

**Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 14-0072.01 Jennifer Berman x3286

SENATE BILL 14-029

SENATE SPONSORSHIP

Newell,

HOUSE SPONSORSHIP

Fischer,

Senate Committees

Agriculture, Natural Resources, & Energy
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE ESTABLISHMENT OF A PAINT STEWARDSHIP**
102 **PROGRAM FOR THE ENVIRONMENTALLY SOUND DISPOSAL OF**
103 **POSTCONSUMER ARCHITECTURAL PAINT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

To promote environmentally sound practices for the handling of unused architectural paint that the purchaser of the paint no longer wants (postconsumer architectural paint), the bill requires that, on or before July 1, 2015, each producer of architectural paint being sold in Colorado

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 BE CITED AS THE "ARCHITECTURAL PAINT STEWARDSHIP ACT".

2 **25-17-402. Legislative declaration.** (1) THE GENERAL ASSEMBLY
3 HEREBY FINDS AND DECLARES THAT PAINT DISPOSAL CREATES
4 ENVIRONMENTAL AND PUBLIC HEALTH PROBLEMS, AND THESE PROBLEMS
5 SHOULD BE ADDRESSED THROUGH THE IMPLEMENTATION OF
6 ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES FOR RECYCLING
7 POSTCONSUMER ARCHITECTURAL PAINT.

8 (2) TO THAT END, IT IS THE GENERAL ASSEMBLY'S INTENT TO
9 ESTABLISH A SYSTEM OF PAINT STEWARDSHIP PROGRAMS THAT:

10 (a) PROVIDES SUBSTANTIAL COST SAVINGS TO HOUSEHOLD
11 HAZARDOUS WASTE COLLECTION PROGRAMS;

12 (b) SIGNIFICANTLY INCREASES THE NUMBER OF:

13 (I) POSTCONSUMER ARCHITECTURAL PAINT COLLECTION SITES;

14 AND

15 (II) RECYCLING OPPORTUNITIES FOR HOUSEHOLDS, BUSINESSES,
16 AND OTHER GENERATORS OF POSTCONSUMER ARCHITECTURAL PAINT; AND

17 (c) EXEMPLIFIES THE PRINCIPLES OF A PRODUCT-CENTERED
18 APPROACH TO ENVIRONMENTAL PROTECTION, OFTEN REFERRED TO AS
19 "PRODUCT STEWARDSHIP".

20 **25-17-403. Definitions.** AS USED IN THIS PART 4, UNLESS THE
21 CONTEXT OTHERWISE REQUIRES:

22 (1)(a) "ARCHITECTURAL PAINT" MEANS AN INTERIOR OR EXTERIOR
23 ARCHITECTURAL COATING SOLD IN A CONTAINER OF FIVE GALLONS OR
24 LESS.

25 (b) "ARCHITECTURAL PAINT" DOES NOT INCLUDE INDUSTRIAL,
26 ORIGINAL EQUIPMENT MANUFACTURER, OR SPECIALTY COATINGS AS THOSE
27 TERMS ARE DEFINED BY THE COMMISSION BY RULE.

1 (2) "COMMISSION" MEANS THE SOLID AND HAZARDOUS WASTE
2 COMMISSION CREATED IN SECTION 25-15-302.

3 (3) "CURBSIDE SERVICE" MEANS A WASTE COLLECTION,
4 RECYCLING, AND DISPOSAL SERVICE THAT PROVIDES PICKUP OF COVERED
5 ARCHITECTURAL PAINT FROM RESIDENCES, INCLUDING SINGLE- AND
6 MULTI-FAMILY DWELLING UNITS, AND SMALL BUSINESSES IN QUANTITIES
7 THAT A RESIDENCE OR SMALL BUSINESS WOULD REASONABLY GENERATE.

8 (4) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
9 AND ENVIRONMENT CREATED IN SECTION 24-1-119, C.R.S.

10 (5) "DISTRIBUTOR" MEANS A PERSON WHO HAS A CONTRACTUAL
11 RELATIONSHIP WITH ONE OR MORE PRODUCERS TO MARKET AND SELL
12 ARCHITECTURAL PAINT TO RETAILERS.

13 (6) "ENERGY RECOVERY" MEANS A PROCESS BY WHICH ALL OR
14 PART OF ARCHITECTURAL PAINT MATERIALS ARE PROCESSED IN ORDER TO
15 USE THE HEAT CONTENT OR ANOTHER FORM OF ENERGY FROM THE
16 MATERIALS.

17 (7) "ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES" MEANS
18 POLICIES THAT A PRODUCER OR A STEWARDSHIP ORGANIZATION
19 IMPLEMENTS TO ENSURE COMPLIANCE WITH ALL APPLICABLE
20 ENVIRONMENTAL LAWS, INCLUDING LAWS ADDRESSING:

- 21 (a) RECORD KEEPING;
- 22 (b) TRACKING AND DOCUMENTING THE DISPOSAL OF
23 ARCHITECTURAL PAINT WITHIN AND OUTSIDE THE STATE; AND
- 24 (c) ENVIRONMENTAL LIABILITY COVERAGE FOR PROFESSIONAL
25 SERVICES AND CONTRACTOR OPERATIONS.

