Regulation for Architectural Paint Recovery Program

ARCHITECTURAL PAINT RECOVERY PROGRAM REGULATION

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

§18950. Purpose.

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

Authority cited: Sections 40502, Public Resources Code, Reference: Section 48700-48706, Public Resources Code.

§18951. Definitions.

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

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

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

(b) "Administrative fee" means the fee imposed by the department on the architectural 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.

(d) "Brand" means a name, sign, symbol, slogan, or anything that is used to identify and distinguish a specific architectural paint product.

(e) “Collection” means any method by which a service provider receives postconsumer architectural paint from a consumer.

(f) “Operational costs” means costs to operate a manufacturer or stewardship organization’s paint stewardship program, including, but not limited to, collection, transportation, processing, disposal, and education and outreach costs.

(g) "Reporting period" means a consecutive 12-month period as specified in statute.

(h) “Service provider” means an entity, including, but not limited to, local household hazardous waste collection programs and retailers, that contracts with a manufacturer or stewardship organization to provide services including, but not limited to, collection, consolidation, transportation, processing, or proper disposal of postconsumer architectural paint.

(i) "Significant or material change" means any modification of the architectural paint stewardship assessment previously approved by the department.

Authority cited: Section 40502, Public Resources Code, Reference: Section 48700-48706, Public Resources Code.

§18952. Submittals.

(a) A corporate officer, acting on behalf of an architectural paint manufacturer or stewardship organization, shall submit as part of the stewardship plan the following information:

(1) Contact information of the corporate officer responsible for submitting stewardship plan and annual report documents to the department and for overseeing paint stewardship program activities, including, but not limited to:

(A) Contact Name

(B) Title

(C) Name and Company or Stewardship Organization

(D) Mailing address

(E) Phone number

(F) E-mail address

(G) Web address, if applicable

(2) List and contact information for each architectural paint manufacturer participating in the stewardship organization, including, but not limited to:

(A) Name of Company

(B) Mailing or corporate address

(C) Web address (if applicable), Contact Name, Title, Phone Number, and e-mail address of participating architectural paint manufacturers shall be provided to the department upon request. The department shall include a reason for any request of this information. The requested information shall be submitted within 30 days of the request unless extended as determined by the department.

(3) List of brands covered under the stewardship plan.

(b) The stewardship plan should be submitted electronically according to instructions provided by the department. A hard copy, signed by a corporate officer of a manufacturer or stewardship organization, must also be submitted to the department.

(1) The information submitted in a stewardship plan shall address the criteria for approval in §18953 and be organized according to this standard outline:

(A) Contact Information

(B) Program Goals and Activities

(C) Collection Systems

(D) Financing Mechanism

(E) Education and Outreach

(F) Stakeholder Consultation

(2) The department shall determine if the plan is complete and notify the submitting manufacturer or stewardship organization within 30 days. If the department finds that the stewardship plan is complete, the department's 90-day review period for consideration of approval of the stewardship plan, set forth in Public Resources Code section 48704, will commence upon the original date of receipt. If the stewardship plan is incomplete, the department shall identify what additional information must be submitted to make it complete and the plan shall be resubmitted within 30 days. If the department determines upon resubmittal that the plan is complete, the department's 90-day review period for consideration of

approval of the stewardship plan will commence upon the original date of receipt of the resubmittal.

(3) The department may approve, disapprove, or conditionally approve a stewardship plan.

(A) The plan must be approved if it provides for the establishment of a paint stewardship program that meets the requirements of Public Resources Code section 48703.

(B) If the department conditionally approves a plan, the department shall identify the deficiencies in the plan and the manufacturer or stewardship organization shall comply with the conditions of approval within 60 days of the notice date. If the conditions are met, the department shall approve the plan.

(C) If the department disapproves a plan, the department shall identify the deficiencies in the plan and the manufacturer or stewardship organization shall resubmit a plan or provide supplemental information requested by within 60 days of the notice date.

