NOTE: The governor signed this measure on 6/6/2014.

An Act

SENATE BILL 14-029

BY SENATOR(S) Newell, Guzman, Jones, Schwartz, Steadman, Ulibarri; also REPRESENTATIVE(S) Fischer, Becker, Court, Fields, Hamner, Hullinghorst, Labuda, Melton, Rosenthal, Schafer.

CONCERNING THE ESTABLISHMENT OF A PAINT STEWARDSHIP PROGRAM FOR THE ENVIRONMENTALLY SOUND DISPOSAL OF POSTCONSUMER ARCHITECTURAL PAINT, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 4 to article 17 of title 25 as follows:

PART 4
ARCHITECTURAL PAINT STEWARDSHIP PROGRAMS

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

25-17-402. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT PAINT DISPOSAL CREATES ENVIRONMENTAL AND PUBLIC HEALTH PROBLEMS, AND THESE PROBLEMS

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SHOULD BE ADDRESSED THROUGH THE IMPLEMENTATION OF ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES FOR RECYCLING POSTCONSUMER ARCHITECTURAL PAINT.

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

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

(b) SIGNIFICANTLY INCREASES THE NUMBER OF:

(I) POSTCONSUMER ARCHITECTURAL PAINT COLLECTION SITES; AND

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

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

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

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

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

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

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

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

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

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

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

(a) RECORD KEEPING;

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

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

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

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

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

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

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

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

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

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

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

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

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

EXECUTIVE DIRECTOR'S APPROVAL OF THE PAINT STEWARDSHIP PROGRAM PLAN.

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

(a) IDENTIFY THE FOLLOWING:

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

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

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

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

(I) ENERGY RECOVERY AND DISPOSAL; AND

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

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

(I) PROVIDE CONVENIENT COLLECTION SITES THROUGHOUT THE STATE;

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

(A) AT LEAST NINETY PERCENT OF COLORADO RESIDENTS MUST

HAVE A PERMANENT COLLECTION SITE WITHIN A FIFTEEN-MILE RADIUS OF THEIR HOMES;

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) REDUCING THE GENERATION OF POSTCONSUMER ARCHITECTURAL PAINT;

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

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

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

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

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

(III) INCLUDE A METHODOLOGY FOR EVALUATING THE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) IF THE EXECUTIVE DIRECTOR'S DECISION TO REJECT A PAINT STEWARDSHIP PROGRAM PLAN IS NOT APPEALED PURSUANT TO SECTION 24-4-106, C.R.S., OR THE EXECUTIVE DIRECTOR PREVAILS ON APPEAL, THE PRODUCER, GROUP OF PRODUCERS, OR STEWARDSHIP ORGANIZATION THAT SUBMITTED THE PAINT STEWARDSHIP PROGRAM PLAN MUST SUBMIT A REVISED PLAN WITHIN NINETY DAYS AFTER THE DATE ON WHICH THE

EXECUTIVE DIRECTOR'S DECISION WAS AFFIRMED OR, IF NO APPEAL WAS PURSUED, THE DATE ON WHICH THE TIME FOR APPEAL EXPIRED. THE REVISED PLAN MUST PROVIDE THE INFORMATION REQUIRED BY SUBSECTION (2) OF THIS SECTION. THE EXECUTIVE DIRECTOR SHALL APPROVE OR REJECT A REVISED PLAN UNDER THE PROCEDURE SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (3). THE EXECUTIVE DIRECTOR'S REJECTION OF A REVISED PLAN MAY BE APPEALED IN ACCORDANCE WITH SECTION 24-4-106, C.R.S.

(4) WHEN SUBMITTING A PAINT STEWARDSHIP PROGRAM PLAN, A REVISED PLAN, OR AN ANNUAL REPORT, AS REQUIRED BY SECTION 25-17-405, ONE OR MORE PRODUCERS OR A STEWARDSHIP ORGANIZATION CONTRACTED BY ONE OR MORE PRODUCERS SHALL PAY A PAINT STEWARDSHIP PROGRAM PLAN FEE, REVISED PLAN FEE, OR ANNUAL REPORT FEE IN AN AMOUNT THAT THE COMMISSION HAS ESTABLISHED OR ADJUSTED BY RULE. IN ESTABLISHING OR ADJUSTING A FEE BY RULE, THE COMMISSION SHALL CONSULT WITH THE EXECUTIVE DIRECTOR AND, AS NEEDED, WITH AN ASSOCIATION OF PRODUCERS.

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

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

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

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

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

(3) (a) ON OR AFTER MARCH 31 OF THE SECOND YEAR OF A PAINT STEWARDSHIP PROGRAM'S IMPLEMENTATION, AND ANNUALLY THEREAFTER,

ONE OR MORE PARTICIPATING PRODUCERS, OR A STEWARDSHIP ORGANIZATION CONTRACTED BY ONE OR MORE PRODUCERS, SHALL SUBMIT A REPORT TO THE EXECUTIVE DIRECTOR DESCRIBING THE PROGRESS OF THE PAINT STEWARDSHIP PROGRAM. THE PAINT STEWARDSHIP PROGRAM REPORT MUST INCLUDE THE FOLLOWING INFORMATION FROM THE PRECEDING CALENDAR YEAR:

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

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

(A) COLLECTION SITE; AND

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

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

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

(A) SAMPLES OF ANY MATERIALS DISTRIBUTED; AND

(B) A DESCRIPTION OF THE METHODOLOGY USED AND THE RESULTS OF THE EVALUATION CONDUCTED PURSUANT TO SECTION 25-17-404 (2) (i) (III). THE RESULTS MUST INCLUDE THE PERCENTAGE OF CONSUMERS, PAINTING CONTRACTORS, AND RETAILERS MADE AWARE OF THE WAYS TO REDUCE THE GENERATION OF POSTCONSUMER ARCHITECTURAL PAINT, AVAILABLE OPPORTUNITIES FOR REUSE OF POSTCONSUMER ARCHITECTURAL PAINT, AND COLLECTION OPTIONS FOR POSTCONSUMER ARCHITECTURAL PAINT RECYCLING.