26 (8) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
27 THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

1 (9) "PAINT STEWARDSHIP ASSESSMENT" MEANS AN AMOUNT THAT
2 A PRODUCER PARTICIPATING IN A PAINT STEWARDSHIP PROGRAM ADDS TO
3 THE PURCHASE PRICE OF A CONTAINER OF ARCHITECTURAL PAINT SOLD IN
4 COLORADO THAT COVERS THE COST OF COLLECTING, TRANSPORTING, AND
5 PROCESSING POSTCONSUMER ARCHITECTURAL PAINT STATEWIDE.

6 (10) "PAINT STEWARDSHIP PROGRAM" MEANS A PROGRAM
7 CREATED IN ACCORDANCE WITH SECTION 25-17-405.

8 (11) "POSTCONSUMER ARCHITECTURAL PAINT" MEANS UNUSED
9 ARCHITECTURAL PAINT THAT THE PURCHASER OF THE PAINT NO LONGER
10 WANTS.

11 (12) "PRODUCER" MEANS AN ORIGINAL PRODUCER OF
12 ARCHITECTURAL PAINT THAT SELLS, OFFERS FOR SALE, OR DISTRIBUTES
13 ARCHITECTURAL PAINT WITHIN OR INTO COLORADO UNDER EITHER THE
14 PRODUCER'S OWN NAME OR A BRAND THAT THE PRODUCER
15 MANUFACTURES.

16 (13) "RECYCLING" MEANS A PROCESS THAT TRANSFORMS
17 DISCARDED PRODUCTS, COMPONENTS, OR BYPRODUCTS INTO NEW USABLE
18 OR MARKETABLE MATERIALS THAT MAY INVOLVE A CHANGE IN THE
19 PRODUCT'S IDENTITY. "RECYCLING" DOES NOT MEAN ENERGY RECOVERY
20 OR ENERGY GENERATION BY MEANS OF COMBUSTING DISCARDED
21 PRODUCTS, COMPONENTS, OR BYPRODUCTS WITH OR WITHOUT OTHER
22 WASTE PRODUCTS.

23 (14) "RETAILER" MEANS A PERSON THAT SELLS OR OFFERS FOR
24 SALE ARCHITECTURAL PAINT WITHIN OR INTO COLORADO.

25 (15) "REUSE" MEANS THE RETURN OF A PRODUCT THAT HAS
26 ALREADY BEEN USED INTO THE MARKETPLACE FOR USE IN THE SAME
27 MANNER AS ORIGINALLY INTENDED WITHOUT A CHANGE IN THE PRODUCT'S

1 IDENTITY.

2 (16) "SELL" MEANS TO TRANSFER TITLE FOR CONSIDERATION,
3 INCLUDING REMOTE SALES CONDUCTED THROUGH SALES OUTLETS,
4 CATALOGS, OR ONLINE. "SELL" DOES NOT INCLUDE SALES OR DONATIONS
5 OF ARCHITECTURAL PAINT IN THE ORIGINAL CONTAINER FOR REUSE.

6 (17) "STEWARDSHIP ORGANIZATION" MEANS A CORPORATION,
7 NONPROFIT ORGANIZATION, OR OTHER LEGAL ENTITY CREATED OR
8 CONTRACTED BY ONE OR MORE PRODUCERS TO IMPLEMENT A PAINT
9 STEWARDSHIP PROGRAM.

10 **25-17-404. Paint stewardship program plan - assessment -**
11 **rules - fees.** (1) EFFECTIVE JULY 1, 2015, NO PRODUCER SHALL SELL,
12 OFFER FOR SALE, OR DISTRIBUTE ARCHITECTURAL PAINT IN COLORADO
13 UNLESS THE PRODUCER IS IMPLEMENTING OR PARTICIPATING IN A PAINT
14 STEWARDSHIP PROGRAM APPROVED BY THE EXECUTIVE DIRECTOR. THE
15 EXECUTIVE DIRECTOR MAY APPROVE AN EARLIER START DATE AS PART OF
16 HIS OR HER APPROVAL OF A PAINT STEWARDSHIP PROGRAM PLAN
17 SUBMITTED IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION. A
18 PAINT STEWARDSHIP PROGRAM MUST COMMENCE WITHIN NINETY DAYS
19 AFTER THE EXECUTIVE DIRECTOR'S APPROVAL OF THE PAINT STEWARDSHIP
20 PROGRAM PLAN.

21 (2) ONE OR MORE PRODUCERS, OR A STEWARDSHIP ORGANIZATION
22 CONTRACTED BY ONE OR MORE PRODUCERS, SHALL SUBMIT FOR APPROVAL
23 A PAINT STEWARDSHIP PROGRAM PLAN TO THE EXECUTIVE DIRECTOR BY
24 JANUARY 1, 2015. TO BE APPROVED, A PAINT STEWARDSHIP PROGRAM
25 PLAN MUST:

26 (a) IDENTIFY THE FOLLOWING:

27 (I) A LIST OF EACH PRODUCER PARTICIPATING IN THE PROGRAM;

1 (II) THE CONTACT INFORMATION FOR THE PRODUCER OR
2 STEWARDSHIP ORGANIZATION IMPLEMENTING THE PROGRAM; AND

3 (III) A LIST OF ALL BRANDS COVERED BY THE PROGRAM;