(D) If the department conditionally approves a plan and the conditions are not met, the department shall disapprove the plan.

(4) The stewardship plan must be submitted for re-approval upon any significant or material change, as defined. The department shall review the revised stewardship plan within 90 days of receipt and make a determination whether or not to approve the plan.

(5) The approved stewardship plan shall be a public record, except that financial, production, or sales data reported to the department by a manufacturer or stewardship organization is not a public record under the California Public Records Act, as described in Chapter 3.5 (commencing with § 6250) of Division 7 of Title 1 of the Government Code and shall not be open to public inspection. The department may release financial, production, or sales data in summary form only that cannot be attributable to a specific manufacturer.

(c) The annual report shall be submitted by a corporate officer acting on behalf of a manufacturer or stewardship organization that is operating an architectural paint

stewardship program under a department-approved stewardship plan. The annual report should be submitted electronically to the department according to directions provided by the department. A hard copy, signed by a corporate officer of a manufacturer or stewardship organization must also be submitted.

(1) The information submitted in an annual report shall address the criteria for a finding of compliance per §18954 and be organized according to this standard outline:

(A) Contact Information

(B) Executive Summary

(C) Program Outline

(D) Description of Goals and Activities Based on the Stewardship Plan

(E) Financing Mechanism

(F) Education and Outreach

(G) Audits

(2) The department shall determine if the report is complete and notify the submitting manufacturer or stewardship organization within 30 days. If the department finds that the annual report is complete, the department's 90-day review period for the annual report, set forth in Public Resources Code §48705, will commence upon the original date of receipt. If the annual report is incomplete, the department shall identify what additional information must be submitted to make it complete and the report shall be resubmitted within 30 days. If the department determines upon resubmittal that the report is complete, the department's 90-day review period of the report will commence upon the original date of receipt of the resubmittal.

(3) The department may adopt a finding of compliance, non-compliance, or conditional approval for an annual report.

(A) If the department adopts a finding of compliance, the manufacturer or stewardship organization may continue to sell or offer paint for sale in the state.

(B) If the department conditionally approves a report, the department shall identify the deficiencies in the report and the manufacturer or stewardship

organization shall comply with the conditions of approval within 60 days of the notice date. If the conditions are met, the department shall adopt a finding of compliance.

(C) If the department adopts a finding of non-compliance, the department shall identify the deficiencies in the report and the manufacturer or stewardship organization shall resubmit a report or provide supplemental information requested by within 60 days of the notice date.

(D) If the department conditionally approves a report and the conditions are not met, the department shall adopt a finding of non-compliance.

Authority cited: Sections 40502, 48703, 48704, 48705, and 48706, Public Resources Code, Reference: Section 40502, 48700- 48706, Public Resources Code.

§18953. Stewardship Plan Approval Criteria.

(a) Paint stewardship plans must follow the standard outline per §18952 and contain the following:

(1) Contact information. Identify the manufacturer or designated stewardship organization responsible for the stewardship plan submittal. A manufacturer or stewardship organization shall provide updates to the list of manufacturers and brands participating in its program within 30 days of any changes to that list.

(2) Program Goals and Activities. Include program goals that are specific to and appropriate for California. Factors to consider when determining program goals may include the current and future recycling infrastructure and capacity and changes in market conditions in California. Description of goals must include a baseline, to be provided by the manufacturer or stewardship organization, from which the goals will be measured and reported in the manufacturer or stewardship organization's annual reports. The baseline should indicate the status of household hazardous waste management in California at the time of plan submission. Describe how the goals will be measured, including a description of the methodology used for estimating the

amount of leftover paint available for collection in California. Describe how the program will:

(A) Reduce the generation of postconsumer paint;

(B) Promote the reuse of postconsumer paint;

(C) Properly manage postconsumer paint at end-of-life in an environmentally sound fashion, including recovery, recycling, and proper disposal of postconsumer paint; and

(D) Manage paint containers and undertake market development activities, if a manufacturer or stewardship organization chooses to engage in these activities.

