

65--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. KAVANAGH, LUPARDO -- Multi-Sponsored by -- M. of A. CERETTO, SCHIMEL -- read once and referred to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to creating a small business and household pollution prevention 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 30 to read as follows:

3 TITLE 30

4 SMALL BUSINESS AND HOUSEHOLD

5 POLLUTION PREVENTION PROGRAM

6 SECTION 27-3001. LEGISLATIVE FINDINGS.

7 27-3003. DEFINITIONS.

8 27-3005. SMALL BUSINESS AND HOUSEHOLD POLLUTION PREVENTION
9 PROGRAM.

10 27-3007. SMALL BUSINESS HAZARDOUS SUBSTANCE COLLECTION PROGRAM.

11 27-3009. HOUSEHOLD HAZARDOUS SUBSTANCE COLLECTION PROGRAM.

12 27-3011. REGULATIONS.

13 27-3013. GRANTS FOR SMALL BUSINESS AND HOUSEHOLD POLLUTION
14 PREVENTION PROGRAMS.

15 27-3015. GRANTS FOR COLLECTION EVENTS.

16 S 27-3001. LEGISLATIVE FINDINGS.

17 THE LEGISLATURE FINDS AND DECLARES AS FOLLOWS:

18 1. IT IS THE GOAL OF THE STATE TO ACHIEVE A GOAL OF ZERO DISCHARGE OF
19 POLLUTANTS INTO OUR AIR, WATER, AND LAND. THIS GOAL WILL NOT BE
20 ACHIEVED WITH TRADITIONAL METHODS OF REGULATING POLLUTANTS AFTER THEY

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

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1 ARE GENERATED THROUGH VOLUNTARY POLLUTION PREVENTION MEASURES, RECOGNIZ-
2 ING THIS GOAL MAY NOT BE COMPLETELY ACHIEVABLE BY SOME.

3 2. EDUCATION, DEMONSTRATION PROJECT, AND TECHNICAL ASSISTANCE PROGRAMS
4 ON POLLUTION PREVENTION ARE ESSENTIAL TO HELP SMALL AND MEDIUM SIZED
5 BUSINESSES ACHIEVE THE ZERO DISCHARGE GOAL AND HELP THE PUBLIC CONSERVE
6 RESOURCES, REDUCE THE VOLUME AND TOXICITY OF WASTES, AND RECYCLE OR
7 RECLAIM WASTES.

8 3. HAZARDOUS SUBSTANCES AND OTHER WASTES GENERATED BY SMALL BUSINESSES
9 AND HOUSEHOLDS MAY PRESENT DANGERS TO THE PUBLIC HEALTH AND THE ENVIRON-
10 MENT IF MANAGED IMPROPERLY. THESE DANGERS CAN BE GREATLY REDUCED BY
11 POLLUTION PREVENTION TECHNIQUES, INCLUDING SOURCE REDUCTION, ENERGY
12 CONSERVATION, WASTE MINIMIZATION, REDUCTION IN THE TOXICITY OF WASTES
13 GENERATED, BENEFICIAL USE, REUSE, RECYCLING, AND RECLAMATION.

14 4. TRADITIONAL "END-OF-PIPE" POLLUTION CONTROL TECHNIQUES OFTEN RESULT
15 IN THE TRANSFER OF POLLUTANTS FROM ONE ENVIRONMENTAL MEDIUM TO ANOTHER.
16 POLLUTION PREVENTION AND SOURCE REDUCTION TECHNIQUES REDUCE POLLUTION
17 FORMING IN THE FIRST PLACE AND LESSEN TRANSFERS AMONG AIR, WATER, AND
18 LAND.

19 S 27-3003. DEFINITIONS.

20 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS TITLE SHALL HAVE THE
21 MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDI-
22 CATES OTHERWISE:

23 1. "COLLECTION CONTRACTOR." A PERSON REGISTERED AND APPROVED BY THE
24 DEPARTMENT AND RETAINED BY A SPONSOR TO OPERATE A WASTE COLLECTION EVENT
25 FOR ELIGIBLE ENTITIES UNDER THIS TITLE.

