

1 **Proposed Regulations for Architectural Paint Recovery Program**

2
3 **PROPOSED REGULATIONS**

4 **ARCHITECTURAL PAINT RECOVERY PROGRAM**

5
6 **TITLE 14: NATURAL RESOURCES**
7 **DIVISION 7. DEPARTMENT OF RESOURCES, RECYCLING AND RECOVERY**
8 **CHAPTER 11. PRODUCT STEWARDSHIP**
9 **ARTICLE 2. ARCHITECTURAL PAINT RECOVERY PROGRAM**

10
11 **§18950. Purpose.**

12 The purpose of this Article is to clarify existing statute and establish administrative
13 procedures to efficiently and effectively implement the department’s responsibilities
14 under the law and to provide a uniform competitive business environment to all
15 architectural paint manufacturers pursuant to §48700 of the Public Resources Code
16 (PRC).

17 Authority cited: Sections 40502 and 42970, Public Resources Code, Reference: Section
18 42970, Public Resources Code.

19 **§18951. Definitions.**

20 (a) Except as otherwise noted, the definitions of this Article supplement and are
21 governed by the definitions set forth in Chapter 5 (commencing with §48700), Part 7,
22 Division 30 of the Public Resources Code:

23 (1) "Must" or "shall" means a provision is mandatory.

24 (2) "May" means a provision is permissive.

25 (b) "Administrative fee" means the fee imposed by the department on the architectural
26 paint manufacturer or stewardship organization in order to cover the costs of
 administering and enforcing the statute.

 (c) "Assessment" means the amount added to the purchase price of architectural paint
 sold in this state necessary to cover the cost of implementing a manufacturer or
 stewardship organization's paint stewardship program.

- 1 (d) "Brand" means a name, sign, symbol, slogan, or anything that is used to identify
2 and distinguish a specific architectural paint product.
- 3 (e) "Collection" means any method by which a service provider receives postconsumer
4 architectural paint from a consumer.
- 5 (f) "Operational costs" means costs to operate a paint stewardship program,
6 including, but not limited to, collection, transportation, processing, disposal, and
7 education and outreach costs.
- 8 (g) "Reporting period" means a consecutive 12-month period as specified in statute.
- 9 (h) "Service provider" means an entity, including, but not limited to, local household
10 hazardous waste collection programs and retailers, that contracts with a manufacturer
11 or stewardship organization to provide services including, but not limited to, collection,
12 consolidation, transportation or processing of postconsumer architectural paint.
- 13 (i) "Significant or material change" means any modification of the architectural paint
14 stewardship assessment previously approved by the department.

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16 Authority cited: Sections 40502 and 42970, Public Resources Code, Reference: Section
17 42970, Public Resources Code.

18

19 **§18952. Submittals.**

20 (a) A corporate officer, acting on behalf of an architectural paint manufacturer or
21 stewardship organization, shall register with the department according to instructions
22 provided by the department. The registration process shall include, but not be limited
23 to, the following information:

- 24 (1) Contact information of the corporate officer responsible for submitting
25 stewardship plan and annual report documents to the department and for
26 overseeing paint stewardship program activities, including, but not limited to:
- 27 (A) Contact Name
 - 28 (B) Title
 - 29 (C) Name and Company or Stewardship Organization
 - 30 (D) Mailing address
 - 31 (E) Phone number

- 1 (F) E-mail address
- 2 (G) Web address, if applicable
- 3 (H) Location and custodian of records
- 4 (2) List and contact information for each architectural paint manufacturer
- 5 participating in the stewardship organization, including, but not limited to:
- 6 (A) Name of Company
- 7 (B) Mailing address and physical address
- 8 (C) Web address, if applicable
- 9 (D) Location and custodian of records
- 10 (E) Contact Name, Title, Phone Number, and e-mail address of participating
- 11 architectural paint manufacturers shall be provided to the department
- 12 upon request.
- 13 (3) List of brands covered under the stewardship plan.
- 14 (b) The stewardship plan should be submitted electronically according to instructions
- 15 provided by the department. A hard copy, signed by a corporate officer of a
- 16 manufacturer or stewardship organization under the penalty of perjury, must also be
- 17 submitted to the department.
- 18 (1) The stewardship plan must be submitted for re-approval upon any significant
- 19 or material change, as defined. The department shall review the revised
- 20 stewardship plan within 90 days of receipt and make a determination whether
- 21 or not to approve the plan.
- 22 (2) The information submitted in a stewardship plan shall address the criteria for
- 23 approval in §18953 and be organized according to this standard outline:
- 24 (A) Contact Information
- 25 (B) Scope
- 26 (C) Program Goals and Activities
- 27 (D) Solid Waste Management Hierarchy
- 28 (E) Collection Systems
- 29 (F) Market Development
- 30 (G) Financing Mechanism
- 31 (H) Education and Outreach

- 1 (I) Program Performance Measurement
- 2 (J) Stakeholder Consultation
- 3 (K) Audits
- 4 (3) The approved stewardship plan shall be a public record, except that financial,
- 5 production, or sales data reported to the department by a manufacturer or
- 6 stewardship organization is not a public record under the California Public
- 7 Records Act, as described in Chapter 3.5 (commencing with § 6250) of
- 8 Division 7 of Title 1 of the Government Code and shall not be open to public
- 9 inspection. The department may release financial, production, or sales data
- 10 in summary form only that cannot be attributable to a specific manufacturer.
- 11 (c) The annual report shall be submitted by a corporate officer acting on behalf of a
- 12 manufacturer or stewardship organization that is operating an architectural paint
- 13 stewardship program under a department-approved stewardship plan.
- 14 (1) The annual report should be submitted electronically to the department
- 15 according to directions provided by the department. A hard copy, signed by a
- 16 corporate officer of a manufacturer or stewardship organization under the
- 17 penalty of perjury, must also be submitted.
- 18 (2) The information submitted in an annual report shall address the criteria for a
- 19 finding of compliance per §18954 and be organized according to this standard
- 20 outline:
- 21 (A) Contact Information
- 22 (B) Executive Summary
- 23 (C) Scope
- 24 (D) Program Outline
- 25 (E) Description of Goals and Activities Based on the Stewardship Plan
- 26 (F) Market Development
- 27 (G) Financing Mechanism
- 28 (H) Education and Outreach
- 29 (I) Audits
- 30

1 Authority cited: Sections 40502, 42970, 42972, 42973, and 42974, Public Resources
2 Code, Reference: Section 42970, 42972, 42973, and 42974, Public Resources Code.

3

4 **§18953. Stewardship Plan Approval Criteria.**

5 (a) Paint stewardship plans must follow the standard outline per §18942 and contain
6 the following:

7 (1) Contact information. Identify the manufacturer or designated stewardship
8 organization responsible for the stewardship plan submittal.

9 (2) Scope. Describe how the stewardship program is designed to accept and
10 manage all applicable architectural paint products, including paint containers.
11 A manufacturer or stewardship organization shall provide an updated list of
12 manufacturers and brands to the department at least every six months.

13 (3) Program Goals and Activities. Include program goals that are specific to and
14 appropriate for California, recognizing the current recycling infrastructure and
15 capacity, estimating changes in market conditions, and anticipating recycling
16 infrastructure and capacity in California. Discussion on goals must include a
17 baseline, to be provided by the manufacturer or stewardship organization,
18 from which the goals will be measured and reported in the manufacturer or
19 stewardship organization's annual reports. The baseline should indicate the
20 status of architectural paint management in the state at the time of plan
21 submission. A methodology for estimating the amount of leftover paint
22 available for collection in California must be provided by the manufacturer or
23 stewardship organization. Describe how the program goals will be achieved
24 to:

25 (A) Reduce the generation of postconsumer paint;

26 (B) Promote the reuse of postconsumer paint; and

27 (C) Properly manage postconsumer paint at end-of-life, including recovery
28 and recycling of postconsumer paint.