(3) Collection Systems. Describe the system that will be used to collect and properly manage postconsumer architectural paint to demonstrate how there will be sufficient funding for the program and how it will be implemented in an environmentally sound fashion. This description must include the following:

(A) Collection methods used for architectural paint, by type.

(B) Destination for reuse activities, processing (including recycling) and/or disposal for architectural paint, by type.

(C) Description of best management practices to be followed by service providers that are acting as collection points, which may include any training that the manufacturer or stewardship organization intends to provide to or require of service providers to ensure proper collection and management of postconsumer architectural paint.

(D) Description of how each consumer of architectural paint in California will have an opportunity to recycle and properly manage their unwanted architectural paint on a state wide basis, including the proposed number, location, and type of collection points located in the state.

(E) Address the coordination of the architectural paint stewardship program with existing local household hazardous waste collection programs. A manufacturer or stewardship organization must negotiate with existing local household hazardous waste collection programs wanting to

participate in the paint stewardship program as a collection point as much as is reasonably feasible and is mutually agreeable.

(F) Address the coordination of the architectural paint stewardship program with potential retail collection points. Any retailer may participate, on a voluntary basis, as a paint collection point pursuant to the paint stewardship program. A manufacturer or stewardship organization must negotiate with any retailer wanting to participate in the~~ir~~ paint stewardship program as a collection point, as much as is reasonably feasible and is mutually agreeable.

(4) Financing Mechanism. Include a funding mechanism that provides sufficient funding to recover, but not exceed, the cost of the architectural paint stewardship program, including the administrative (including financial audits per PRC §48705(a)(6)), operational, and capital costs of the program. The funding mechanism includes the following:

(A) The amount of the assessment per unit of architectural paint sold in the state.

(B) A budget for the program that includes revenue estimates from the assessment, operational costs, capital costs, and administrative costs (including those pursuant to §18958 re: service payment to the department).

(C) Stewardship organization and manufacturers shall allocate revenues and expenditures applicable to this program in accordance with Generally Accepted Accounting Principles (GAAP).

(5) Education and Outreach. Include a description of education and outreach efforts to consumers, contractors, and retailers to promote source reduction and recycling of architectural paint. The description shall include how the outreach and education methods will be used and distributed. Educational information may include, but is not limited to, signage, written materials, advertising, or other promotional materials pursuant to PRC §48703(e). A manufacturer or stewardship organization may not advertise a collection point(s) as being part of a manufacturer or stewardship organization's

program that is not a contracted collection point for the manufacturer or stewardship organization's stewardship program. This provision does not apply to referrals to collection points based on publically available information.

(6) Stakeholder Consultations. In addition to existing local household hazardous waste collection programs per §18953(a)(3)(E), other stakeholders that may be consulted include, but are not limited to, consumers, retailers, architectural paint recyclers, architectural paint contractors, and haulers.

(b) The manufacturer or stewardship organization submitting the stewardship plan shall provide, upon request, additional information to assist the department as may be necessary for the approval of the plan in compliance with the California Environmental Quality Act.

Authority cited: Sections 40502, 48703, and 48704, Public Resources Code, Reference: Section 48700-48706, Public Resources Code.

§18954. Annual Report Compliance Criteria.

(a) The annual report must contain the following:

(1) Contact information. Identify the manufacturer or stewardship organization responsible for the annual report submittal. Stewardship organizations shall include an updated list of participating manufacturers and any updates to their respective contact information per §18952(a)(2).

(2) Executive Summary. The purpose of the Executive Summary is to provide a broad understanding of the manufacturer or stewardship organization's program as a whole and to put into context the data and information that will follow. Provide a brief description of the manufacturer or stewardship organization's architectural paint recovery efforts during the reporting period pursuant to PRC §48705(a). This may include anticipated steps, if needed, to improve performance and a description of challenges encountered during the reporting period and how they will be addressed. This may also include a description of paint container management and market development activities

if the manufacturer or stewardship organization has chosen to engage in those activities.