26 2. "COLLECTION EVENT." AN EVENT OR PROGRAM THAT INCLUDES COLLECTION
27 AND MANAGEMENT OF SOLID WASTES FROM ELIGIBLE ENTITIES UNDER THIS TITLE.
28 THE TERM INCLUDES ONE-DAY WASTE COLLECTION PROGRAMS AND WASTE COLLECTION
29 PROGRAMS THAT ARE DESIGNED FOR CONTINUOUS OR ONGOING OPERATION THROUGH-
30 OUT A DESIGNATED PERIOD OF TIME.

31 3. "ELIGIBLE ENTITY." A HOUSEHOLD, A POLITICAL SUBDIVISION OF THE
32 STATE, OR A SMALL BUSINESS.

33 4. "HAZARDOUS SUBSTANCE." HAZARDOUS WASTE AS DEFINED IN SUBDIVISION
34 ONE OF SECTION 27-1301 OF THIS ARTICLE.

35 5. "MUNICIPALITY." A COUNTY, CITY, TOWN, OR VILLAGE.

36 6. "POLLUTION PREVENTION ASSESSMENT." AN EVALUATION DESIGNED TO IDEN-
37 TIFY OPPORTUNITIES TO ELIMINATE AND REDUCE POLLUTION OR REUSE WASTE
38 MATERIALS.

39 7. "PROGRAM." THE SMALL BUSINESS AND HOUSEHOLD POLLUTION PREVENTION
40 PROGRAM CREATED BY SECTION 27-3005 OF THIS TITLE.

41 8. "SMALL BUSINESS." A BUSINESS ENTITY THAT IS SO DEFINED IN SECTION
42 ONE HUNDRED THIRTY-ONE OF THE ECONOMIC DEVELOPMENT LAW.

43 9. "SPONSOR." A MUNICIPALITY, CORPORATION, PUBLIC UTILITY, TRADE ASSO-
44 CIATION, NOT-FOR-PROFIT CORPORATION, NOT-FOR-PROFIT ASSOCIATION, OR
45 OTHER PERSON SPONSORING A COLLECTION EVENT OR SMALL BUSINESS AND HOUSE-
46 HOLD POLLUTION PREVENTION PROGRAM FOR ELIGIBLE ENTITIES UNDER THIS
47 TITLE.

48 10. "UNIVERSAL WASTE." HAS THE MEANING PROVIDED FOR IN PARAGRAPH F OF
49 SUBDIVISION ONE OF SECTION 27-0923 OF THIS ARTICLE.

50 S 27-3005. SMALL BUSINESS AND HOUSEHOLD POLLUTION PREVENTION PROGRAM.

51 1. ESTABLISHMENT. THE DEPARTMENT SHALL ESTABLISH THE SMALL BUSINESS
52 AND HOUSEHOLD POLLUTION PREVENTION PROGRAM FOR EDUCATING AND PROVIDING
53 ASSISTANCE TO SMALL BUSINESSES AND THE GENERAL PUBLIC IN POLLUTION
54 PREVENTION AND THE PROPER MANAGEMENT OF SOLID WASTES AND HAZARDOUS
55 SUBSTANCES GENERATED IN HOUSEHOLDS AND SMALL BUSINESSES.

2. EDUCATIONAL MATERIALS. THE DEPARTMENT SHALL DEVELOP EDUCATIONAL MATERIALS FOR THE OPERATION OF THE PROGRAM IN CONSULTATION WITH SMALL BUSINESSES, TRADE ASSOCIATIONS, EDUCATIONAL INSTITUTIONS, AND APPROPRIATE ADVISORY COMMITTEES.

3. PROGRAM CONCERNS. THE PROGRAM SHALL INCLUDE EDUCATION, TRAINING AND TECHNICAL ASSISTANCE CONCERNING:

A. SOURCE REDUCTION AND METHODS FOR CONDUCTING POLLUTION PREVENTION ASSESSMENTS TO ELIMINATE OR REDUCE THE VOLUME OR TOXICITY OF SOLID WASTES GENERATED.