29 (4) Solid Waste Management Hierarchy. Describe proposed measures that will
30 enable the management of postconsumer architectural paint in a manner

- 1 consistent with the state's solid waste management hierarchy pursuant to
2 PRC §40051:
- 3 (A) Source reduction
 - 4 (B) Recycling
 - 5 (C) Environmentally safe transformation and safe land disposal
 - 6 (5) Collection Systems. Describe the system that will be used to collect and
7 properly manage postconsumer architectural paint. This description must
8 include the following:
 - 9 (A) Collection methods used for architectural paint, by type.
 - 10 (B) Destination for reuse activities, processing (including recycling) and/or
11 disposal for architectural paint by type.
 - 12 (C) Description of best management practices to be followed by the service
13 providers, including any training that the manufacturer or stewardship
14 organization intends to provide to or require of service providers to
15 ensure proper collection and management of postconsumer architectural
16 paint.
 - 17 (D) Description of convenient collection for California residents to recycle and
18 properly manage their unwanted architectural paint on a state wide basis,
19 including the proposed number, location, and type of collection sites
20 located in each county.
 - 21 (E) Any retailer may participate, on a voluntary basis, as a paint collection
22 site pursuant to the paint stewardship program. A manufacturer or
23 stewardship organization must negotiate with any retailer wanting to
24 participate in their paint stewardship program as a collection site to
25 attempt to establish a mutually agreeable and reasonably feasible
26 agreement with the retailer that addresses all operational costs.
 - 27 (6) Market Development. Describe incentives or methods to increase recycling of
28 and develop markets for collected materials, as applicable.
 - 29 (7) Financing Mechanism. Include a funding mechanism that provides sufficient
30 funding to recover, but not exceed, the cost of the architectural paint

- 1 stewardship program, including the administrative, operational, and capital
2 costs of the program. The funding mechanism includes the following:
- 3 (A) The amount of the assessment per unit of architectural paint sold in the
4 state.
- 5 (B) A budget for the program that includes revenue estimates from the
6 assessment, full program costs, and administrative costs (including those
7 pursuant to §19858 re: service payment to the department).
- 8 (C) A statement that any surplus funds will be put back into the program to
9 reduce the costs of the program, including the assessment amount.
- 10 (D) A statement that the manufacturer or stewardship organization has
11 established a mutually agreeable and reasonably feasible agreement(s)
12 with a service provider(s) that addresses all operational costs.
- 13 (E) Stewardship organization and manufacturers shall allocate revenues and
14 expenditures applicable to this program in accordance with Generally
15 Acceptable Accounting Principles.
- 16 (F) The stewardship plan shall include documentation on how the collection
17 and expenditure of assessment funds shall be kept separate from other
18 activities of the stewardship organization.
- 19 (8) Education and Outreach. Include a description of education and outreach
20 efforts to consumers, contractors, and retailers to promote source reduction
21 and recycling of architectural paint. The description shall include how the
22 outreach and education methods will be used and distributed, and how
23 effectiveness of these activities will be measured. Educational information
24 may include, but is not limited to, signage, written materials, advertising or
25 other promotional materials pursuant to PRC §48703(e).
- 26 (9) Program Performance Measurement. Describe how attainment of the goals
27 will be measured per §18953(a)(3). Program data shall be collected for
28 purposes of annual report submittal (see §18954. Annual Report Compliance
29 Criteria). Information to be provided includes, but is not limited to specific
30 information on the measurement methodology, assumptions, conversion
31 factors, if used, and data sources.

1 (10) Stakeholder Consultations. A manufacturer or stewardship organization that
2 submits a stewardship plan shall include a process of consultation with
3 existing local household hazardous waste collection programs and other
4 affected stakeholders, and consider the existing infrastructure in the
5 development of the plan. Stakeholders may include, but are not limited to,
6 consumers, retailers, architectural paint recyclers, architectural paint
7 contractors, and haulers.

8 (11) Audits.

9 (A) Financial Information. Describe the process by which the financial
10 activities of the stewardship organization or individual manufacturer that
11 are related to implementation of the stewardship plan will be subject to an
12 independent financial audit, results of which will be submitted in the
13 manufacturer or stewardship organization's annual report and reviewed
14 by the department.

15 (B) Non-Financial Information (optional). Describe the process by which the
16 following non-financial activities of the organization or individual
17 manufacturer that are related to implementation of the stewardship plan
18 will be subject to an independent non-financial audit, which will be
19 submitted in the manufacturer or stewardship organization's annual report
20 and reviewed by the department:

- 21 1. A description of how the postconsumer architectural paint was
22 managed in accordance with the stewardship plan.
- 23 2. The total amount of architectural paint sold and collected, and, if
24 applicable, the recovery rate.

