

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

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

Health, Insurance, & Environment
Finance
Appropriations

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, AND, IN CONNECTION
104 THEREWITH, MAKING AN APPROPRIATION.

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

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.

HOUSE
2nd Reading Unamended
April 24, 2014

SENATE
3rd Reading Unamended
February 28, 2014

SENATE
Amended 2nd Reading
February 27, 2014

1 **25-17-401. Short title.** THIS PART 4 SHALL BE KNOWN AND MAY
2 BE CITED AS THE "ARCHITECTURAL PAINT STEWARDSHIP ACT".

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

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

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

13 (b) SIGNIFICANTLY INCREASES THE NUMBER OF:

14 (I) POSTCONSUMER ARCHITECTURAL PAINT COLLECTION SITES;

15 AND

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

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

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

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

26 (b) "ARCHITECTURAL PAINT" DOES NOT INCLUDE INDUSTRIAL,
27 ORIGINAL EQUIPMENT MANUFACTURER, OR SPECIALTY COATINGS AS THOSE

1 TERMS ARE DEFINED BY THE COMMISSION BY RULE.

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

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

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

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

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

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

22 (a) RECORD KEEPING;

23 (b) TRACKING AND DOCUMENTING THE DISPOSAL OF
24 ARCHITECTURAL PAINT WITHIN AND OUTSIDE THE STATE; AND

25 (c) ENVIRONMENTAL LIABILITY COVERAGE FOR PROFESSIONAL
26 SERVICES AND CONTRACTOR OPERATIONS.

27 (8) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF

1 THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

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

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

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

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

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

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

26 (15) "REUSE" MEANS THE RETURN OF A PRODUCT THAT HAS
27 ALREADY BEEN USED INTO THE MARKETPLACE FOR USE IN THE SAME

1 MANNER AS ORIGINALLY INTENDED WITHOUT A CHANGE IN THE PRODUCT'S
2 IDENTITY.

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

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

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

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

27 (a) IDENTIFY THE FOLLOWING:

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

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

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

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

8 (I) ENERGY RECOVERY AND DISPOSAL; AND

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

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

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

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

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

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

1 DIRECTOR APPROVES OTHERWISE; AND

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

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

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

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

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

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

27 (III) THE TRANSPORTATION, RECYCLING, AND PROPER DISPOSAL OF

1 POSTCONSUMER ARCHITECTURAL PAINT:

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

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

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

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

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

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

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

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

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

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

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

1 (III) INCLUDE A METHODOLOGY FOR EVALUATING THE
2 EFFECTIVENESS OF THE EDUCATION AND OUTREACH PROGRAM ON AN
3 ANNUAL BASIS, INCLUDING METHODS FOR DETERMINING THE PERCENTAGE
4 OF CONSUMERS, PAINTING CONTRACTORS, AND RETAILERS WHO ARE
5 AWARE OF:

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

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

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

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

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

1 (B) REQUIRE THAT ANY FUNDS GENERATED BY THE AGGREGATE
2 AMOUNT OF FEES CHARGED TO CONSUMERS BE PLACED BACK INTO THE
3 PROGRAM.

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 (5) THE AGGREGATE AMOUNT OF FEES CHARGED TO CONSUMERS
5 PURSUANT TO THIS SECTION SHALL BE IN AN AMOUNT NOT TO EXCEED THE
6 ACTUAL COST OF THE PROGRAM.

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

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

14 (b) INITIATIVES TO REDUCE THE GENERATION OF POSTCONSUMER
15 ARCHITECTURAL PAINT.

