

1 IT IS HEREBY DECLARED TO BE THE PUBLIC POLICY OF THE STATE OF NEW YORK
2 TO PROMOTE THE DEVELOPMENT AND IMPLEMENTATION OF STRATEGIES TO REDUCE
3 THE GENERATION OF POST-CONSUMER ARCHITECTURAL PAINT, TO ENCOURAGE THE
4 REUSE OF POST-CONSUMER ARCHITECTURAL PAINT, AND TO MAXIMIZE THE
5 COLLECTION, TRANSPORT, AND PROCESS OF POST-CONSUMER ARCHITECTURAL PAINT
6 FOR END-OF-PRODUCT-LIFE MANAGEMENT.

7 S 27-2005. DEFINITIONS.

8 WHEN USED IN THIS TITLE:

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

12 2. "CONSUMER" MEANS A PERSON LOCATED IN THE STATE WHO OWNS OR USES
13 ARCHITECTURAL PAINT, INCLUDING BUT NOT LIMITED TO AN INDIVIDUAL, A BUSI-
14 NESS, CORPORATION, LIMITED PARTNERSHIP, NOT-FOR-PROFIT ORGANIZATION, OR
15 GOVERNMENTAL ENTITY, BUT DOES NOT INCLUDE AN ENTITY INVOLVED IN A WHOLE-
16 SALE TRANSACTION BETWEEN A DISTRIBUTOR AND RETAILER.

17 3. "DISTRIBUTOR" MEANS A COMPANY THAT HAS A CONTRACTUAL RELATIONSHIP
18 WITH ONE OR MORE PRODUCERS TO MARKET AND SELL ARCHITECTURAL PAINT TO
19 RETAILERS IN THIS STATE.

20 4. "PERSON" MEANS ANY INDIVIDUAL, BUSINESS ENTITY, PARTNERSHIP, COMPA-
21 NY, CORPORATION, NOT-FOR-PROFIT CORPORATION, ASSOCIATION, GOVERNMENTAL
22 ENTITY, PUBLIC BENEFIT CORPORATION, PUBLIC AUTHORITY, FIRM, ORGANIZA-
23 TION, OR ANY OTHER GROUP OF INDIVIDUALS, OR ANY OFFICER OR EMPLOYEE OR
24 AGENT THEREOF.

25 5. "POST-CONSUMER ARCHITECTURAL PAINT" MEANS ARCHITECTURAL PAINT NOT
26 USED AND NO LONGER WANTED BY ITS PURCHASER.

27 6. "PRODUCER" MEANS A PERSON THAT MANUFACTURES ARCHITECTURAL PAINT
28 THAT IS SOLD OR OFFERED FOR SALE IN THIS STATE.

29 7. "RECYCLING" MEANS ANY PROCESS BY WHICH DISCARDED PRODUCTS, COMPO-
30 NENTS AND BY-PRODUCTS ARE TRANSFORMED INTO NEW USABLE OR MARKETABLE
31 MATERIALS IN A MANNER IN WHICH THE PRODUCTS MAY LOSE THEIR ORIGINAL
32 COMPOSITION. RECYCLING DOES NOT INCLUDE ENERGY RECOVERY OR ENERGY GENER-
33 ATION BY MEANS OF COMBUSTING DISCARDED PRODUCTS, COMPONENTS AND BY-PRO-
34 DUCTS WITH OR WITHOUT OTHER WASTE PRODUCTS FROM POST-CONSUMER ARCHITEC-
35 TURAL PAINT.

36 8. "RETAILER" MEANS ANY PERSON THAT SELLS OR OFFERS FOR SALE ARCHITEC-
37 TURAL PAINT AT RETAIL IN THIS STATE.

38 9. "REUSE" MEANS THE RETURN OF A PRODUCT INTO THE ECONOMIC STREAM FOR
39 USE IN THE SAME KIND OF APPLICATION INTENDED FOR THE USE OF THE PRODUCT,
40 WITHOUT A CHANGE IN THE PRODUCT'S ORIGINAL COMPOSITION.

41 10. "SELL" OR "SALE" MEANS ANY TRANSFER OF TITLE FOR CONSIDERATION,
42 INCLUDING REMOTE SALES CONDUCTED THROUGH SALES OUTLETS, CATALOGS OR THE
43 INTERNET OR THROUGH ANY OTHER SIMILAR ELECTRONIC MEANS.

44 S 27-2007. PRODUCER COLLECTION.

45 1. BEGINNING JULY FIRST, TWO THOUSAND FIFTEEN, A RETAILER/PRODUCER
46 SHALL ACCEPT FOR DISPOSAL AND RECYCLING OR REUSE ARCHITECTURAL PAINT FOR
47 WHICH IT IS THE PRODUCER WITH THE PURCHASE OF ARCHITECTURAL PAINT BY A
48 CONSUMER.

49 2. BEGINNING JULY FIRST, TWO THOUSAND SIXTEEN, A RETAILER/PRODUCER
50 SHALL ACCEPT FOR DISPOSAL AND RECYCLING OR REUSE ANY/ALL ARCHITECTURAL
51 PAINT FOR WHICH IT IS THE PRODUCER.

52 S 27-2009. PRODUCER REGISTRATION AND RESPONSIBILITIES.

53 1. A PRODUCER SHALL SUBMIT A REGISTRATION TO THE DEPARTMENT BY JANUARY
54 FIRST, TWO THOUSAND FIFTEEN, ALONG WITH A REGISTRATION FEE OF FIVE THOU-
55 SAND DOLLARS. SUCH REGISTRATION SHALL INCLUDE:

56 (A) THE PRODUCER'S NAME, ADDRESS, AND TELEPHONE NUMBER;

1 (B) THE NAME AND TITLE OF AN OFFICER, DIRECTOR, OR OTHER INDIVIDUAL
2 DESIGNATED AS THE PRODUCER'S CONTACT FOR PURPOSES OF THIS TITLE;

3 (C) A LIST IDENTIFYING THE PRODUCER'S BRANDS;

4 (D) A GENERAL DESCRIPTION OF THE MANNER IN WHICH THE PRODUCER WILL
5 COMPLY WITH SECTION 27-2007 OF THIS TITLE, INCLUDING SPECIFIC INFORMA-
6 TION ON THE PRODUCER'S ARCHITECTURAL PAINT ACCEPTANCE PROGRAM IN THE
7 STATE, AND A CURRENT LIST OF LOCATIONS WITHIN THE STATE WHERE CONSUMERS
8 MAY RETURN ARCHITECTURAL PAINT;

9 (E) SALES DATA FOR THE PRODUCER'S ARCHITECTURAL PAINT SOLD IN THIS
10 STATE FOR THE PREVIOUS THREE CALENDAR YEARS, IF THE PRODUCER CANNOT
11 PROVIDE ACCURATE STATE SALES DATA, IT SHALL EXPLAIN WHY SUCH DATA CANNOT
12 BE PROVIDED, AND ESTIMATE STATE SALES DATA BY (I) DIVIDING ITS NATIONAL
13 SALES DATA BY THE NATIONAL POPULATION ACCORDING TO THE MOST RECENT
14 CENSUS AND MULTIPLYING THE RESULT BY THE POPULATION OF THE STATE, OR
15 (II) ANOTHER METHOD APPROVED BY THE DEPARTMENT; AND

16 (F) ANY OTHER INFORMATION AS THE DEPARTMENT MAY REQUIRE.

17 2. A PRODUCER'S REGISTRATION SHALL BE UPDATED WITHIN THIRTY DAYS OF
18 ANY MATERIAL CHANGE TO THE INFORMATION REQUIRED BY THE REGISTRATION.

19 3. ANY PERSON WHO BECOMES A PRODUCER ON OR AFTER JANUARY FIRST, TWO
20 THOUSAND FIFTEEN SHALL REGISTER WITH THE DEPARTMENT PRIOR TO SELLING OR
21 OFFERING FOR SALE IN THE STATE ANY ARCHITECTURAL PAINT, AND MUST COMPLY
22 WITH THE REQUIREMENTS OF THIS TITLE.

23 4. NO LATER THAN JULY FIRST, TWO THOUSAND FIFTEEN, A PRODUCER SHALL
24 NOT SELL OR OFFER FOR SALE ARCHITECTURAL PAINT IN THE STATE UNLESS THE
25 PRODUCER HAS REGISTERED WITH THE DEPARTMENT AND MAINTAINS AN ARCHITEC-
26 TURAL PAINT ACCEPTANCE PROGRAM THROUGH WHICH THE PRODUCER, EITHER
27 DIRECTLY OR THROUGH AN AGENT OR DESIGNEE, ACCEPTS ARCHITECTURAL PAINT
28 FROM CONSUMERS IN THE STATE FOR DISPOSAL, REUSE OR RECYCLING. THE
29 PRODUCER SHALL ENSURE THAT RETAILERS ARE NOTIFIED OF SUCH REGISTRATION.
30 THE PRODUCER SHALL NOT IMPOSE A FEE ON CONSUMERS FOR THE COLLECTION,
31 HANDLING AND RECYCLING OR REUSE OF ARCHITECTURAL PAINT.

32 5. THE ARCHITECTURAL PAINT ACCEPTANCE PROGRAM SHALL INCLUDE, AT A
33 MINIMUM:

34 (A) COLLECTION, DISPOSAL AND RECYCLING OR REUSE OF ARCHITECTURAL PAINT
35 PRODUCED BY THE PRODUCER AND OFFERED FOR RETURN BY ANY CONSUMER IN THIS
36 STATE, FREE OF COST AND IN A MANNER CONVENIENT TO CONSUMERS. THE FOLLOW-
37 ING ACCEPTANCE METHODS SHALL BE CONSIDERED REASONABLY CONVENIENT: (I)
38 MAIL OR SHIP BACK RETURN PROGRAMS; (II) COLLECTION OR ACCEPTANCE EVENTS
39 CONDUCTED BY THE PRODUCER OR THE PRODUCER'S AGENT OR DESIGNEE, INCLUDING
40 EVENTS CONDUCTED THROUGH LOCAL GOVERNMENTS OR PRIVATE PARTIES; (III)
41 FIXED ACCEPTANCE LOCATIONS SUCH AS DEDICATED ACCEPTANCE SITES OPERATED
42 BY THE PRODUCER OR ITS AGENT OR DESIGNEE; (IV) AGREEMENTS WITH LOCAL
43 GOVERNMENTS, RETAIL STORES, SALES OUTLETS AND NOT-FOR-PROFIT ORGANIZA-
44 TIONS WHICH HAVE AGREED TO PROVIDE FACILITIES FOR THE COLLECTION OF
45 ARCHITECTURAL PAINT; (V) COMMUNITY COLLECTION EVENTS; AND (VI) ANY
46 COMBINATION OF THESE OR OTHER ACCEPTANCE METHODS WHICH EFFECTIVELY
47 PROVIDE FOR THE ACCEPTANCE OF ARCHITECTURAL PAINT FOR RECYCLING OR REUSE
48 THROUGH MEANS THAT ARE AVAILABLE AND REASONABLY CONVENIENT TO CONSUMERS
49 IN THE STATE. AT A MINIMUM, THE PRODUCER SHALL ENSURE THAT ALL COUNTIES
50 OF THE STATE AND ALL MUNICIPALITIES WHICH HAVE A POPULATION OF TEN THOU-
51 SAND OR GREATER HAVE AT LEAST ONE METHOD OF ACCEPTANCE THAT IS AVAILABLE
52 WITHIN THAT MUNICIPALITY. THE DEPARTMENT MAY ESTABLISH ADDITIONAL
53 REQUIREMENTS TO ENSURE CONVENIENT COLLECTION FROM CONSUMERS;

54 (B) A PUBLIC EDUCATION PROGRAM TO INFORM CONSUMERS ABOUT THE PRODUC-
55 ER'S ARCHITECTURAL PAINT ACCEPTANCE PROGRAM, INCLUDING AT A MINIMUM AN
56 INTERNET WEBSITE AND A TOLL-FREE TELEPHONE NUMBER AND WRITTEN INFORMA-