25
26 Authority cited: Sections 40502, 42970, 42972, and 42973, Public Resources Code,
27 Reference: Section 42970, 42972, and 42973, Public Resources Code.

28
29 **§18954. Annual Report Compliance Criteria.**

30 (a) The annual report must contain the following:

- 1 (1) Contact information. Identify the manufacturer or stewardship organization
2 responsible for the annual report submittal.
- 3 (2) Executive Summary. Provide an evaluation of the effectiveness of the paint
4 stewardship plan, and anticipated steps, if needed, to improve performance.
5 Describe challenges encountered during the reporting period and how they
6 will be addressed.
- 7 (3) Scope. The program described in the stewardship plan accepts and manage
8 all applicable architectural paint products. Include an updated list of
9 participating manufacturers and their respective contact information per
10 §18952(a)(2).
- 11 (4) Program Outline. Describe the paint stewardship program, including
12 information on the following topics:
- 13 (A) A description of the methods used to collect, transport, and process
14 postconsumer architectural paint, by type, in this state.
- 15 (B) Description of convenient collection for California residents to recycle and
16 properly manage their unwanted architectural paint on a state wide basis,
17 including the number, location, and type of collection sites located in each
18 county.
- 19 (C) Description of best management practices followed by service providers,
20 including any training that the manufacturer or stewardship organization
21 provided or required of service providers to ensure proper collection and
22 management of postconsumer paint.
- 23 (D) Description of how each consumer of architectural paint had an
24 opportunity to properly manage their postconsumer paint.
- 25 (E) A statement that the manufacturer or stewardship organization negotiated
26 with any retailer that contacted for inclusion in the stewardship program in
27 an attempt to establish a mutually agreeable and reasonably feasible
28 agreement that addresses all operational costs.
- 29 (5) Description of goals and activities based on the stewardship plan. State goals
30 from the approved stewardship plan, the baseline from which goals were
31 measured, and report on achievement during the reporting period. Describe

- 1 any adjustments to goals stated in the approved stewardship plan for the
2 upcoming reporting period and accompanying rationale for those changes.
3 The annual report must include, but not be limited to, quantitative information
4 and discussion on the following categories pursuant to PRC §48705(a) and
5 PRC §48703(d):
- 6 (A) The total volume of architectural paint sold, by type, in the state during the
7 preceding reporting period.
 - 8 (B) The total volume of postconsumer architectural paint recovered, by type,
9 in the state during the preceding reporting period.
 - 10 (C) Disposition of postconsumer paint collected, by type and by estimated
11 volume, including facility name(s) and address(es) for each disposition
12 method.
 - 13 (D) The total cost of implementing the architectural paint stewardship
14 program.
 - 15 (E) An evaluation of how the architectural paint stewardship program's funding
16 mechanism operated.
 - 17 (F) A description of efforts to increase reuse of postconsumer paint.
 - 18 (G) A description of efforts to increase recyclability of postconsumer paint.
- 19 (6) Market Development. Include a description of possible market development
20 activities to incentivize the market growth of collected materials, if applicable.
- 21 (7) Financing Mechanism. The annual report shall include a description of the
22 total cost of implementing the architectural paint stewardship program and an
23 evaluation of the program's financing mechanism, including whether or not the
24 funding was sufficient to recover, but not exceed, the full cost of the paint
25 stewardship program. Any proposed change in the amount of the architectural
26 paint stewardship assessment must be submitted to the department for re-
27 approval (see §18952. Submittals). The annual report shall include, but not
28 be limited to, the following, and include any necessary supporting documents:
- 29 (A) Assessment amount per container
 - 30 (B) Total program cost
 - 31 (C) Capital costs

- 1 (D) Cost(\$)/capita
2 (E) Cost (\$)/gallon collected
3 (F) Education/Outreach (% of total program cost)
4 (G)End-of-life materials management (% of total program cost, with line
5 items for reuse, recycling, fuel incineration, and landfilling)
6 (H)Program administration (% of total program cost, including annual
7 administrative fee for service payments to the department)
8 (I) An evaluation of how the assessment operated
9 (J) Surplus funding, if any, and how it will be applied to reduce program costs
10 (K) Governance (program oversight) (% of total program cost)
11 (8) Education and Outreach. Describe educational and outreach activities in
12 context of those identified in the stewardship plan. Provide a description of
13 educational materials that were provided to retailers, consumers, and
14 contractors during the reporting period and provide electronic samples.
15 Identify the method(s) used to determine the effectiveness of educational and
16 outreach surveys (e.g., surveys, hits on specific web pages, number of
17 participants at events, etc). These education and outreach materials may
18 include, but are not limited to, any of the following per PRC §48703(b)(4)(e):
19 (A) Signage that is prominently displayed and easily visible to the consumer.
20 (B) Written materials and templates of materials for reproduction by retailers
21 to be provided to contractors and consumers at the time of purchase or
22 delivery or both.
23 (C) Promotional materials or activities, or both, that explains the purpose of
24 paint stewardship and the means by which it is being carried out.
25 (D) Links to website(s) created and maintained by the stewardship
26 organization.
27 (9) Audits.
28 (A) Financial Information. The annual report shall include an independent
29 financial audit funded from the paint stewardship assessment. The audit
30 shall be conducted in accordance with auditing standards generally
31 accepted in the United States of America, and standards set forth in

1 Government Auditing Standards issued in July 2007 by the Comptroller
2 General of the United States.

- 3 1. The department may investigate further. If the department decides
4 to further review the findings of the independent auditor, the review
5 will be conducted based on same information the individual
6 manufacturer or stewardship organization provided to the
7 independent auditor.
- 8 2. Financial audits must be prepared by a Certified Public Accountant.
- 9 3. The department may request supplemental information from the
10 individual manufacturer or stewardship organization during the
11 course of review of a manufacturer- or stewardship organization-
12 submitted financial audit, if necessary.
- 13 4. The department will inform the individual manufacturer or the
14 stewardship organization within 60 days of the results of its review.

15 (A) Non-Financial Information (optional). The annual report may include an
16 independent audit on the following information:

- 17 1. A description of how the postconsumer architectural paint was
18 managed in accordance with the stewardship plan.
- 19 2. The total amount of architectural paint sold and collected, and, if
20 applicable, the recovery rate.

21
22 Authority cited: Sections 40502, 42970, 42972, 42975, and 42976, Public Resources
23 Code, Reference: Section 42970, 42972, 42975, and 42976, Public Resources Code.

24
25 **§18955. Civil Penalties.**

26 A civil penalty may be administratively imposed by the department on any person who is
27 in violation of any provision of this Article. The responsible party or parties shall be
28 determined by the department based on the totality of the circumstances.

29
30 (a) Any manufacturer offering architectural paint for sale in California or a
31 manufacturer or stewardship organization submitting a stewardship plan or annual

1 report to the department is subject to enforcement under this Article. Architectural paint
2 manufacturers are subject to penalties as a result of the failure of their designated
3 stewardship organization to comply with this Article on their behalf.

4 (b) Notwithstanding paragraph (a), an architectural paint manufacturer is not subject
5 to any penalty for failing to comply if that manufacturer can demonstrate that it provided
6 true and accurate information to the stewardship organization and the stewardship
7 organization failed to properly report this on behalf of the manufacturer.

8 (c) A stewardship organization is not subject to a penalty for failure to comply as a
9 result of submitting false or misleading information if it can demonstrate that it received
10 false or misleading information from an architectural paint manufacturer that was the
11 direct cause of its failure to comply with this Article.

12 (d) Any manufacturer or retailer that offers architectural paint for sale in the state is
13 subject to enforcement under this Article.

14
15 Authority cited: Sections 40502, 42970, 42972, 42972.5, 42973, 42974, 42975, Public
16 Resources Code, Reference: Section 42970, 42972, 42972.5, 42973, 42974, 42975,
17 and 42978, Public Resources Code.

18
19 **§18955.1. Amount of Civil Penalties and Administrative Penalty Schedule.**

20 (a) Civil penalties may be imposed administratively in accordance with the following
21 penalty tables:

22 (1) Base Penalty Table I is to be used for stewardship organizations and
23 architectural paint manufacturers.

24 (A) Identify what violations have occurred.

25 (B) Identify the severity of the violations.

26 (C) Establish the possible range of the base penalty per violation based on the
27 severity levels described in paragraph (b).