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

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

27 (I) A DESCRIPTION OF THE METHOD OR METHODS USED TO REDUCE,

1 REUSE, COLLECT, TRANSPORT, RECYCLE, AND PROCESS POSTCONSUMER
2 ARCHITECTURAL PAINT;

3 (II) THE TOTAL VOLUME, IN GALLONS, AND TYPE OF
4 POSTCONSUMER ARCHITECTURAL PAINT COLLECTED, WITH THE DATA
5 BROKEN DOWN BY:

6 (A) COLLECTION SITE; AND

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

10 (III) THE TOTAL VOLUME, IN GALLONS, OF POSTCONSUMER
11 ARCHITECTURAL PAINT SOLD IN COLORADO BY THE PRODUCER OR
12 PRODUCERS PARTICIPATING IN THE PAINT STEWARDSHIP PROGRAM;

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

15 (A) SAMPLES OF ANY MATERIALS DISTRIBUTED; AND

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

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

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

27 (VI) ANY PROPOSED CHANGES TO THE PAINT STEWARDSHIP

1 PROGRAM PLAN. THE EXECUTIVE DIRECTOR SHALL REVIEW ANY PROPOSED
2 CHANGES SET FORTH IN THE ANNUAL REPORT IN ACCORDANCE WITH THE
3 REVIEW PROCEDURES FOR A REVISED PLAN, AS SET FORTH IN SECTION
4 25-17-404 (3).

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

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

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

21 (a) SIGNAGE THAT IS PROMINENTLY DISPLAYED AND EASILY
22 VISIBLE TO THE CONSUMER;

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

27 (c) PROMOTIONAL MATERIALS INCLUDING ADVERTISING

1 MATERIALS THAT REFERENCE THE ARCHITECTURAL PAINT STEWARDSHIP
2 PROGRAM.

3 **25-17-406. Retail sales - requirements - paint stewardship**
4 **assessment added to purchase price - customer information.** (1) THE
5 EXECUTIVE DIRECTOR, UPON THE EXECUTIVE DIRECTOR'S OWN MOTION,
6 MAY, AND, UPON A PERSON'S WRITTEN COMPLAINT, SHALL, INVESTIGATE
7 A PRODUCER TO DETERMINE WHETHER, ON THE DATE THAT THE
8 PRODUCER'S ARCHITECTURAL PAINT WAS SOLD AT RETAIL, THE PRODUCER
9 OR THE PRODUCER'S BRAND WAS LISTED ON THE DEPARTMENT'S WEB SITE
10 AS PART OF AN APPROVED PAINT STEWARDSHIP PROGRAM. IF THE
11 EXECUTIVE DIRECTOR DETERMINES THAT THE PRODUCER'S
12 ARCHITECTURAL PAINT WAS SOLD IN VIOLATION OF THIS PART 4, THE
13 EXECUTIVE DIRECTOR MAY ORDER THE PRODUCER TO CEASE AND DESIST
14 FROM DISTRIBUTING THE ARCHITECTURAL PAINT UNTIL THE PRODUCER IS
15 IN COMPLIANCE WITH THIS PART 4.

16 (2) FOR EACH CONTAINER OF ARCHITECTURAL PAINT SOLD IN
17 COLORADO, A RETAILER SHALL ADD THE AMOUNT OF THE PRODUCER'S
18 PAINT STEWARDSHIP ASSESSMENT, ESTABLISHED UNDER SECTION
19 25-17-404 (2) (j), TO THE PURCHASE PRICE OF THE CONTAINER OF
20 ARCHITECTURAL PAINT.

21 (3) A RETAILER SELLING ARCHITECTURAL PAINT OR OFFERING
22 ARCHITECTURAL PAINT FOR SALE SHALL, AT THE TIME OF SALE OF ANY OF
23 A PRODUCER'S ARCHITECTURAL PAINT, PROVIDE CUSTOMERS WITH
24 INFORMATION ABOUT THE PRODUCER'S PAINT STEWARDSHIP PROGRAM, AS
25 PROVIDED BY THE PRODUCER PURSUANT TO SECTION 25-17-405 (4). IF A
26 RETAILER FAILS TO DISSEMINATE INFORMATION ABOUT THE PRODUCER'S
27 PAINT STEWARDSHIP PROGRAM PURSUANT TO THIS SUBSECTION (3), BUT

1 THE RETAILER CAN DEMONSTRATE TO THE SATISFACTION OF THE
2 EXECUTIVE DIRECTOR THAT THE PRODUCER FAILED TO PROVIDE THE
3 REQUISITE EDUCATION AND OUTREACH PROGRAM INFORMATION TO THE
4 RETAILER, THE RETAILER IS NEITHER LIABLE NOR PROHIBITED FROM
5 SELLING THE PRODUCER'S ARCHITECTURAL PAINT.