B. NATURAL RESOURCE AND ENERGY CONSERVATION.

C. OPPORTUNITIES TO REDUCE ENVIRONMENTAL CONTAMINATION FROM AIR EMISSIONS AND WATER EFFLUENTS.

D. OPPORTUNITIES TO BENEFICIALLY USE, REUSE, RECYCLE, OR RECLAIM SOLID WASTE MATERIALS.

E. OPPORTUNITIES TO COLLECT AND MANAGE UNIVERSAL WASTES RECEIVED FROM SMALL BUSINESS AND THE GENERAL PUBLIC.

F. OPPORTUNITIES TO DEVELOP AND APPLY ENVIRONMENTAL IMPROVEMENT TECHNOLOGIES AND METHODS.

G. INFORMATION ON COMPLIANCE WITH APPLICABLE ENVIRONMENTAL PROTECTION LAWS, INCLUDING COMPLIANCE WITH SOLID WASTE MANAGEMENT REQUIREMENTS.

4. TECHNICAL ASSISTANCE. THE DEPARTMENT SHALL PROVIDE EDUCATIONAL MATERIALS AND TECHNICAL ASSISTANCE TO SPONSORS AND COLLECTION CONTRACTORS FOR THE OPERATION OF THE PROGRAMS AND COLLECTION EVENTS TO ENCOURAGE AND PROMOTE ALL ASPECTS OF POLLUTION PREVENTION.

5. TECHNICAL ASSISTANCE FOR IMPLEMENTATION. THE DEPARTMENT SHALL PROVIDE TECHNICAL ASSISTANCE TO SPONSORS AND COLLECTION CONTRACTORS TO IMPLEMENT THE PURPOSES OF THIS TITLE AND TO FACILITATE THE PROGRAM AND THE PROPER COLLECTION, TREATMENT, RECYCLING, OR DISPOSAL OF HAZARDOUS SUBSTANCES GENERATED BY ELIGIBLE ENTITIES.

6. SITE VISIT. AT THE REQUEST OF A SMALL BUSINESS, THE DEPARTMENT MAY OFFER A POLLUTION PREVENTION ASSESSMENT SITE VISIT AT THE PLACE OF BUSINESS AND MAY PROVIDE ASSISTANCE ON COMPLIANCE WITH THE ENVIRONMENTAL PROTECTION LAWS ADMINISTERED BY THE DEPARTMENT AND GUIDANCE ISSUED BY THE DEPARTMENT ON POLLUTION PREVENTION.

7. PRIVATE CONTRACT AUTHORIZATION. THE DEPARTMENT MAY COOPERATE WITH AND MAY CONTRACT FOR SERVICES FROM PRIVATE AND OTHER ENTITIES AND IS AUTHORIZED TO MAKE GRANTS TO PRIVATE, GOVERNMENTAL, AND OTHER ENTITIES TO IMPLEMENT THIS TITLE.

S 27-3007. SMALL BUSINESS HAZARDOUS SUBSTANCE COLLECTION PROGRAM.

1. GENERAL RULE. A SPONSOR MAY ESTABLISH A COLLECTION PROGRAM FOR THE COLLECTION AND MANAGEMENT OF SOLID WASTES GENERATED BY ELIGIBLE ENTITIES THROUGH COLLECTION EVENTS. EACH SPONSOR MUST REGISTER THE PROGRAM WITH THE DEPARTMENT AND RECEIVE APPROVAL OF THE DEPARTMENT PRIOR TO COMMENCING OPERATION.

2. SITES. COLLECTION EVENTS MAY BE CONDUCTED ON SITES SELECTED BY THE SPONSOR. SUCH SITES MAY BE ON PUBLIC OR PRIVATE PROPERTY, INCLUDING, BUT NOT LIMITED TO, PROPERTY OWNED, LEASED OR CONTROLLED BY THE STATE, ITS AGENCIES, OR ITS POLITICAL SUBDIVISIONS. WRITTEN PERMISSION TO USE THE SITE FOR THE CONDUCT OF THE EVENT SHALL BE OBTAINED FROM THE OWNER PRIOR TO THE EVENT.