28

Base Penalty Table I: For Stewardship Organizations and Architectural Paint Manufacturers
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Violation	Description of Violation	Severity
PRC 48702(b)(1)	Selling or offering for sale in this state, to any person in this state, architectural paint that is not covered under a department-approved stewardship plan or listed as a compliant product on the department's website.	Level 3
PRC 48702(a) and 48703(a)	Failure to submit, individually or through a stewardship organization, an architectural paint stewardship plan to the department	Level 3
PRC 48703	Stewardship plan does not contain required elements	Level 3
PRC 48704(c)	Failure to implement an architectural paint stewardship program described in a department-approved stewardship plan	Level 3
PRC 48704(e)	Failure to pay an annual administration fee to the department	Level 3
PRC 48705(a)	Failure to submit, individually or through a stewardship organization, an annual report to the department	Level 3
PRC 48705(a)	Annual report does not contain required elements	Level 2
14 CCR 18956	Failure to meet record keeping requirements	Level 2

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- (2) Base Penalty Table II is to be used for retailers.
 - (A) Identify what violations have occurred.
 - (B) Identify the severity of the violations.
 - (C) Establish the possible range of the base penalty per violation based on the severity levels described in paragraph (b).

Base Penalty Table II: For Retailers		
Violation	Description of Violation	Severity

PRC 48702(b)(1)	Selling or offering for sale in this state, to any person in this state, architectural paint that is not covered under a department-approved stewardship plan or listed as a compliant product on the department's website.	Level 3
14 CCR 18956	Failure to meet record keeping requirements.	Level 2

1

2 (b) For the purpose of implementing this [Section/Article], penalty severity levels are
3 described as follows:

4 (1) For a violation classified as Level 1, the amount of the base penalty may be
5 up to \$1,000 per day.

6 (2) For a violation classified as Level 2, the amount of the base penalty may be
7 up to \$5,000 per day.

8 (3) For a violation classified as Level 3, the amount of the base penalty may be
9 up to \$10,000 per day.

10 (c) The department will set the final penalty amount after considering the criteria set
11 forth in §18955.2. The department may increase the final penalty beyond the penalty
12 range established pursuant to paragraphs (a) and (b), if it determines, after considering
13 the criteria set forth in §18955.2, that such an increase is warranted and appropriate.

14

15 Note: Authority cited: Sections 40502 and 42970 and 42978, Public Resources
16 Code. Reference: Sections 42970 and 42978.

17

18 **§18955.2. Criteria to Impose a Civil Penalty.**

19 In assessing or reviewing the amount of civil penalty imposed for a violation of this
20 chapter, the department or the court shall consider all the following:

21 (a) The nature, circumstances, extent, and gravity of the violation(s).

22 (b) The number and severity of the violation(s).

23 (c) Evidence that the violation was intentional, knowing or negligent.

24 (d) The size of the violator.

25 (e) History of violation(s) of the same or similar nature.

- 1 (f) The willfulness of the violator's misconduct.
- 2 (g) Whether the violator took good faith measures to comply with this chapter and
3 the period of time over which these measures were taken.
- 4 (h) Evidence of any financial gain resulting from the violation(s).
- 5 (i) The economic effect of the penalty on the violator.
- 6 (j) The deterrent effect that the imposition of the penalty would have on both the
7 violator and the regulated community.
- 8 (k) Any other factor that justice may require.
- 9

10 Note: Authority cited: Sections 40502 and 42978, Public Resources Code.

11 Reference: Section 42978, Public Resources Code.

12

13 **§18955.3 Procedure for Imposing Civil Penalties.**

- 14 (a) Civil penalties may be administratively imposed in accordance with the procedures
15 outlined in the Administrative Procedure Act at Chapter 5 (commencing with §11500) of
16 Part 1 of Division 3 of Title 2 of the Government Code with the exception of Government
17 Code §11505(c).
- 18 (b) The accusation or complaint and all accompanying documents may be served on
19 the respondent by the following means:
- 20 (1) Personal service.
- 21 (2) Substitute service by using the same service procedures as described in
22 §415.20 of the Code of Civil Procedure.
- 23 (3) Certified Mail: For respondents who have submitted a stewardship plan,
24 certified mail or registered mail if the letter containing the accusation or
25 complaint and accompanying material is mailed, addressed to the respondent
26 at the latest facility or mailing address(es) provided in the stewardship plan on
27 file with the department. Any address provided in the stewardship plan may
28 be used for service of process. Proof of service of the accusation or complaint
29 shall be the certified mail receipts or registered mail receipts proving the
30 accusation or complaint and accompanying materials were sent to respondent
31 by certified mail or registered mail. For respondents who have not submitted