6 **25-17-407. Violations - enforcement - administrative penalty.**

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

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

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

24 (4) IF A REQUEST FOR A HEARING IS FILED, PAYMENT OF ANY
25 MONETARY PENALTY IS STAYED PENDING A FINAL DECISION BY THE
26 ADMINISTRATIVE LAW JUDGE AFTER THE HEARING ON THE MERITS. THE
27 DEPARTMENT IS NOT PRECLUDED FROM IMPOSING AN ADMINISTRATIVE

1 PENALTY AGAINST THE PRODUCER OR STEWARDSHIP PROGRAM FOR
2 SUBSEQUENT VIOLATIONS OF THIS PART 4 COMMITTED DURING THE
3 PENDENCY OF THE STAY.

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

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

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

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

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

1 THEN THE RETAILER OR OTHER FACILITY NEED NOT OBTAIN A CERTIFICATE
2 OF DESIGNATION.

3 **25-17-410. Limited exemption from antitrust, restraint of**
4 **trade, and unfair trade practices provisions.** IF A PRODUCER OR GROUP
5 OF PRODUCERS PARTICIPATING IN A PAINT STEWARDSHIP PROGRAM OR A
6 STEWARDSHIP ORGANIZATION CONTRACTED BY ONE OR MORE PRODUCERS
7 TO IMPLEMENT A PAINT STEWARDSHIP PROGRAM ENGAGES IN AN ACTIVITY
8 PERFORMED SOLELY IN FURTHERANCE OF IMPLEMENTING THE PAINT
9 STEWARDSHIP PROGRAM AND IN COMPLIANCE WITH THE PROVISIONS OF
10 THIS PART 4, THE ACTIVITY IS NOT A VIOLATION OF THE ANTITRUST,
11 RESTRAINT OF TRADE, AND UNFAIR TRADE PRACTICES PROVISIONS OF THE
12 "UNFAIR PRACTICES ACT", ARTICLE 2 OF TITLE 6, C.R.S., OR THE
13 "COLORADO ANTITRUST ACT OF 1992", ARTICLE 4 OF TITLE 6, C.R.S.

14 **SECTION 2. Appropriation.** (1) In addition to any other
15 appropriation, there is hereby appropriated, out of any moneys in the paint
16 stewardship program cash fund created in section 25-17-408, Colorado
17 Revised Statutes, not otherwise appropriated, to the department of public
18 health and environment, for the fiscal year beginning July 1, 2014, the
19 sum of \$84,045 and 0.9 FTE, or so much thereof as may be necessary, to
20 be allocated to the hazardous materials and waste management division
21 for the implementation of this act as follows:

22 (a) \$74,937 and 0.9 FTE for the solid waste control program; and

23 (b) \$9,108 for the purchase of legal services.

24 (2) In addition to any other appropriation, there is hereby
25 appropriated to the department of law, for the fiscal year beginning July
26 1, 2014, the sum of \$9,108, or so much thereof as may be necessary, for
27 the provision of legal services for the department of public health and

1 environment related to the implementation of this act. Said sum is from
2 reappropriated funds received from the department of public health and
3 environment out of the appropriation made in paragraph (b) of subsection
4 (1) of this section.

5 **SECTION 3. Act subject to petition - effective date.** This act
6 takes effect at 12:01 a.m. on the day following the expiration of the
7 ninety-day period after final adjournment of the general assembly (August
8 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a
9 referendum petition is filed pursuant to section 1 (3) of article V of the
10 state constitution against this act or an item, section, or part of this act
11 within such period, then the act, item, section, or part will not take effect
12 unless approved by the people at the general election to be held in
13 November 2014 and, in such case, will take effect on the date of the
14 official declaration of the vote thereon by the governor.