(3) Program Outline. Describe the paint stewardship program, including information on the following topics:

(A) A description of the methods used to collect, transport, and process postconsumer architectural paint, by type, in California.

(B) Description of how each consumer of architectural paint in California had an opportunity to recycle and properly manage their postconsumer paint on a state wide basis, including the number, location, and type of collection points located in the state.

(C) Description of best management practices followed by service providers that are acting as collection points, which may include any training that the manufacturer or stewardship organization provided or required of service providers to ensure proper collection and management of postconsumer paint.

(D) A statement that the manufacturer or stewardship organization coordinated with existing household hazardous waste collection programs and retailers as potential collection points per §18953(a)(4)(E) and (F) during the reporting period.

(4) Description of goals and activities based on the stewardship plan. State goals from the approved stewardship plan, the baseline from which goals were measured, and report on achievement during the reporting period. Describe any adjustments to goals stated in the approved stewardship plan that may be made for the upcoming reporting period and accompanying rationale for those changes. The annual report must include quantitative information and discussion on the following categories pursuant to PRC §48705(a) and PRC §48703(d):

(A) The total volume of architectural paint sold, by type, in the state during the preceding reporting period.

(B) The total volume of postconsumer architectural paint recovered, by type, in the state during the preceding reporting period.

(C) Disposition of postconsumer paint collected, by type and by estimated volume, including name(s) and corporate address(es) for contracted processors for each.

(5) Financing Mechanism. The annual report shall include the total cost of implementing the architectural paint stewardship program and an evaluation of how the program's funding mechanism operated, including whether or not the funding was sufficient to recover, but not exceed, the administrative, operational, and capital costs of the manufacturer or stewardship organization's program. Include a statement that any surplus funds are put back into the program to reduce the costs of the program, including the assessment amount. Any proposed change in the amount of the architectural paint stewardship assessment must be submitted to the department for re-approval (see §18952. Submittals). If a manufacturer or stewardship organization conducts activities that are separate from the implementation and management of the California paint stewardship program, then the annual report shall include documentation on how the collection and expenditure of assessment funds shall be kept separate from other activities of the manufacturer or stewardship organization and the methodology for distribution of shared costs. Consistent with PRC §48705(a)(5), the annual report shall include the following:

(A) Assessment amount per container

(B) Total program cost

(C) Capital costs

(D) Cost($)/capita

(E) Cost ($)/gallon collected

(F) Education/Outreach (% of total program cost)

(G) End-of-life materials management (% of total program cost, with line items for reuse, transportation, recycling, fuel incineration, and proper disposal)

(H) Program administration (% of total program cost, including annual administrative fee for service payments to the department)

(I) Surplus funding, if any, and how it will be applied to reduce program costs

(6) Education and Outreach. Describe educational and outreach activities in context of those identified in the stewardship plan. Provide a description of educational materials that were provided to retailers, consumers, and contractors during the reporting period and provide electronic examples of these materials. Identify any method(s) used to determine the effectiveness of educational and outreach efforts (e.g., surveys, hits on specific web pages, number of participants at events, etc.), if applicable. These education and outreach materials may include, but are not limited to, any of the following per PRC §48703(b)(4)(e):

(A) Signage that is prominently displayed and easily visible to the consumer.

(B) Written materials and templates of materials for reproduction by retailers to be provided to contractors and consumers at the time of purchase or delivery or both.

(C) Promotional materials or activities, or both, that explains the purpose of paint stewardship and the means by which it is being carried out.

(D) Links to website(s) created and maintained by the stewardship organization.