4 (b) DESCRIBE THE MANNER IN WHICH THE PROGRAM WILL
5 COLLECT, TRANSPORT, REUSE, RECYCLE, AND PROCESS POSTCONSUMER
6 ARCHITECTURAL PAINT, INCLUDING A DESCRIPTION OF THE FOLLOWING:

7 (I) ENERGY RECOVERY AND DISPOSAL; AND

8 (II) STANDARDS TO ENSURE THE USE OF ENVIRONMENTALLY
9 SOUND MANAGEMENT PRACTICES, INCLUDING COLLECTION STANDARDS;

10 (c) DESCRIBE THE MANNER IN WHICH THE PROGRAM WILL COLLECT
11 POSTCONSUMER ARCHITECTURAL PAINT. AT A MINIMUM, A PROGRAM PLAN
12 MUST ESTABLISH COLLECTION PRACTICES THAT:

13 (I) PROVIDE CONVENIENT COLLECTION SITES THROUGHOUT THE
14 STATE;

15 (II) TO ENSURE ADEQUATE COLLECTION COVERAGE, USE
16 DEMOGRAPHIC AND GEOGRAPHIC INFORMATION MODELING TO DETERMINE
17 THE NUMBER AND DISTRIBUTION OF COLLECTION SITES BASED ON THE
18 FOLLOWING CRITERIA:

19 (A) AT LEAST NINETY PERCENT OF COLORADO RESIDENTS MUST
20 HAVE A PERMANENT COLLECTION SITE WITHIN A FIFTEEN-MILE RADIUS OF
21 THEIR HOMES;

22 (B) AN ADDITIONAL PERMANENT SITE MUST BE PROVIDED FOR
23 EVERY THIRTY THOUSAND RESIDENTS OF AN URBANIZED AREA, AS DEFINED
24 BY THE UNITED STATES CENSUS BUREAU, AND DISTRIBUTED IN A MANNER
25 THAT PROVIDES CONVENIENT AND REASONABLY EQUITABLE ACCESS FOR
26 RESIDENTS WITHIN EACH URBANIZED AREA, UNLESS THE EXECUTIVE
27 DIRECTOR APPROVES OTHERWISE; AND

1 (C) FOR THE PORTION OF COLORADO RESIDENTS WHO WILL NOT
2 HAVE A PERMANENT COLLECTION SITE WITHIN A FIFTEEN-MILE RADIUS OF
3 THEIR HOMES, THE PLAN MUST PROVIDE COLLECTION EVENTS AT LEAST
4 ONCE PER YEAR; AND

5 (III) INCLUDE SPECIFIC INFORMATION ON HOW TO SERVE
6 GEOGRAPHICALLY ISOLATED POPULATIONS AND A PROPOSAL FOR HOW TO
7 MEASURE AND REPORT SERVICE TO THOSE POPULATIONS. THIS
8 INFORMATION MUST INCLUDE A DESCRIPTION OF HOW THE PROGRAM WILL
9 WORK WITH EXISTING RECYCLERS AND LOCAL GOVERNMENTS THAT WISH
10 TO CONTINUE TO BE INVOLVED IN PAINT RECYCLING AND COLLECTION.

11 (d) NOTWITHSTANDING THE REQUIREMENTS OF SUBPARAGRAPHS
12 (I) AND (II) OF PARAGRAPH (c) OF THIS SUBSECTION (2), THE PLAN MAY, IN
13 LIEU OF PROVIDING COLLECTION SITES FOR A SPECIFIED GEOGRAPHIC AREA
14 OR POPULATION, IDENTIFY AN AVAILABLE CURBSIDE SERVICE THAT
15 PROVIDES ACCESS TO RESIDENTS THAT IS AT LEAST AS CONVENIENT AND
16 EQUITABLY ACCESSIBLE AS A COLLECTION SITE.

17 (e) DESCRIBE HOW THE PAINT STEWARDSHIP PROGRAM WILL
18 INCORPORATE AND FAIRLY COMPENSATE SERVICE PROVIDERS FOR
19 ACTIVITIES THAT MAY INCLUDE:

20 (I) FOR SERVICES SUCH AS PERMANENT COLLECTION SITES,
21 COLLECTION EVENTS, OR CURBSIDE SERVICES, THE COVERAGE OF COSTS
22 FOR COLLECTING POSTCONSUMER ARCHITECTURAL PAINT AND
23 ARCHITECTURAL PAINT CONTAINERS;

24 (II) THE REUSE OR PROCESSING OF POSTCONSUMER
25 ARCHITECTURAL PAINT AT A PERMANENT COLLECTION SITE; AND

26 (III) THE TRANSPORTATION, RECYCLING, AND PROPER DISPOSAL OF
27 POSTCONSUMER ARCHITECTURAL PAINT;

1 (f) PROVIDE A LIST OF THE NAMES, LOCATIONS, AND HOURS OF
2 OPERATION FOR FACILITIES ACCEPTING POSTCONSUMER ARCHITECTURAL
3 PAINT FOR RECYCLING UNDER THE PROGRAM;

4 (g) IDENTIFY ONE OR MORE DESIGNATED PERSONS RESPONSIBLE
5 FOR:

6 (I) ENSURING THE PROGRAM'S COMPLIANCE WITH THIS PART 4 AND
7 THE RULES PROMULGATED UNDER THIS PART 4; AND

8 (II) SERVING AS A CONTACT PERSON FOR THE DEPARTMENT WITH
9 RESPECT TO THE PAINT STEWARDSHIP PROGRAM;

10 (h) DESCRIBE THE MANNER IN WHICH THE PROGRAM WILL ACHIEVE
11 THE FOLLOWING GOALS:

12 (I) REDUCING THE GENERATION OF POSTCONSUMER
13 ARCHITECTURAL PAINT;

14 (II) PROMOTING THE REUSE OF POSTCONSUMER ARCHITECTURAL
15 PAINT; AND

16 (III) USING BEST PRACTICES THAT ARE BOTH ENVIRONMENTALLY
17 ANDECONOMICALLY SOUND TO MANAGE POSTCONSUMER ARCHITECTURAL
18 PAINT. THESE PRACTICES SHOULD FOLLOW A WASTE HANDLING
19 HIERARCHY, WHICH PROVIDES A PREFERENCE FOR SOURCE REDUCTION,
20 THEN REUSE, FOLLOWED BY RECYCLING, ENERGY RECOVERY, AND FINALLY
21 WASTE DISPOSAL.

22 (i) INCLUDE AN EDUCATION AND OUTREACH PROGRAM THAT MUST:

23 (I) TARGET CONSUMERS, PAINTING CONTRACTORS, AND PAINT
24 RETAILERS;

25 (II) REACH ALL ARCHITECTURAL PAINT MARKETS SERVED BY THE
26 PARTICIPATING PRODUCERS; AND

27 (III) INCLUDE A METHODOLOGY FOR EVALUATING THE

1 EFFECTIVENESS OF THE EDUCATION AND OUTREACH PROGRAM ON AN
2 ANNUAL BASIS, INCLUDING METHODS FOR DETERMINING THE PERCENTAGE
3 OF CONSUMERS, PAINTING CONTRACTORS, AND RETAILERS WHO ARE
4 AWARE OF:

5 (A) WAYS TO REDUCE THE GENERATION OF POSTCONSUMER
6 ARCHITECTURAL PAINT; AND

7 (B) OPPORTUNITIES AVAILABLE FOR THE REUSE AND RECYCLING
8 OF POSTCONSUMER ARCHITECTURAL PAINT;

9 (j) (I) DEMONSTRATE SUFFICIENT FUNDING FOR THE
10 ARCHITECTURAL PAINT STEWARDSHIP PROGRAM DESCRIBED IN THE PLAN
11 THROUGH THE IMPOSITION OF A PAINT STEWARDSHIP ASSESSMENT THAT
12 EACH PRODUCER SHALL CHARGE RETAILERS AND DISTRIBUTORS FOR EACH
13 CONTAINER OF THE PRODUCER'S ARCHITECTURAL PAINT SOLD IN
14 COLORADO. EACH PRODUCER SHALL REMIT THE PAINT STEWARDSHIP
15 ASSESSMENTS COLLECTED TO THE PAINT STEWARDSHIP PROGRAM. EACH
16 RETAILER AND DISTRIBUTOR SHALL ADD THE AMOUNT OF THE PAINT
17 STEWARDSHIP ASSESSMENT TO THE PURCHASE PRICE OF A CONTAINER OF
18 THE PRODUCER'S ARCHITECTURAL PAINT SOLD IN COLORADO. THE PAINT
19 STEWARDSHIP PROGRAM MUST NOT IMPOSE ANY FEES ON CUSTOMERS FOR
20 THE COLLECTION OF POST-CONSUMER ARCHITECTURAL PAINT.

21 (II) TO ENSURE THAT A PAINT STEWARDSHIP PROGRAM'S FUNDING
22 MECHANISM IS EQUITABLE AND SUSTAINABLE, THE FUNDING MECHANISM
23 MUST:

24 (A) PROVIDE A UNIFORM PAINT STEWARDSHIP ASSESSMENT THAT
25 DOES NOT EXCEED THE AMOUNT NECESSARY TO RECOVER PROGRAM
26 COSTS; AND

27 (B) REQUIRE THAT ANY SURPLUS FUNDS GENERATED BY THE

1 PROGRAM BE PLACED BACK INTO THE PROGRAM FOR PROGRAM
2 IMPROVEMENTS OR A PAINT STEWARDSHIP ASSESSMENT REDUCTION, OR
3 BOTH.

4 (k) INCLUDE A PROPOSED BUDGET AND A DESCRIPTION OF THE
5 PROCESS USED TO DETERMINE THE PAINT STEWARDSHIP ASSESSMENT
6 REQUIRED BY PARAGRAPH (j) OF THIS SUBSECTION (2).

