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I N S E N A T E

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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.

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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
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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.