATE COVERED  
20 BY THE PROGRAM;

21 (B) IDENTIFY HOW THE PRODUCER OR REPRESENTATIVE ORGANIZATION WILL  
22 PROVIDE CONVENIENT, STATEWIDE ACCESSIBILITY TO THE PROGRAM;

23 (C) SET FORTH THE PROCESS BY WHICH AN INDEPENDENT AUDITOR WILL BE  
24 SELECTED AND IDENTIFY THE CRITERIA USED BY THE PRODUCER OR REPRESENTATIVE  
25 ORGANIZATION IN SELECTING AN INDEPENDENT AUDITOR;

26 (D) IDENTIFY, IN DETAIL, THE EDUCATIONAL AND OUTREACH PROGRAM THAT  
27 WILL BE IMPLEMENTED TO INFORM CONSUMERS AND RETAILERS OF THE PROGRAM AND  
28 HOW TO PARTICIPATE;

29 (E) IDENTIFY, IN DETAIL, THE OPERATIONAL PLANS FOR INTERACTING WITH  
30 RETAILERS ON THE PROPER HANDLING AND MANAGEMENT OF POST-CONSUMER PAINT;

31 (F) INCLUDE THE PROPOSED, AUDITED PAINT ASSESSMENT AS IDENTIFIED IN  
32 THIS SECTION AND THE CRITERIA UPON WHICH THE ASSESSMENT IS BASED;

33 (G) INCLUDE THE TARGETED ANNUAL COLLECTION RATE;

34 (H) INCLUDE A DESCRIPTION OF THE INTENDED TREATMENT, STORAGE, TRANS-  
35 PORTATION AND DISPOSAL OPTIONS AND METHODS FOR THE COLLECTED POST-CON-  
36 SUMER PAINT; AND

37 (I) BE ACCOMPANIED BY A FEE IN THE AMOUNT OF FIVE THOUSAND DOLLARS FOR  
38 EACH PRODUCER, OR TEN THOUSAND DOLLARS FOR EACH PRODUCT STEWARDSHIP  
39 ORGANIZATION TO BE DEPOSITED INTO THE ENVIRONMENTAL REGULATORY ACCOUNT  
40 AS ESTABLISHED IN SECTION 72-1009 OF THIS CHAPTER, TO COVER THE REVIEW  
41 OF SAID PLAN BY THE DEPARTMENT.

42 4. THE COMMISSIONER SHALL APPROVE OR REJECT A PLAN SUBMITTED UNDER  
43 THIS SECTION WITHIN NINETY DAYS OF SUBMISSION AND, IF REJECTED, INFORM  
44 THE PRODUCER OR REPRESENTATIVE ORGANIZATION IN WRITING AS TO ANY DEFICIENCIES  
45 IN SAID PLAN. A PRODUCER OR REPRESENTATIVE ORGANIZATION SHALL  
46 AMEND AND RESUBMIT ANY REJECTED PLANS FOR RECONSIDERATION WITHIN SIXTY  
47 DAYS OF NOTIFICATION OF THE REJECTION OF SAID PLAN. THE COMMISSIONER  
48 SHALL APPROVE OR REJECT SAID PLAN WITHIN THIRTY DAYS OF RESUBMISSION. A  
49 PLAN SHALL BE APPROVED BY THE COMMISSIONER IF IT MEETS THE REQUIRED  
50 ELEMENTS UNDER SUBDIVISION THREE OF THIS SECTION.

51 5. NOT LATER THAN THREE MONTHS AFTER THE DATE THE PLAN IS APPROVED,  
52 THE REPRESENTATIVE ORGANIZATION SHALL IMPLEMENT THE PAINT STEWARDSHIP  
53 PROGRAM.

54 6. ON OR BEFORE MARCH FIRST, TWO THOUSAND SEVENTEEN, THE PROPOSED  
55 UNIFORM PAINT STEWARDSHIP ASSESSMENT FOR ALL ARCHITECTURAL PAINT SOLD IN  
56 THE STATE SHALL BE REVIEWED BY AN INDEPENDENT AUDITOR TO ASSURE THAT THE

1 ASSESSMENT IS CONSISTENT WITH THE BUDGET OF THE PAINT STEWARDSHIP  
2 PROGRAM DESCRIBED IN THIS SECTION AND THE INDEPENDENT AUDITOR SHALL  
3 RECOMMEND AN AMOUNT FOR THE PAINT STEWARDSHIP ASSESSMENT TO THE DEPART-  
4 MENT. THE DEPARTMENT SHALL APPROVE THE PAINT STEWARDSHIP ASSESSMENT  
5 BASED UPON THE INDEPENDENT AUDITOR'S RECOMMENDATION. THE DEPARTMENT  
6 SHALL BE RESPONSIBLE FOR THE APPROVAL OF SUCH PAINT STEWARDSHIP ASSESS-  
7 MENT BASED UPON THE INDEPENDENT AUDITOR'S RECOMMENDATION. IF THE PAINT  
8 STEWARDSHIP ASSESSMENT PREVIOUSLY APPROVED BY THE DEPARTMENT PURSUANT TO  
9 THIS SECTION IS PROPOSED TO BE CHANGED, THE PRODUCER OR REPRESENTATIVE  
10 ORGANIZATION SHALL SUBMIT THE NEW, ADJUSTED UNIFORM PAINT STEWARDSHIP  
11 ASSESSMENT TO AN INDEPENDENT AUDITOR FOR REVIEW. AFTER SUCH REVIEW HAS  
12 BEEN COMPLETED, THE PRODUCER OR REPRESENTATIVE ORGANIZATION SHALL SUBMIT  
13 THE RESULTS OF SAID AUDITOR'S REVIEW AND A PROPOSAL TO AMEND THE PAINT  
14 STEWARDSHIP ASSESSMENT TO THE DEPARTMENT FOR REVIEW. THE DEPARTMENT  
15 SHALL REVIEW AND APPROVE, IN WRITING, THE ADJUSTED PAINT STEWARDSHIP  
16 ASSESSMENT BEFORE THE NEW ASSESSMENT CAN BE IMPLEMENTED. ANY PROPOSED  
17 CHANGES TO THE PAINT STEWARDSHIP ASSESSMENT SHALL BE SUBMITTED TO THE  
18 DEPARTMENT NO LATER THAN SIXTY DAYS PRIOR TO THE DATE THE PRODUCER OR  
19 REPRESENTATIVE ORGANIZATION ANTICIPATES THE ADJUSTED ASSESSMENT TO TAKE  
20 EFFECT.

21 7. ON AND AFTER THE DATE OF IMPLEMENTATION OF THE PAINT STEWARDSHIP  
22 PROGRAM PURSUANT TO THIS SECTION, THE PAINT STEWARDSHIP ASSESSMENT SHALL  
23 BE ADDED TO THE COST OF ALL ARCHITECTURAL PAINT SOLD TO RETAILERS AND  
24 DISTRIBUTORS IN THE STATE BY EACH PRODUCER. ON AND AFTER SUCH IMPLEMEN-  
25 TATION DATE, EACH RETAILER OR DISTRIBUTOR, AS APPLICABLE, SHALL ADD THE  
26 AMOUNT OF SUCH PAINT STEWARDSHIP ASSESSMENT TO THE PURCHASE PRICE OF ALL  
27 ARCHITECTURAL PAINT SOLD IN THE STATE.

28 8. ANY RETAILER MAY PARTICIPATE, ON A VOLUNTARY BASIS, AS A PAINT  
29 COLLECTION POINT PURSUANT TO SUCH PAINT STEWARDSHIP PROGRAM AND IN  
30 ACCORDANCE WITH ANY APPLICABLE PROVISION OF LAW OR REGULATION.

31 9. EACH PRODUCER AND THE REPRESENTATIVE ORGANIZATION SHALL BE IMMUNE  
32 FROM LIABILITY FOR ANY CLAIM OF A VIOLATION OF ANTITRUST LAW OR UNFAIR  
33 TRADE PRACTICE IF SUCH CONDUCT IS A VIOLATION OF ANTITRUST LAW, TO THE  
34 EXTENT SUCH PRODUCER OR REPRESENTATIVE ORGANIZATION IS EXERCISING  
35 AUTHORITY PURSUANT TO THE PROVISIONS OF THIS SECTION.

36 10. NOT LATER THAN THE IMPLEMENTATION DATE OF THE PAINT STEWARDSHIP  
37 PROGRAM, THE DEPARTMENT SHALL LIST THE NAMES OF PARTICIPATING PRODUCERS  
38 AND THE BRANDS OF ARCHITECTURAL PAINT COVERED BY SUCH PAINT STEWARDSHIP  
39 PROGRAM ON ITS WEBSITE.

40 11. (A) ON AND AFTER THE IMPLEMENTATION DATE OF THE PAINT STEWARDSHIP  
41 PROGRAM, NO PRODUCER, DISTRIBUTOR OR RETAILER SHALL SELL OR OFFER FOR  
42 SALE ARCHITECTURAL PAINT TO ANY PERSON IN THE STATE IF THE PRODUCER OF  
43 SUCH ARCHITECTURAL PAINT IS NOT A MEMBER OF THE REPRESENTATIVE ORGANIZA-  
44 TION.

45 (B) NO RETAILER OR DISTRIBUTOR SHALL BE FOUND TO BE IN VIOLATION OF  
46 THE PROVISIONS OF THIS SECTION IF, ON THE DATE THE ARCHITECTURAL PAINT  
47 WAS ORDERED FROM THE PRODUCER OR ITS AGENT, THE PRODUCER OR THE SUBJECT  
48 BRAND OF ARCHITECTURAL PAINT WAS LISTED ON THE DEPARTMENT'S WEBSITE IN  
49 ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

50 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A RETAILER CARRYING  
51 OUT DUTIES OR RESPONSIBILITIES IMPOSED BY THIS TITLE SHALL INCUR NO  
52 CIVIL LIABILITY OR PENALTY OF ANY SORT UNLESS IT IS DETERMINED BY A  
53 COURT OF COMPETENT JURISDICTION THAT SUCH RETAILER HAS ACTED IN A GROSS-  
54 LY NEGLIGENT MANNER IN THE TRANSPORT OR STORAGE OF PAINT AND/OR ALTERING  
55 THE CONTENTS OF A RETURNED PAINT CONTAINER.

1 12. PRODUCERS OR THE REPRESENTATIVE ORGANIZATION SHALL PROVIDE RETAIL-  
2 ERS WITH EDUCATIONAL MATERIALS REGARDING THE PAINT STEWARDSHIP ASSESS-  
3 MENT AND PAINT STEWARDSHIP PROGRAM TO BE DISTRIBUTED AT THE POINT OF  
4 SALE TO THE CONSUMER. SUCH MATERIALS SHALL INCLUDE, BUT NOT BE LIMITED  
5 TO, INFORMATION REGARDING AVAILABLE END-OF-LIFE MANAGEMENT OPTIONS FOR  
6 ARCHITECTURAL PAINT OFFERED THROUGH THE PAINT STEWARDSHIP PROGRAM AND  
7 INFORMATION THAT NOTIFIES CONSUMERS THAT A CHARGE FOR THE OPERATION OF  
8 SUCH PAINT STEWARDSHIP PROGRAM IS INCLUDED IN THE PURCHASE PRICE OF ALL  
9 ARCHITECTURAL PAINT SOLD IN THE STATE.

10 13. ON OR BEFORE OCTOBER FIFTEENTH, TWO THOUSAND EIGHTEEN, AND ANNUAL-  
11 LY THEREAFTER, EACH OPERATOR OF A PROGRAM SHALL SUBMIT A REPORT TO THE  
12 COMMISSIONER THAT DETAILS THE PAINT STEWARDSHIP PROGRAM FOR THE PRIOR  
13 YEAR'S PROGRAM FROM JULY FIRST TO JUNE THIRTIETH. SAID REPORT SHALL  
14 INCLUDE A COPY OF THE INDEPENDENT AUDIT DETAILED IN PARAGRAPH (D) OF  
15 THIS SUBDIVISION. SUCH ANNUAL REPORT SHALL INCLUDE:

16 (A) A DETAILED DESCRIPTION OF THE METHODS USED TO COLLECT, TRANSPORT  
17 AND PROCESS POST-CONSUMER PAINT IN THE STATE INCLUDING DETAILING  
18 COLLECTION METHODS MADE AVAILABLE TO CONSUMERS AND AN EVALUATION OF THE  
19 PROGRAM'S COLLECTION CONVENIENCE;

20 (B) THE OVERALL VOLUME OF POST-CONSUMER PAINT COLLECTED IN THE STATE;

21 (C) THE VOLUME AND TYPE OF POST-CONSUMER PAINT COLLECTED IN THE STATE  
22 BY METHOD OF DISPOSITION, INCLUDING REUSE, RECYCLING AND OTHER METHODS  
23 OF PROCESSING OR DISPOSAL;

24 (D) THE TOTAL COST OF IMPLEMENTING THE PROGRAM, AS DETERMINED BY AN  
25 INDEPENDENT FINANCIAL AUDIT, AS PERFORMED BY AN INDEPENDENT AUDITOR;

26 (E) AN EVALUATION OF THE ADEQUACY OF THE PROGRAM'S FUNDING MECHANISM;

27 (F) SAMPLES OF ALL EDUCATIONAL MATERIALS PROVIDED TO CONSUMERS OF  
28 ARCHITECTURAL PAINT AND RETAILERS;

29 (G) A DETAILED LIST OF EFFORTS UNDERTAKEN AND AN EVALUATION OF THE  
30 METHODS USED TO DISSEMINATE SUCH MATERIALS INCLUDING RECOMMENDATIONS, IF  
31 ANY, FOR HOW THE EDUCATIONAL COMPONENT OF THE PROGRAM CAN BE IMPROVED;  
32 AND

33 (H) THE ANNUAL REPORT SHALL BE ACCOMPANIED BY A FEE IN THE AMOUNT OF  
34 THREE THOUSAND DOLLARS TO BE DEPOSITED INTO THE ENVIRONMENTAL REGULATORY  
35 ACCOUNT, ESTABLISHED PURSUANT TO SECTION 72-1009 OF THIS CHAPTER TO  
36 COVER THE REVIEW OF SAID PLAN BY THE DEPARTMENT.

37 14. THE REPRESENTATIVE ORGANIZATION SHALL UPDATE THE PLAN, AS NEEDED,  
38 WHEN THERE ARE CHANGES PROPOSED TO THE CURRENT PROGRAM. A NEW PLAN OR  
39 AMENDMENT WILL BE REQUIRED TO BE SUBMITTED TO THE DEPARTMENT FOR  
40 APPROVAL WHEN:

41 (A) THERE IS A CHANGE TO THE AMOUNT OF THE ASSESSMENT; OR

42 (B) THERE IS AN ADDITION TO THE PRODUCTS COVERED UNDER THE PROGRAM; OR

43 (C) THERE IS A REVISION OF THE PRODUCT STEWARDSHIP ORGANIZATION'S  
44 GOALS; OR

45 (D) EVERY FOUR YEARS, IF REQUESTED, IN WRITING, BY THE DEPARTMENT.

46 THE OPERATOR OF THE PAINT STEWARDSHIP PROGRAM SHALL NOTIFY THE DEPART-  
47 MENT ANNUALLY, IN WRITING, IF THERE ARE NO CHANGES PROPOSED TO THE  
48 PROGRAM AND THE PRODUCER OR REPRESENTATIVE ORGANIZATION INTENDS TO  
49 CONTINUE IMPLEMENTATION OF THE PROGRAM AS PREVIOUSLY APPROVED BY THE  
50 DEPARTMENT.

51 S 27-2005. REGULATIONS.

52 THE DEPARTMENT IS HEREBY AUTHORIZED TO PROMULGATE RULES AND REGU-  
53 LATIONS AS MAY BE NECESSARY TO IMPLEMENT AND CARRY OUT THE PROVISIONS OF  
54 THIS TITLE.

55 S 27-2007. REPORTING.

1 NOT LATER THAN JANUARY FIFTEENTH, TWO THOUSAND NINETEEN, AND BIENNIAL-  
2 LY THEREAFTER, THE COMMISSIONER SHALL SUBMIT A REPORT TO THE LEGISLATURE  
3 AND THE GOVERNOR THAT DESCRIBES THE RESULTS AND ACTIVITIES OF THE PAINT  
4 STEWARDSHIP PROGRAM AS ENACTED PURSUANT TO THIS TITLE INCLUDING ANY  
5 RECOMMENDATIONS TO IMPROVE THE FUNCTIONING AND EFFICIENCY OF THE PAINT  
6 STEWARDSHIP PROGRAM, AS NECESSARY.

7 S 2. The environmental conservation law is amended by adding a new  
8 section 71-2730 to read as follows:

9 S 71-2730. ENFORCEMENT OF TITLE 20 OF ARTICLE 27 OF THIS CHAPTER.

10 1. CIVIL PENALTIES UNDER THIS SECTION SHALL BE ASSESSED BY THE COMMIS-  
11 SIONER AFTER A HEARING OR OPPORTUNITY TO BE HEARD PURSUANT TO THE  
12 PROVISIONS OF SECTION 71-1709 OF THIS ARTICLE, OR SHALL BE ASSESSED BY  
13 THE COURT IN ANY ACTION OR PROCEEDING PURSUANT TO THIS SECTION. IN ADDI-  
14 TION TO ANY CIVIL PENALTIES, ANY RETAILER OR PRODUCER, AS THOSE TERMS  
15 ARE DEFINED IN SECTION 27-2001 OF THIS CHAPTER, MAY BY SIMILAR PROCESS  
16 BE ENJOINED FROM CONTINUING SUCH VIOLATION.

17 2. ALL PENALTIES COLLECTED PURSUANT TO THIS SECTION SHALL BE PAID OVER  
18 TO THE COMMISSIONER FOR DEPOSIT TO THE ENVIRONMENTAL PROTECTION FUND  
19 ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE STATE FINANCE LAW.

20 S 3. This act shall take effect immediately.