3. LIABILITY. AN OWNER WHO, WITHOUT CHARGE, PERMITS ANY PROPERTY TO BE USED AS A SITE FOR A COLLECTION EVENT SHALL NOT BE LIABLE FOR ANY DAMAGE, HARM, OR INJURY TO ANY PERSON OR PROPERTY WHICH RESULTS FROM THE USE OF THE PROPERTY AS A SITE FOR A COLLECTION EVENT. A SPONSOR OF A COLLECTION EVENT SHALL NOT BE LIABLE FOR ANY DAMAGE, HARM, OR INJURY TO

1 ANY PERSON OR PROPERTY WHICH RESULTS FROM THE OPERATION OF A COLLECTION
2 EVENT.

3 4. LIMITATION OF TYPE. THE SPONSOR MAY LIMIT THE TYPES OF SOLID WASTES
4 OR MATERIALS TO BE COLLECTED AT A COLLECTION EVENT IN ACCORDANCE WITH
5 GUIDANCE ISSUED BY THE DEPARTMENT AND FURTHER LIMITATIONS DETERMINED AT
6 THE DISCRETION OF THE SPONSOR. A SMALL BUSINESS ENTITY MAY BRING UP TO
7 BUT NOT MORE THAN ONE THOUSAND KILOGRAMS OF HAZARDOUS SUBSTANCE TO A
8 COLLECTION EVENT OR COLLECTION EVENTS IN ANY CALENDAR MONTH FOR WASTE
9 RECYCLING, TREATMENT, OR DISPOSAL ARRANGED BY THE COLLECTION CONTRACTOR.

10 5. FEES. THE SPONSOR MAY ESTABLISH AND ASSESS REASONABLE FEES FROM
11 ELIGIBLE ENTITIES FOR SERVICES PROVIDED IN CONNECTION WITH THE
12 COLLECTION EVENT.

13 6. REGISTRATION AND APPROVAL. THE SPONSOR MAY SELECT A COLLECTION
14 CONTRACTOR TO OPERATE THE COLLECTION EVENT OR MAY OPERATE THE COLLECTION
15 EVENT AS THE COLLECTION CONTRACTOR. EACH SPONSOR OR COLLECTION CONTRAC-
16 TOR WHICH OPERATES A COLLECTION EVENT MUST FIRST BE REGISTERED AND
17 APPROVED BY THE DEPARTMENT TO OPERATE COLLECTION EVENTS. THE DEPARTMENT
18 SHALL ISSUE GUIDANCE FOR REGISTRATION REQUIREMENTS FOR THE OPERATION OF
19 COLLECTION EVENTS.

20 7. QUALIFICATIONS. NO COLLECTION CONTRACTOR MAY BE SELECTED TO OPERATE
21 A COLLECTION EVENT UNLESS THE CONTRACTOR CAN DEMONSTRATE TO THE SATIS-
22 FACTION OF THE DEPARTMENT ITS ABILITY TO COLLECT, PACKAGE, TRANSPORT,
23 AND DISPOSE OF SOLID WASTE COLLECTED UNDER THIS PROGRAM CONSISTENT WITH
24 THE REQUIREMENTS OF THIS CHAPTER AND THE REGULATIONS OF THE DEPARTMENT.

25 8. INELIGIBILITY. A COLLECTION CONTRACTOR SHALL NOT BE ELIGIBLE TO
26 OPERATE A COLLECTION EVENT IF THE DEPARTMENT FINDS THAT SUCH PERSON HAS
27 SHOWN A LACK OF ABILITY OR A LACK OF INTENT TO COMPLY WITH APPLICABLE
28 LAWS AND REGULATIONS OF THIS STATE, OTHER STATES, OR THE UNITED STATES.

29 9. GENERATOR. A COLLECTION CONTRACTOR SHALL BE DEEMED TO BE THE GENER-
30 ATOR OF HAZARDOUS SUBSTANCES COLLECTED AT THE EVENT WHICH IS SENT FOR
31 TREATMENT, STORAGE, OR DISPOSAL AT A PERMITTED HAZARDOUS WASTE FACILITY.

32 10. POLLUTION PREVENTION. THE COLLECTION CONTRACTOR SHALL PRACTICE AND
33 ENCOURAGE POLLUTION PREVENTION AND SHALL RECYCLE OR RECLAIM COLLECTED
34 SOLID WASTES TO THE GREATEST EXTENT PRACTICABLE.