7 (3) (a) THE EXECUTIVE DIRECTOR SHALL REVIEW A PAINT
8 STEWARDSHIP PROGRAM PLAN SUBMITTED IN ACCORDANCE WITH
9 SUBSECTION (2) OF THIS SECTION FOR COMPLIANCE WITH THIS PART 4,
10 INCLUDING A REVIEW OF THE PROPOSED PAINT STEWARDSHIP ASSESSMENT
11 REQUIRED BY PARAGRAPH (j) OF SUBSECTION (2) OF THIS SECTION, TO
12 ENSURE THAT THE PAINT STEWARDSHIP ASSESSMENT DOES NOT EXCEED AN
13 AMOUNT NECESSARY TO RECOVER PROGRAM COSTS. THE EXECUTIVE
14 DIRECTOR SHALL APPROVE OR REJECT A PLAN IN WRITING WITHIN NINETY
15 DAYS AFTER RECEIPT OF THE PLAN. IF A PLAN MEETS THE CRITERIA OF
16 SUBSECTION (2) OF THIS SECTION, THE EXECUTIVE DIRECTOR SHALL
17 APPROVE THE PLAN. IF THE EXECUTIVE DIRECTOR REJECTS A PLAN, THE
18 EXECUTIVE DIRECTOR SHALL INCLUDE IN THE WRITTEN REJECTION THE
19 REASON OR REASONS FOR REJECTING THE PLAN.

20 (b) (I) IF THE EXECUTIVE DIRECTOR APPROVES A PAINT
21 STEWARDSHIP PROGRAM PLAN, THE EXECUTIVE DIRECTOR SHALL ADD:

22 (A) THE PRODUCER OR GROUP OF PRODUCERS PARTICIPATING IN
23 THE PAINT STEWARDSHIP PROGRAM PLAN TO A LIST OF PRODUCERS
24 PARTICIPATING IN AN APPROVED PAINT STEWARDSHIP PROGRAM PLAN; AND

25 (B) THE BRANDS BEING SOLD BY THE PRODUCER OR GROUP OF
26 PRODUCERS TO A LIST OF BRANDS INCLUDED IN AN APPROVED PAINT
27 STEWARDSHIP PROGRAM PLAN.

1 (II) THE EXECUTIVE DIRECTOR SHALL PUBLISH THE LISTS ON THE
2 DEPARTMENT'S WEB SITE, AND HE OR SHE SHALL UPDATE THE PUBLISHED
3 LISTS AS NECESSARY.

4 (c) THE EXECUTIVE DIRECTOR'S REJECTION OF A PAINT
5 STEWARDSHIP PROGRAM PLAN CONSTITUTES A FINAL AGENCY ACTION
6 THAT MAY BE APPEALED IN ACCORDANCE WITH THE PROCEDURES SET
7 FORTH IN SECTION 24-4-106, C.R.S.

8 (d) IF THE EXECUTIVE DIRECTOR'S DECISION TO REJECT A PAINT
9 STEWARDSHIP PROGRAM PLAN IS NOT APPEALED PURSUANT TO SECTION
10 24-4-106, C.R.S., OR THE EXECUTIVE DIRECTOR PREVAILS ON APPEAL, THE
11 PRODUCER, GROUP OF PRODUCERS, OR STEWARDSHIP ORGANIZATION THAT
12 SUBMITTED THE PAINT STEWARDSHIP PROGRAM PLAN MUST SUBMIT A
13 REVISED PLAN WITHIN NINETY DAYS AFTER THE DATE ON WHICH THE
14 EXECUTIVE DIRECTOR'S DECISION WAS AFFIRMED OR, IF NO APPEAL WAS
15 PURSUED, THE DATE ON WHICH THE TIME FOR APPEAL EXPIRED. THE
16 REVISED PLAN MUST PROVIDE THE INFORMATION REQUIRED BY
17 SUBSECTION (2) OF THIS SECTION. THE EXECUTIVE DIRECTOR SHALL
18 APPROVE OR REJECT A REVISED PLAN UNDER THE PROCEDURE SET FORTH
19 IN PARAGRAPH (a) OF THIS SUBSECTION (3). THE EXECUTIVE DIRECTOR'S
20 REJECTION OF A REVISED PLAN MAY BE APPEALED IN ACCORDANCE WITH
21 SECTION 24-4-106, C.R.S.

22 (4) WHEN SUBMITTING A PAINT STEWARDSHIP PROGRAM PLAN, A
23 REVISED PLAN, OR AN ANNUAL REPORT, AS REQUIRED BY SECTION
24 25-17-405, ONE OR MORE PRODUCERS OR A STEWARDSHIP ORGANIZATION
25 CONTRACTED BY ONE OR MORE PRODUCERS SHALL PAY A PAINT
26 STEWARDSHIP PROGRAM PLAN FEE, REVISED PLAN FEE, OR ANNUAL REPORT
27 FEE IN AN AMOUNT THAT THE COMMISSION HAS ESTABLISHED OR

1 ADJUSTED BY RULE. IN ESTABLISHING OR ADJUSTING A FEE BY RULE, THE
2 COMMISSION SHALL CONSULT WITH THE EXECUTIVE DIRECTOR AND, AS
3 NEEDED, WITH AN ASSOCIATION OF PRODUCERS.

4 **25-17-405. Paint stewardship program requirements - annual**
5 **reports - customer information.** (1) A PAINT STEWARDSHIP PROGRAM
6 MUST BE FINANCED AND EITHER MANAGED OR CONTRACTED BY A
7 PRODUCER OR GROUP OF PRODUCERS. THE PROGRAM MUST BE
8 IMPLEMENTED STATEWIDE AND INCLUDE:

9 (a) THE COLLECTION, TRANSPORTATION, REUSE, RECYCLING, AND
10 DISPOSAL OF POSTCONSUMER ARCHITECTURAL PAINT; AND

11 (b) INITIATIVES TO REDUCE THE GENERATION OF POSTCONSUMER
12 ARCHITECTURAL PAINT.

13 (2) A PAINT STEWARDSHIP PROGRAM SHALL COMPLY WITH ANY
14 FIRE, HAZARDOUS WASTE, OR OTHER RELEVANT ORDINANCES OR
15 RESOLUTIONS ADOPTED BY A LOCAL GOVERNMENT.

16 (3) (a) ON OR AFTER MARCH 31 OF THE SECOND YEAR OF A PAINT
17 STEWARDSHIP PROGRAM'S IMPLEMENTATION, AND ANNUALLY
18 THEREAFTER, ONE OR MORE PARTICIPATING PRODUCERS, OR A
19 STEWARDSHIP ORGANIZATION CONTRACTED BY ONE OR MORE PRODUCERS,
20 SHALL SUBMIT A REPORT TO THE EXECUTIVE DIRECTOR DESCRIBING THE
21 PROGRESS OF THE PAINT STEWARDSHIP PROGRAM. THE PAINT
22 STEWARDSHIP PROGRAM REPORT MUST INCLUDE THE FOLLOWING
23 INFORMATION FROM THE PRECEDING CALENDAR YEAR:

24 (I) A DESCRIPTION OF THE METHOD OR METHODS USED TO REDUCE,
25 REUSE, COLLECT, TRANSPORT, RECYCLE, AND PROCESS POSTCONSUMER
26 ARCHITECTURAL PAINT;

27 (II) THE TOTAL VOLUME, IN GALLONS, AND TYPE OF

1 POSTCONSUMER ARCHITECTURAL PAINT COLLECTED, WITH THE DATA
2 BROKEN DOWN BY:

3 (A) COLLECTION SITE; AND

4 (B) METHOD OF WASTE HANDLING USED TO HANDLE THE
5 COLLECTED POSTCONSUMER ARCHITECTURAL PAINT, SUCH AS REUSE,
6 RECYCLING, ENERGY RECOVERY, OR WASTE DISPOSAL;

7 (III) THE TOTAL VOLUME, IN GALLONS, OF POSTCONSUMER
8 ARCHITECTURAL PAINT SOLD IN COLORADO BY THE PRODUCER OR
9 PRODUCERS PARTICIPATING IN THE PAINT STEWARDSHIP PROGRAM;

10 (IV) FOR THE EDUCATION AND OUTREACH PROGRAM
11 IMPLEMENTED IN COMPLIANCE WITH SECTION 25-17-404 (2) (i):

12 (A) SAMPLES OF ANY MATERIALS DISTRIBUTED; AND

13 (B) A DESCRIPTION OF THE METHODOLOGY USED AND THE RESULTS
14 OF THE EVALUATION CONDUCTED PURSUANT TO SECTION 25-17-404 (2) (i)

15 (III). THE RESULTS MUST INCLUDE THE PERCENTAGE OF CONSUMERS,
16 PAINTING CONTRACTORS, AND RETAILERS MADE AWARE OF THE WAYS TO
17 REDUCE THE GENERATION OF POSTCONSUMER ARCHITECTURAL PAINT,
18 AVAILABLE OPPORTUNITIES FOR REUSE OF POSTCONSUMER
19 ARCHITECTURAL PAINT, AND COLLECTION OPTIONS FOR POSTCONSUMER
20 ARCHITECTURAL PAINT RECYCLING.

21 (V) THE NAME, LOCATION, AND HOURS OF OPERATION OF EACH
22 FACILITY ADDED OR REMOVED FROM THE LIST DEVELOPED IN ACCORDANCE
23 WITH SECTION 25-17-404 (2) (f).

24 (VI) ANY PROPOSED CHANGES TO THE PAINT STEWARDSHIP
25 PROGRAM PLAN. THE EXECUTIVE DIRECTOR SHALL REVIEW ANY PROPOSED
26 CHANGES SET FORTH IN THE ANNUAL REPORT IN ACCORDANCE WITH THE
27 REVIEW PROCEDURES FOR A REVISED PLAN, AS SET FORTH IN SECTION

1 25-17-404 (3).

2 (VII) A COPY OF AN INDEPENDENT THIRD PARTY'S REPORT
3 AUDITING THE PAINT STEWARDSHIP PROGRAM. THE AUDIT MUST INCLUDE
4 A DETAILED LIST OF THE PROGRAM'S COSTS AND REVENUES.

5 (b) THE EXECUTIVE DIRECTOR SHALL ANNUALLY COMPILE THE
6 RESULTS OF THE REPORTS RECEIVED PURSUANT TO PARAGRAPH (a) OF THIS
7 SUBSECTION (3) INTO A GENERAL REPORT DESCRIBING THE PROGRESS OF
8 THE PAINT STEWARDSHIP PROGRAMS. THE EXECUTIVE DIRECTOR SHALL
9 ANNUALLY PRESENT THE REPORT TO THE HEALTH AND HUMAN SERVICES
10 COMMITTEE OF THE SENATE AND THE PUBLIC HEALTH CARE AND HUMAN
11 SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR THEIR
12 SUCCESSOR COMMITTEES.

13 (4) AS PART OF THE EDUCATION AND OUTREACH PROGRAM SET
14 FORTH IN SECTION 25-17-404 (2) (i), A PRODUCER SHALL DISTRIBUTE
15 PAINT STEWARDSHIP PROGRAM INFORMATION TO ALL RETAILERS OFFERING
16 THE PRODUCER'S ARCHITECTURAL PAINT FOR SALE. THE INFORMATION
17 MAY INCLUDE THE FOLLOWING:

18 (a) SIGNAGE THAT IS PROMINENTLY DISPLAYED AND EASILY
19 VISIBLE TO THE CONSUMER;

20 (b) WRITTEN MATERIALS THAT MAY BE PROVIDED TO THE
21 CONSUMER AT THE TIME OF PURCHASE OR DELIVERY OR BOTH AND
22 TEMPLATES OF THOSE MATERIALS FOR REPRODUCTION BY THE RETAILER;
23 AND

24 (c) PROMOTIONAL MATERIALS INCLUDING ADVERTISING
25 MATERIALS THAT REFERENCE THE ARCHITECTURAL PAINT STEWARDSHIP
26 PROGRAM.

27 **25-17-406. Retail sales - requirements - paint stewardship**

1 **assessment added to purchase price - customer information.** (1) THE
2 EXECUTIVE DIRECTOR, UPON THE EXECUTIVE DIRECTOR'S OWN MOTION,
3 MAY, AND, UPON A PERSON'S WRITTEN COMPLAINT, SHALL, INVESTIGATE
4 A PRODUCER TO DETERMINE WHETHER, ON THE DATE THAT THE
5 PRODUCER'S ARCHITECTURAL PAINT WAS SOLD AT RETAIL, THE PRODUCER
6 OR THE PRODUCER'S BRAND WAS LISTED ON THE DEPARTMENT'S WEB SITE
7 AS PART OF AN APPROVED PAINT STEWARDSHIP PROGRAM. IF THE
8 EXECUTIVE DIRECTOR DETERMINES THAT THE PRODUCER'S
9 ARCHITECTURAL PAINT WAS SOLD IN VIOLATION OF THIS PART 4, THE
10 EXECUTIVE DIRECTOR MAY ORDER THE PRODUCER TO CEASE AND DESIST
11 FROM DISTRIBUTING THE ARCHITECTURAL PAINT UNTIL THE PRODUCER IS
12 IN COMPLIANCE WITH THIS PART 4.

13 (2) FOR EACH CONTAINER OF ARCHITECTURAL PAINT SOLD IN
14 COLORADO, A RETAILER SHALL ADD THE AMOUNT OF THE PRODUCER'S
15 PAINT STEWARDSHIP ASSESSMENT, ESTABLISHED UNDER SECTION
16 25-17-404 (2) (j), TO THE PURCHASE PRICE OF THE CONTAINER OF
17 ARCHITECTURAL PAINT.

18 (3) A RETAILER SELLING ARCHITECTURAL PAINT OR OFFERING
19 ARCHITECTURAL PAINT FOR SALE SHALL, AT THE TIME OF SALE OF ANY OF
20 A PRODUCER'S ARCHITECTURAL PAINT, PROVIDE CUSTOMERS WITH
21 INFORMATION ABOUT THE PRODUCER'S PAINT STEWARDSHIP PROGRAM, AS
22 PROVIDED BY THE PRODUCER PURSUANT TO SECTION 25-17-405 (4). IF A
23 RETAILER FAILS TO DISSEMINATE INFORMATION ABOUT THE PRODUCER'S
24 PAINT STEWARDSHIP PROGRAM PURSUANT TO THIS SUBSECTION (3), BUT
25 THE RETAILER CAN DEMONSTRATE TO THE SATISFACTION OF THE
26 EXECUTIVE DIRECTOR THAT THE PRODUCER FAILED TO PROVIDE THE
27 REQUISITE EDUCATION AND OUTREACH PROGRAM INFORMATION TO THE

1 RETAILER, THE RETAILER IS NEITHER LIABLE NOR PROHIBITED FROM
2 SELLING THE PRODUCER'S ARCHITECTURAL PAINT.

3 **25-17-407. Violations - enforcement - administrative penalty.**

4 (1) IN ADDITION TO OTHER PENALTIES PRESCRIBED BY THIS PART 4 OR
5 ANY OTHER LAW, A PRODUCER OR STEWARDSHIP ORGANIZATION THAT
6 VIOLATES THIS PART 4 IS LIABLE FOR AN ADMINISTRATIVE PENALTY
7 ASSESSMENT NOT TO EXCEED ONE THOUSAND DOLLARS PER DAY FOR THE
8 FIRST VIOLATION AND FIVE THOUSAND DOLLARS PER DAY FOR A SECOND
9 OR SUBSEQUENT VIOLATION.

10 (2) IF A PERSON IS LIABLE PURSUANT TO SUBSECTION (1) OF THIS
11 SECTION, THE EXECUTIVE DIRECTOR SHALL SERVE BY PERSONAL SERVICE
12 OR BY CERTIFIED MAIL AN ORDER THAT IMPOSES AN ADMINISTRATIVE
13 PENALTY ON THE PERSON WHO HAS BEEN DESIGNATED IN THE PAINT
14 STEWARDSHIP PROGRAM PLAN AS THE CONTACT PERSON.

15 (3) THE CONTACT PERSON MAY SUBMIT A WRITTEN REQUEST TO
16 THE EXECUTIVE DIRECTOR FOR A HEARING BY PERSONAL SERVICE OR BY
17 CERTIFIED MAIL WITHIN THIRTY CALENDAR DAYS AFTER THE DATE OF THE
18 ORDER. AN ADMINISTRATIVE LAW JUDGE FROM THE OFFICE OF
19 ADMINISTRATIVE COURTS SHALL CONDUCT THE HEARING IN ACCORDANCE
20 WITH SECTION 24-4-105, C.R.S.

21 (4) IF A REQUEST FOR A HEARING IS FILED, PAYMENT OF ANY
22 MONETARY PENALTY IS STAYED PENDING A FINAL DECISION BY THE
23 ADMINISTRATIVE LAW JUDGE AFTER THE HEARING ON THE MERITS. THE
24 DEPARTMENT IS NOT PRECLUDED FROM IMPOSING AN ADMINISTRATIVE
25 PENALTY AGAINST THE PRODUCER OR STEWARDSHIP PROGRAM FOR
26 SUBSEQUENT VIOLATIONS OF THIS PART 4 COMMITTED DURING THE
27 PENDENCY OF THE STAY.

1 (5) THE DEPARTMENT BEARS THE BURDEN OF PROOF BY A
2 PREPONDERANCE OF THE EVIDENCE IN A HEARING HELD PURSUANT TO THIS
3 SECTION.

4 (6) THE EXECUTIVE DIRECTOR MAY ENTER INTO A SETTLEMENT
5 AGREEMENT WITH A PRODUCER OR STEWARDSHIP ORGANIZATION
6 ASSESSED AN ADMINISTRATIVE PENALTY UNDER THIS SECTION.

7 (7) THE EXECUTIVE DIRECTOR SHALL TRANSFER ANY MONEYS
8 COLLECTED UNDER THIS SECTION TO THE STATE TREASURER, WHO SHALL
9 DEPOSIT THE MONEYS INTO THE GENERAL FUND.

10 **25-17-408. Fees - cash fund - creation.** THE EXECUTIVE
11 DIRECTOR SHALL TRANSMIT ALL FEES COLLECTED UNDER SECTION
12 25-17-404 (4) TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO
13 THE PAINT STEWARDSHIP PROGRAM CASH FUND, HEREBY CREATED AND
14 REFERRED TO IN THIS SECTION AS THE "FUND". THE MONEYS IN THE FUND
15 ARE APPROPRIATED TO THE DEPARTMENT FOR THE PURPOSES SET FORTH IN
16 THIS PART 4. ALL INTEREST EARNED FROM THE INVESTMENT OF MONEYS
17 IN THE FUND IS CREDITED TO THE FUND. ANY MONEYS NOT EXPENDED AT
18 THE END OF THE FISCAL YEAR REMAIN IN THE FUND AND DO NOT REVERT
19 TO THE GENERAL FUND OR ANY OTHER FUND.

20 **25-17-409. Certificate of designation not required.** IF A
21 RETAILER OR OTHER FACILITY SERVING AS A POSTCONSUMER
22 ARCHITECTURAL PAINT COLLECTION SITE WOULD NOT OTHERWISE BE
23 REQUIRED TO OBTAIN A CERTIFICATE OF DESIGNATION AS A SOLID WASTES
24 DISPOSAL SITE AND FACILITY PURSUANT TO SECTION 30-20-102, C.R.S.,
25 THEN THE RETAILER OR OTHER FACILITY NEED NOT OBTAIN A CERTIFICATE
26 OF DESIGNATION.

27 **25-17-410. Limited exemption from antitrust, restraint of**

1 **trade, and unfair trade practices provisions.** IF A PRODUCER OR GROUP
2 OF PRODUCERS PARTICIPATING IN A PAINT STEWARDSHIP PROGRAM OR A
3 STEWARDSHIP ORGANIZATION CONTRACTED BY ONE OR MORE PRODUCERS
4 TO IMPLEMENT A PAINT STEWARDSHIP PROGRAM ENGAGES IN AN ACTIVITY
5 PERFORMED SOLELY IN FURTHERANCE OF IMPLEMENTING THE PAINT
6 STEWARDSHIP PROGRAM AND IN COMPLIANCE WITH THE PROVISIONS OF
7 THIS PART 4, THE ACTIVITY IS NOT A VIOLATION OF THE ANTITRUST,
8 RESTRAINT OF TRADE, AND UNFAIR TRADE PRACTICES PROVISIONS OF THE
9 "UNFAIR PRACTICES ACT", ARTICLE 2 OF TITLE 6, C.R.S., OR THE
10 "COLORADO ANTITRUST ACT OF 1992", ARTICLE 4 OF TITLE 6, C.R.S.

11 **SECTION 2. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly (August
14 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a
15 referendum petition is filed pursuant to section 1 (3) of article V of the
16 state constitution against this act or an item, section, or part of this act
17 within such period, then the act, item, section, or part will not take effect
18 unless approved by the people at the general election to be held in
19 November 2014 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.