1 TION INCLUDED IN THE PACKAGE FOR, OR AT THE TIME OF SALE OF, ARCHITEC-
2 TURAL PAINT THAT PROVIDES SUFFICIENT INFORMATION TO ALLOW A CONSUMER OF
3 ARCHITECTURAL PAINT TO LEARN HOW TO RETURN SUCH PAINT FOR DISPOSAL,
4 RECYCLING OR REUSE; AND

5 (C) ANY OTHER INFORMATION AS REQUIRED BY THE DEPARTMENT IN ACCORDANCE
6 WITH REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE.

7 6. A PRODUCER SHALL MAINTAIN RECORDS DEMONSTRATING COMPLIANCE WITH THE
8 PROVISIONS OF THIS TITLE AND MAKE THEM AVAILABLE FOR AUDIT AND
9 INSPECTION BY THE DEPARTMENT FOR A PERIOD OF THREE YEARS.

10 7. A PRODUCER MAY SATISFY THE ARCHITECTURAL PAINT COLLECTION REQUIRE-
11 MENTS OF THIS SECTION BY AGREEING TO PARTICIPATE IN A COLLECTIVE ARCHI-
12 TECTURAL PAINT ACCEPTANCE PROGRAM WITH OTHER PRODUCERS. ANY SUCH COLLEC-
13 TIVE ARCHITECTURAL PAINT ACCEPTANCE PROGRAM SHALL MEET THE SAME
14 REQUIREMENTS AS AN INDIVIDUAL PRODUCER. ANY ARCHITECTURAL ACCEPTANCE
15 PROGRAM SHALL INCLUDE A LIST OF PRODUCERS THAT ARE PARTICIPATING IN SUCH
16 PROGRAM ALONG WITH OTHER IDENTIFYING INFORMATION AS MAY BE REQUIRED BY
17 THE DEPARTMENT. SUCH PROGRAM SHALL SUBMIT A REGISTRATION TO THE DEPART-
18 MENT ALONG WITH A REGISTRATION FEE OF TEN THOUSAND DOLLARS.

19 8. A PRODUCER SHALL BE RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH THE
20 IMPLEMENTATION OF THE ARCHITECTURAL PAINT ACCEPTANCE PROGRAM.

21 S 27-2011. RETAILER REQUIREMENTS.

22 1. AT THE LOCATION OF SALE OF ARCHITECTURAL PAINT, A RETAILER SHALL
23 PROVIDE PURCHASERS OF ARCHITECTURAL PAINT WITH INFORMATION, IF ANY,
24 ABOUT OPPORTUNITIES FOR THE RETURN OF ARCHITECTURAL PAINT THAT HAS BEEN
25 PROVIDED TO THE RETAILER BY A PRODUCER.

26 2. NO RETAILER SHALL SELL OR OFFER FOR SALE IN THE STATE ANY ARCHITEC-
27 TURAL PAINT UNLESS THE PRODUCER AND THE PRODUCER'S BRANDS ARE REGISTERED
28 WITH THE DEPARTMENT PURSUANT TO SECTION 27-2009 OF THIS TITLE.

29 S 27-2013. DEPARTMENT RESPONSIBILITIES.

30 1. THE DEPARTMENT SHALL PROMULGATE RULES AND REGULATIONS INCLUDING,
31 BUT NOT LIMITED TO, STANDARDS FOR REUSE AND ACCEPTABLE ALTERNATIVE METH-
32 ODS FOR THE DETERMINATION OF STATE SALES DATA.

33 2. THE DEPARTMENT SHALL (A) MAINTAIN A LIST OF PRODUCERS WHO ARE
34 REGISTERED PURSUANT TO SECTION 27-2009 OF THIS TITLE, (B) MAINTAIN A
35 LIST OF EACH SUCH PRODUCER'S BRANDS, AND (C) POST SUCH LISTS ON THE
36 DEPARTMENT'S WEBSITE.