1 or are not required to submit a stewardship plan to the department, certified
2 mail or registered mail pursuant to the procedures indicated in the
3 Administrative Procedure Act at §11505(c) of the Government Code applies.
4 (c) Civil penalties may be imposed pursuant to the Public Resources Code §48704(f)
5 in the discretion of the trier of fact in the civil proceeding.

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7 Note: Authority cited: Sections 40502 and 42970, Public Resources Code.
8 Reference: Section 11500, Government Code; and Section 42970, Public
9 Resources Code.

10 11 **§18956. Record Keeping Requirements**

12 Each stewardship organization, manufacturer, or retailer required to comply with
13 Chapter 5 (commencing with §48700, Part 7, Division 30 of the Public Resources Code)
14 shall:

15 (a) Maintain records to support the requirements in this Article. Stewardship
16 organizations and manufacturers must maintain records to support §18953 and §18954.
17 Retailers must maintain records on all architectural paint sold or offered for sale in the
18 state including:

- 19 (1) The manufacturer of the paint.
- 20 (2) The date(s) the retailer purchased the paint from the manufacturer.
- 21 (3) The date(s) the retailer sold the paint.
- 22 (4) Certification letter(s) from the department if provided by a manufacturer to
23 demonstrate that paint from the manufacturer is or was subject to a
24 department-approved stewardship plan.

25 (b) Provide the department with immediate access to its facilities, operations, and any
26 relevant records necessary to determine compliance with this Article, upon request.

27 The records required by this Article shall be accessible for three years;

28 (c) Make all records required by this Article available for inspection or audit by the
29 department, or its agent and other duly authorized regulatory agencies during normal
30 working hours;

1 (d) Submit copies of specified records to the department upon request or at a
2 frequency approved by the department.

3 (e) The department may take disciplinary action against any stewardship organization
4 or manufacturer who fails to provide the department with access pursuant to this
5 subdivision including, but not limited to, imposing penalties and the immediate removal
6 from the department's list of manufacturers that are in compliance with Chapter 5
7 (commencing with §48700), Part 7, Division 30 of the Public Resource Code.

8

9 Note: Authority cited: Sections 40502 and 42970, Public Resources Code. Reference:
10 Sections 42970, 42972, 42972.5, 42975, and 42976, Public Resources Code.

11 **§18957. Proprietary, Confidential, or Trade Secret Information.**

12 The public disclosure of records supplied to the department pursuant to this Article that
13 are, at the time of submission, claimed to be proprietary, confidential, or trade secret
14 shall be subject to the disclosure provisions in Title 14, California Code of Regulations,
15 Division 7, Chapter 1, Article 4 (commencing with §17041).

16 Authority cited: Section 6253, Government Code. Sections 40502 and 42970, Public
17 Resources Code. Reference: Sections 6250 et seq., Government Code. Section 42970,
18 Public Resources Code.

19 **§18958. Service Payments to Department of Resources Recycling and Recovery.**

20 (a) The department, using information provided in annual reports, its actual program
21 costs for previous years, plans submitted in prior years, information from other sources,
22 and assessing program needs; shall estimate the costs to be incurred by the
23 department in connection with the administration and enforcement of the requirements
24 of this chapter for the next fiscal year.

25 (b) The department director, or his/her delegated authority, shall approve the
26 administrative fee charged for each stewardship plan for the full administration and
27 enforcement costs by April 30 each year starting 2012.

28 (c) Any department fee shall be prorated, if there is more than one stewardship plan,
29 by the number of plans submitted.

1 (d) The department will issue invoices for each stewardship plan by May 31 each year.
2 Payment is due annually on July 1. The department's approval of a plan shall be
3 revoked if payment is not received. Stewardship plans revoked for lack of payment may
4 be reinstated upon payment.

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6 Authority cited: Sections 40502, 42970, 42972, 42977, and 42977.1, Public Resources
7 Code, Reference: Section 42970, 42972, 42977, and 42977.1, Public Resources Code.

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