(7) Audits. The annual report shall include an independent financial audit of the California Architectural Paint Recovery Program funded from the paint stewardship assessment. The audit shall be conducted in accordance with auditing standards generally accepted in the United States of America, and standards set forth in Government Auditing Standards issued by the Comptroller General of the United States. The financial audit submitted to the department shall be prepared by an Independent Certified Public Accountant (CPA). The CPA shall not perform non-audit services for the manufacturer or stewardship organization that would impair independence as defined in the Government Auditing Standards issued by the Comptroller General of the United States (e.g., accounting services, development of internal controls, management decisions). The independent financial audit shall include:

(A) California Architectural Paint Recovery Program financial statements, as required by GAAP.

(B) An opinion on the manufacturer or stewardship organization's compliance with the financial aspects of PRC §48700 and Title 14, Division 7, Chapter 11, Article 2 of the California Code of Regulations.

(C) Findings and recommendations as they relate to the financial aspects of the Architectural Paint Recovery Program.

(D) Management Letter, if issued, by the manufacturer or stewardship organization's CPA.

Authority cited: Sections 40502, 48703, 48704, 48705, and 48706, Public Resources Code, Reference: Section 48700-48706, Public Resources Code.

§18955. Civil Penalties.

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

(a) Any manufacturer offering architectural paint for sale in California or a manufacturer or stewardship organization submitting a stewardship plan or annual report to the department is subject to enforcement under this Article. Architectural paint manufacturers are subject to penalties as a result of the failure of their designated stewardship organization to comply with this Article on their behalf.

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

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

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

Authority cited: Sections 40502 and 48704 Public Resources Code, Reference: Section 48700-48706, Public Resources Code.

§18955.1. Amount of Civil Penalties and Administrative Penalty Schedule.

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

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

(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 I: For Stewardship Organizations and Architectural Paint Manufacturers		
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
14 CCR 18952(b)(2)	Failure to resubmit a stewardship plan or provide supplemental information within 60 days after receiving a notice of disapproval or conditional approval from the department	Level 1
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

(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

(b) For the purpose of implementing this Article, penalty severity levels are described as follows:

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

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

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

(c) A penalty amount may exceed $1,000 per day only if a person intentionally, knowingly, or negligently violates this Article.

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

(e) If the department sets an aggregated penalty amount for multiple violations, the aggregated penalty amount shall not exceed $1,000 per day per manufacturer, stewardship organization, or retailer. If a person intentionally, knowingly, or negligently violates this Article, the aggregated penalty amount shall not exceed $10,000 per day per manufacturer, stewardship organization, or retailer.

Note: Authority cited: Sections 40502 and 48704, Public Resources Code. Reference: Sections 48700-48706, Public Resources Code; and Section 11506, Government Code.

§18955.2. Criteria to Impose a Civil Penalty.

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

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

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

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

(d) The size of the violator.

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

(f) The willfulness of the violator's misconduct.

(g) Whether the violator took good faith measures to comply with this chapter and the period of time over which these measures were taken.

(h) Evidence of any financial gain resulting from the violation(s).

(i) The economic effect of the penalty on the violator.

(j) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.

(k) Any other factor that justice may require.

Note: Authority cited: Sections 40502 and 48704, Public Resources Code.

Reference: Section 48700-48706, Public Resources Code.

§18955.3 Procedure for Imposing Civil Penalties.

(a) Civil penalties may be administratively imposed in accordance with the procedures outlined in the Administrative Procedure Act at Chapter 5 (commencing with §11500) of Part 1 of Division 3 of Title 2 of the Government Code with the exception of Government Code §11505(c).

(b) The accusation or complaint and all accompanying documents may be served on the respondent by the following means:

(1) Personal service.

(2) Substitute service by using the same service procedures as described in §415.20 of the Code of Civil Procedure.