35 11. DOCUMENTATION. IN CONDUCTING A COLLECTION EVENT UNDER THIS TITLE,
36 THE COLLECTION CONTRACTOR SHALL MANAGE WASTES AND OTHER MATERIALS
37 RECEIVED AT A COLLECTION EVENT IN COMPLIANCE WITH APPLICABLE LAWS AND
38 REGULATIONS OF THIS STATE. THE SPONSOR AND THE COLLECTION CONTRACTOR
39 SHALL PROVIDE DOCUMENTATION AND RECORDS OF AN EVENT AS REQUESTED BY THE
40 DEPARTMENT.

41 12. OPTIONAL PARTICIPATION. THIS SECTION SHALL NOT BE INTERPRETED AS
42 REQUIRING A SMALL BUSINESS TO PARTICIPATE IN A SMALL BUSINESS HAZARDOUS
43 SUBSTANCE COLLECTION PROGRAM, OR AS PROHIBITING A SMALL BUSINESS FROM
44 DISPOSING OF ITS HAZARDOUS SUBSTANCES UNDER OTHER APPLICABLE LAWS.
45 S 27-3009. HOUSEHOLD HAZARDOUS SUBSTANCE COLLECTION PROGRAM.

46 1. COLLECTION EVENTS. A SPONSOR MAY ESTABLISH A COLLECTION EVENT FOR
47 THE PURPOSE OF COLLECTING AND MANAGING HOUSEHOLD HAZARDOUS SUBSTANCES.
48 A COLLECTION EVENT DESIGNED FOR HOUSEHOLD HAZARDOUS SUBSTANCES SHALL
49 MEET THE STANDARDS AND REQUIREMENTS OF SECTION 27-3007 OF THIS TITLE. A
50 SPONSOR MAY OPERATE A COLLECTION EVENT EXCLUSIVELY FOR HOUSEHOLD HAZARD-
51 OUS SUBSTANCES, EXCLUSIVELY FOR SMALL BUSINESS WASTE, OR FOR SPECIFIED
52 WASTES FROM ELIGIBLE ENTITIES.

53 2. HAZARDOUS SUBSTANCES. A COLLECTION EVENT THAT INCLUDES COLLECTION
54 OF HOUSEHOLD HAZARDOUS SUBSTANCES SHALL PROVIDE EDUCATIONAL MATERIALS
55 THAT EMPHASIZE HOME SAFETY, FIRE PREVENTION, AND POLLUTION PREVENTION IN
56 THE HOME, INCLUDING SOURCE REDUCTION THROUGH THE USE OF ALTERNATIVE LESS

1 TOXIC PRODUCTS, RECYCLING, AND PROPER DISPOSAL METHODS FOR WASTE MATERI-
2 ALS THAT CANNOT BE RECYCLED. WASTE MATERIALS COLLECTED FROM HOUSEHOLDS
3 SHALL BE APPROPRIATELY REUSED OR RECYCLED TO THE GREATEST EXTENT PRACTI-
4 CABLE. THE DEPARTMENT SHALL ISSUE GUIDANCE ON PROPER MANAGEMENT OF
5 HOUSEHOLD HAZARDOUS SUBSTANCES.

6 S 27-3011. REGULATIONS.

7 THE DEPARTMENT SHALL PROMULGATE REGULATIONS AS NEEDED TO IMPLEMENT
8 THIS TITLE.

9 S 27-3013. GRANTS FOR SMALL BUSINESS AND HOUSEHOLD POLLUTION PREVENTION
10 PROGRAMS.

11 1. GENERAL RULE. THE DEPARTMENT IS AUTHORIZED TO PROVIDE GRANTS TO
12 COUNTIES NOT WHOLLY CONTAINED WITHIN A CITY AND CITIES CONTAINING MORE
13 THAN ONE COUNTY, TO REIMBURSE A COUNTY FOR ELIGIBLE COSTS FOR EDUCATION
14 PROGRAMS ON POLLUTION PREVENTION OR FOR PROVIDING OTHER TECHNICAL
15 ASSISTANCE TO SMALL BUSINESS FOR THE PURPOSE OF THIS TITLE.