37 S 27-2015. REPORTING REQUIREMENTS.

38 1. BEGINNING MARCH FIRST, TWO THOUSAND FIFTEEN, FOR THE PREVIOUS
39 CALENDAR YEAR AND ANNUALLY THEREAFTER, A PRODUCER THAT OFFERS ARCHITEC-
40 TURAL PAINT FOR SALE IN THIS STATE SHALL SUBMIT A REPORT TO THE DEPART-
41 MENT ON A FORM PRESCRIBED BY THE DEPARTMENT THAT INCLUDES THE FOLLOWING:

42 (A) SALES DATA FOR THE PRODUCER'S ARCHITECTURAL PAINT SOLD IN THIS
43 STATE FOR THE PREVIOUS THREE CALENDAR YEARS. IF THE PRODUCER CANNOT
44 PROVIDE ACCURATE STATE SALES DATA, IT SHALL EXPLAIN WHY SUCH DATA CANNOT
45 BE PROVIDED, AND ESTIMATE STATE SALES DATA BY (I) DIVIDING ITS NATIONAL
46 SALES DATA BY WEIGHT BY THE NATIONAL POPULATION ACCORDING TO THE MOST
47 RECENT CENSUS AND MULTIPLYING THE RESULT BY THE POPULATION OF THE STATE,
48 OR (II) ANOTHER METHOD APPROVED BY THE DEPARTMENT;

49 (B) THE QUANTITY OF ARCHITECTURAL PAINT COLLECTED FOR DISPOSAL, RECY-
50 CLING OR REUSE IN THIS STATE DURING THE PRECEDING CALENDAR YEAR AND THE
51 METHODS USED TO ACCEPT SUCH PAINT AND THE APPROXIMATE WEIGHT OF ARCHI-
52 TECTURAL PAINT ACCEPTED BY EACH METHOD USED TO THE EXTENT KNOWN;

53 (C) INFORMATION DETAILING THE ACCEPTANCE METHODS MADE AVAILABLE TO
54 CONSUMERS IN MUNICIPALITIES WHICH HAVE A POPULATION OF GREATER THAN TEN
55 THOUSAND AND IN EACH COUNTY OF THE STATE;

1 (D) A BRIEF DESCRIPTION OF ITS PUBLIC EDUCATION PROGRAM INCLUDING THE
2 NUMBER OF VISITS TO THE INTERNET WEBSITE AND CALLS TO THE TOLL-FREE
3 TELEPHONE NUMBER PROVIDED BY THE PRODUCER AS REQUIRED BY SECTION 27-2009
4 OF THIS TITLE;

5 (E) ANY OTHER INFORMATION AS REQUIRED BY THE DEPARTMENT; AND

6 (F) A SIGNATURE BY AN OFFICER, DIRECTOR, OR OTHER INDIVIDUAL AFFIRMING
7 THE ACCURACY OF THE REPORT.

8 2. THE REPORT SHALL BE ACCOMPANIED BY AN ANNUAL REPORTING FEE OF THREE
9 THOUSAND DOLLARS.

10 3. THE DEPARTMENT SHALL SUBMIT A REPORT REGARDING THE IMPLEMENTATION
11 OF THIS TITLE IN THIS STATE TO THE GOVERNOR AND LEGISLATURE BY APRIL
12 FIRST, TWO THOUSAND FIFTEEN AND EVERY TWO YEARS THEREAFTER. THE REPORT
13 MUST INCLUDE, AT A MINIMUM, AN EVALUATION OF:

14 (A) THE ARCHITECTURAL PAINT STREAM IN THE STATE;

15 (B) DISPOSAL, RECYCLING AND REUSE RATES IN THE STATE FOR ARCHITECTURAL
16 PAINT;

17 (C) A DISCUSSION OF COMPLIANCE AND ENFORCEMENT RELATED TO THE REQUIRE-
18 MENTS OF THIS TITLE; AND

19 (D) RECOMMENDATIONS FOR ANY CHANGES TO THIS TITLE.

20 S 3. This act shall take effect immediately.