(3) Certified Mail: For respondents who have submitted a stewardship plan, certified mail or registered mail if the letter containing the accusation or complaint and accompanying material is mailed, addressed to the respondent at the latest facility or mailing address(es) provided in the stewardship plan on file with the department. Any address provided in the stewardship plan may be used for service of process. Proof of service of the accusation or complaint shall be the certified mail receipts or registered mail receipts proving the accusation or complaint and accompanying materials were sent to respondent by certified mail or registered mail. For respondents who have not submitted or are not required to submit a stewardship plan to the department, certified mail or registered mail pursuant to the procedures indicated in the Administrative Procedure Act at §11505(c) of the Government Code applies.

(c) Civil penalties may be imposed pursuant to the Public Resources Code §48704(f) in the discretion of the trier of fact in the civil proceeding.

Note: Authority cited: Sections 40502 and 48704, Public Resources Code. Reference: Section 48700-48706, Public Resources Code; and Section 11500, Government Code.

§18956. Record Keeping Requirements

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

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

(1) The manufacturer of the paint.

(2) The date(s) the retailer purchased the paint from the manufacturer.

(3) The date(s) the retailer sold the paint.

(4) Certification letter(s) from the department, if provided by a manufacturer, to demonstrate that paint from the manufacturer is or was subject to a department-approved stewardship plan. A retailer must provide access to a certification letter only if it is being used as proof of compliance, pursuant to PRC §48702(c)(2), that a manufacturer not listed on the department's internet website is in compliance and may sell or offer for sale paint in California.

(b) Provide the department with reasonable and timely access, as determined by the department, to its facilities, operations, and any relevant records necessary to determine compliance with this Article, upon request. Retailers will maintain and provide access to records required by this Article for 3 years. Manufacturers and stewardship organizations will maintain and provide access to records required by this Article for three years after submission of the annual report which relies upon those records.

(c) The department may take disciplinary action against any stewardship organization or manufacturer who fails to provide the department with access pursuant to this subdivision. If any stewardship organization or manufacturer fails to comply after the imposition of a civil penalty, the department may immediately remove the manufacturer(s) from the department's list of manufacturers that are in compliance with Chapter 5 (commencing with §48700), Part 7, Division 30 of the Public Resource Code.

Note: Authority cited: Sections 40502, Public Resources Code. Reference: Sections 48700-48706, Public Resources Code.

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

Records supplied to the department pursuant to this Article that are, at the time of submission, claimed to be proprietary, confidential, or trade secret shall be subject to the provisions in Title 14, California Code of Regulations, Division 7, Chapter 1, Article 4 (commencing with §17041), and in PRC §48704(b).

Authority cited: Sections 40502 and 48700, Public Resources Code; and Section 6253, Government Code. Reference: Section 48700, Public Resources Code; and Sections 6250 et seq., Government Code.

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

(a) The department director, or his/her delegated authority, shall approve the annual administrative fee described in Public Resources Code Section 48704, subdivision (e) for the full administration and enforcement costs at a public meeting that will occur no later than September 30, commencing in 2012. The fee shall reflect the department's actual costs to administer and enforce this chapter for the period from July 1 of the prior year through June 30 of the current year. The department's costs shall include the cost of staff, overhead expenses applicable to staff, contract services, and any other expenses incurred in administering or enforcing the program and in developing this regulation and the program. For payments due in 2012, the fee shall also reflect the

department's actual costs incurred in developing this regulation and the program for the period from October 1, 2010 through June 30, 2011. The department will provide unofficial staff estimates upon request prior to the public meeting notification to assist a manufacturer or stewardship organization with program budgetary planning, however, actual costs will not be known until that public meeting.

(b) The department fee shall be prorated, if there is more than one stewardship plan, by the number of approved or conditionally-approved plans.

(c) The department shall issue invoices to each manufacturer or stewardship organization to which this section applies by September 30 each year. Payment is due annually on October 31.

Authority cited: Sections 40502, 48703, and 48704, Public Resources Code, Reference: Section 48700-48706, Public Resources Code.