(V) THE NAME, LOCATION, AND HOURS OF OPERATION OF EACH FACILITY ADDED OR REMOVED FROM THE LIST DEVELOPED IN ACCORDANCE

WITH SECTION 25-17-404 (2) (f);

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

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

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

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

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

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

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

25-17-406. Retail sales - requirements - paint stewardship assessment added to purchase price - customer information. (1) THE

EXECUTIVE DIRECTOR, UPON THE EXECUTIVE DIRECTOR'S OWN MOTION, MAY, AND, UPON A PERSON'S WRITTEN COMPLAINT, SHALL, INVESTIGATE A PRODUCER TO DETERMINE WHETHER, ON THE DATE THAT THE PRODUCER'S ARCHITECTURAL PAINT WAS SOLD AT RETAIL, THE PRODUCER OR THE PRODUCER'S BRAND WAS LISTED ON THE DEPARTMENT'S WEB SITE AS PART OF AN APPROVED PAINT STEWARDSHIP PROGRAM. IF THE EXECUTIVE DIRECTOR DETERMINES THAT THE PRODUCER'S ARCHITECTURAL PAINT WAS SOLD IN VIOLATION OF THIS PART 4, THE EXECUTIVE DIRECTOR MAY ORDER THE PRODUCER TO CEASE AND DESIST FROM DISTRIBUTING THE ARCHITECTURAL PAINT UNTIL THE PRODUCER IS IN COMPLIANCE WITH THIS PART 4.

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

(3) A RETAILER SELLING ARCHITECTURAL PAINT OR OFFERING ARCHITECTURAL PAINT FOR SALE SHALL, AT THE TIME OF SALE OF ANY OF A PRODUCER'S ARCHITECTURAL PAINT, PROVIDE CUSTOMERS WITH INFORMATION ABOUT THE PRODUCER'S PAINT STEWARDSHIP PROGRAM, AS PROVIDED BY THE PRODUCER PURSUANT TO SECTION 25-17-405 (4). IF A RETAILER FAILS TO DISSEMINATE INFORMATION ABOUT THE PRODUCER'S PAINT STEWARDSHIP PROGRAM PURSUANT TO THIS SUBSECTION (3), BUT THE RETAILER CAN DEMONSTRATE TO THE SATISFACTION OF THE EXECUTIVE DIRECTOR THAT THE PRODUCER FAILED TO PROVIDE THE REQUISITE EDUCATION AND OUTREACH PROGRAM INFORMATION TO THE RETAILER, THE RETAILER IS NEITHER LIABLE NOR PROHIBITED FROM SELLING THE PRODUCER'S ARCHITECTURAL PAINT.

25-17-407. Violations - enforcement - administrative penalty. (1) IN ADDITION TO OTHER PENALTIES PRESCRIBED BY THIS PART 4 OR ANY OTHER LAW, A PRODUCER OR STEWARDSHIP ORGANIZATION THAT VIOLATES THIS PART 4 IS LIABLE FOR AN ADMINISTRATIVE PENALTY ASSESSMENT NOT TO EXCEED ONE THOUSAND DOLLARS PER DAY FOR THE FIRST VIOLATION AND FIVE THOUSAND DOLLARS PER DAY FOR A SECOND OR SUBSEQUENT VIOLATION.

(2) IF A PERSON IS LIABLE PURSUANT TO SUBSECTION (1) OF THIS

SECTION, THE EXECUTIVE DIRECTOR SHALL SERVE BY PERSONAL SERVICE OR BY CERTIFIED MAIL AN ORDER THAT IMPOSES AN ADMINISTRATIVE PENALTY ON THE PERSON WHO HAS BEEN DESIGNATED IN THE PAINT STEWARDSHIP PROGRAM PLAN AS THE CONTACT PERSON.

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

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

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

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

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

25-17-408. Fees - cash fund - creation. THE EXECUTIVE DIRECTOR SHALL TRANSMIT ALL FEES COLLECTED UNDER SECTION 25-17-404 (4) TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE PAINT STEWARDSHIP PROGRAM CASH FUND, HEREBY CREATED AND REFERRED TO IN THIS SECTION AS THE "FUND". THE MONEYS IN THE FUND ARE APPROPRIATED TO THE DEPARTMENT FOR THE PURPOSES SET FORTH IN THIS PART 4. ALL INTEREST EARNED FROM THE INVESTMENT OF MONEYS IN THE FUND IS CREDITED TO THE FUND. ANY MONEYS NOT EXPENDED AT THE END

OF THE FISCAL YEAR REMAIN IN THE FUND AND DO NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND.

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

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

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

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

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

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

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

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Morgan Carroll PRESIDENT OF THE SENATE	Mark Ferrandino SPEAKER OF THE HOUSE OF REPRESENTATIVES
Cindi L. Markwell SECRETARY OF THE SENATE	Marilyn Eddins CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES

APPROVED_____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO