

STATE OF NEW YORK

6955

IN SENATE

January 6, 2020

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the environmental conservation law, in relation to postconsumer paint collection

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 5, 8, and 9 of section 27-2001 of the environ-
2 mental conservation law, as added by a chapter of the laws of 2019,
3 amending the environmental conservation law relating to establishing a
4 postconsumer paint collection program, as proposed in legislative bills
5 numbers S.4351 and A.6373, are amended to read as follows:

6 5. "postconsumer paint" means architectural paint not used and no
7 longer wanted by a [~~purchaser~~] consumer.

8 8. "recycling" means a process by which discarded products, components
9 and by-products are transformed into new usable or marketable materials
10 in a manner in which the original products may lose their identity.
11 This term excludes thermal treatment or the use of [~~waste~~] postconsumer
12 paint as a fuel substitute or for energy production.

13 9. "representative organization" means a not-for-profit organization
14 established by [~~a-producer~~] producers to implement the postconsumer
15 paint collection program.

16 § 2. Subdivisions 1, 3, 5, 12, and 13 of section 27-2003 of the envi-
17 ronmental conservation law, as added by a chapter of the laws of 2019,
18 amending the environmental conservation law relating to establishing a
19 postconsumer paint collection program, as proposed in legislative bills
20 numbers S.4351 and A.6373, are amended to read as follows:

21 1. No later than July first, two thousand twenty, a producer, either
22 individually or cooperatively, or a representative organization shall
23 submit to the [~~commissioner~~] department for the [~~commissioner's~~] depart-
24 ment's approval a plan for the establishment of a postconsumer paint
25 collection program. Such plan shall be accompanied by a fee of five
26 thousand dollars for an individual producer or, in the case of a repre-
27 sentative organization or producers acting collectively, a fee of ten
28 thousand dollars. The program will minimize public sector involvement in

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

LBD04748-02-0

1 the management of postconsumer paint by reducing its generation, promot-
2 ing its reuse and recycling and negotiating and executing agreements to
3 collect, transport, reuse, recycle and properly dispose of postconsumer
4 paint using environmentally sound management practices.

5 3. The plan submitted by the producer or representative organization
6 to the department under this section shall:

7 (a) provide a list of each participating producer and brands covered
8 by the program.

9 (b) provide information on the architectural paint products covered
10 under the program.

11 (c) describe how the producer or representative organization will
12 collect, transport, recycle, and process postconsumer paint for end-of-
13 life management, including recycling and disposal, using environmentally
14 sound management practices.

15 (d) describe how it will provide for convenient and cost-effective
16 statewide collection of postconsumer ~~architectural~~ paint in the state.
17 The producer or representative organization may coordinate the program
18 with existing municipal waste collection infrastructure as is mutually
19 agreeable. A paint retailer may participate, on a voluntary basis, as a
20 paint collection site if the paint retailer volunteers to act as such
21 and complies with all applicable laws and regulations.

22 (e) provide geographic modeling to determine the number and distrib-
23 ution of sites for collection of postconsumer ~~architectural~~ paint
24 based on the following criteria (i) at least ninety percent of New York
25 residents shall have a collection site within a fifteen mile radius; and
26 (ii) one additional collection site will be established for every fifty
27 thousand residents of an urbanized area (as defined by the United States
28 Census Bureau), unless the producer is a small business taxpayer as
29 defined in paragraph (f) of subdivision one of section two hundred ten
30 of the tax law or unless otherwise approved by the commissioner.

31 (f) describe the intended treatment, storage, transportation and
32 disposal options and methods for the collection of postconsumer paint.
33 The management of paint under the program shall promote reuse and recy-
34 cling.

35 (g) describe in detail education and outreach efforts to inform
36 consumers and retailers about the program. These materials should
37 include (i) information about collection opportunities for postconsumer
38 paint; (ii) information about the charge for the operation of the
39 program that shall be included by the producer in the price charged to
40 the retailer of all architectural paint sold in the state; and (iii)
41 efforts to promote the source reduction, reuse, and recycling of archi-
42 tectural paint.

43 (h) set forth the process by which an independent financial auditor
44 will be selected and identify the criteria used by the producer or
45 representative organization in selecting an independent auditor.

46 (i) identify, in detail, the operational plans for interacting with
47 retailers on the proper handling and management of ~~[post-consumer]~~
48 postconsumer paint.

49 (j) include the targeted annual collection rate.

50 (k) be reviewed by an independent financial auditor to assure that any
51 added cost to paint sold in the state as a result of the postconsumer
52 paint collection program does not exceed the costs of the program. The
53 independent auditor shall verify that the amount added to each unit of
54 paint will cover the costs of the postconsumer paint collection program.

55 5. The ~~commissioner~~ department shall approve or reject a plan
56 submitted under this section within sixty days of submission and, if

1 rejected, inform the producer or representative organization in writing
2 as to any deficiencies in said plan. A producer or representative organ-
3 ization shall amend and resubmit any rejected plans for reconsideration
4 within sixty days of notification of the rejection of said plan. The
5 [~~commissioner~~] department shall approve or reject said plan within thir-
6 ty days of resubmission.

7 12. The operator of the [~~post-consumer~~] postconsumer paint collection
8 program shall update the plan, as needed, when there are changes
9 proposed to the current program. A new plan or amendment will be
10 required to be submitted to the department for approval when:

11 (a) there is an addition to the products covered under the program; or

12 (b) there is a revision of the program's goals; or

13 (c) every four years from the date of approval of a previous plan.

14 The operator of the postconsumer paint collection program shall notify
15 the department annually, in writing, if there are no changes proposed to
16 the program and the producer or representative organization intends to
17 continue implementation of the program as previously approved by the
18 department.

19 13. Any person who becomes a producer [~~on-or~~] after [~~January~~] July
20 first, two thousand twenty shall submit a plan to the department prior
21 to selling or offering for sale in the state any architectural paint,
22 and must comply with the requirements of this title.

23 § 3. Paragraph (a) of subdivision 2 of section 27-2005 of the environ-
24 mental conservation law, as added by a chapter of the laws of 2019,
25 amending the environmental conservation law relating to establishing a
26 postconsumer paint collection program, as proposed in legislative bills
27 numbers S.4351 and A.6373, is amended to read as follows:

28 (a) the architectural and postconsumer paint stream in the state;

29 § 4. This act shall take effect on the same date and in the same
30 manner as a chapter of the laws of 2019, amending the environmental
31 conservation law relating to establishing a postconsumer paint
32 collection program, as proposed in legislative bills numbers S.4351 and
33 A.6373, takes effect.