16 2. EDUCATION PROGRAMS. THE GRANTS TO COUNTIES NOT WHOLLY CONTAINED
17 WITHIN A CITY AND CITIES CONTAINING MORE THAN ONE COUNTY UNDER THIS
18 SECTION MAY REIMBURSE THE COUNTY OR CITY FOR UP TO EIGHTY PERCENT OF THE
19 APPROVED COST OF EDUCATION PROGRAMS ON POLLUTION PREVENTION OR FOR
20 PROVIDING TECHNICAL ASSISTANCE TO SMALL BUSINESS FOR THE PURPOSES OF
21 THIS TITLE.

22 3. ELIGIBLE COSTS. ELIGIBLE COSTS UNDER THIS SECTION MAY INCLUDE COSTS
23 INCURRED BY COUNTIES NOT WHOLLY CONTAINED WITHIN A CITY AND CITIES
24 CONTAINING MORE THAN ONE COUNTY BY CONTRACT WITH ANOTHER SPONSOR OR
25 OTHER PERSON SELECTED BY THE COUNTY OR CITY TO OPERATE THE PROGRAM UNDER
26 THIS TITLE. THE DEPARTMENT SHALL ISSUE GUIDANCE FOR COUNTIES NOT WHOLLY
27 CONTAINED WITHIN A CITY AND CITIES CONTAINING MORE THAN ONE COUNTY IN
28 THE OPERATION OF THE PROGRAM AND FOR ELIGIBILITY REQUIREMENTS FOR GRANTS
29 ADMINISTERED UNDER THIS SECTION.

30 S 27-3015. GRANTS FOR COLLECTION EVENTS.

31 1. FUNDS. THE DEPARTMENT IS AUTHORIZED TO ADMINISTER APPROPRIATED
32 FUNDS FOR THE ADMINISTRATION OF THESE PROGRAMS.

33 2. GRANT ELIGIBILITY. GRANTS APPROVED UNDER THIS TITLE MAY BE PAID TO
34 A REGISTERED SPONSOR OF A COLLECTION EVENT, INCLUDING SPONSORS OTHER
35 THAN MUNICIPALITIES. THE DEPARTMENT IS AUTHORIZED TO REIMBURSE SPONSORS
36 FOR ELIGIBLE COSTS INCURRED AFTER THE EFFECTIVE DATE OF THIS TITLE FOR
37 THE OPERATION OF COLLECTION EVENTS FOR ELIGIBLE ENTITIES UNDER THIS
38 TITLE.

39 3. MATCHING REQUIREMENT. THE FUNDS ADMINISTERED BY THE DEPARTMENT
40 UNDER THIS TITLE MAY BE EXPENDED BY THE DEPARTMENT ONLY TO THE EXTENT
41 THAT THE GRANT AMOUNT HAS BEEN MATCHED, AT LEAST DOLLAR FOR DOLLAR IN
42 VALUE, BY THE GRANT APPLICANT. SPONSORS OF A COLLECTION EVENT ARE HEREBY
43 AUTHORIZED TO RECEIVE ALL OR PART OF THE REQUIRED MATCHING FUNDS FROM
44 MANUFACTURERS OR OTHER PERSONS.

45 4. OTHER LIMITATIONS. NO MORE THAN ONE HUNDRED THOUSAND DOLLARS PER
46 FISCAL YEAR MAY BE EXPENDED BY THE DEPARTMENT FOR COLLECTION EVENTS IN
47 ANY ONE COUNTY NOT WHOLLY CONTAINED WITHIN A CITY, AND NO MORE THAN FIVE
48 HUNDRED THOUSAND DOLLARS MAY BE EXPENDED BY THE DEPARTMENT FOR
49 COLLECTION EVENTS IN ANY CITY CONTAINING MORE THAN ONE COUNTY.

50 S 2. This act shall take effect on the one hundred twentieth day after
51 it shall have become a law; provided that the commissioner of environ-
52 mental conservation is authorized to promulgate any and all rules and
53 regulations and take any other measures necessary to implement this act
54 on its effective date on or before such date.