

PROPOSED REGULATION TEXT

AB 1526 Updates to Architectural Paint Recovery Program
Architectural Paint Recovery Program

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY
CALIFORNIA CODE OF REGULATIONS

Note: Amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions from the existing regulatory text. The symbol “* * * **” means that intervening text not proposed for amendment is not shown.

TITLE 14. Natural Resources

DIVISION 7. Department of Resources Recycling and Recovery

CHAPTER 11. Product Stewardship

AMEND

ARTICLE 2. Architectural Paint Recovery Program

Adopt sections 18952.1 and 18955.4

Amend sections 18950, 18951, 18952, 18953, 18954, 18955, 18955.3, 18956, 18957 and through 18958, California Code of Regulations, title Title 14.

Repeal sections 18955.1 and 18955.2

ARTICLE 2: ~~Architectural Paint~~ Product Recovery Program

Section 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 product manufacturers and other regulated entities~~ pursuant to Chapter 5, commencing with §section 48700, Part 7, Division 30 of the Public Resources Code ~~(PRC)~~.

Authority cited: Sections 40401 ~~and~~, 40502, 48701.1, and 48707, Public Resources Code.

Reference: Section 48700, Public Resources Code.

Section 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 §section 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) "Approved collection site" means a site approved by a manufacturer or stewardship organization to participate as a collection site in its stewardship program. An approved collection site includes a permanent collection site pursuant to section 48701(i) of the Public Resources Code and a temporary collection site pursuant to section 48701(n) of the Public Resources Code.

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

(e) "Authorized representative" means a person(s) who has authority to legally bind a manufacturer or stewardship organization to the contents of a submitted document, and who submits a document pursuant to section 48705.1(b) of the Public Resources Code.

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

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

(h) “Graffiti remover” means a product designed and labeled on the product’s packaging or on the manufacturer’s website to remove spray paint, ink, marker, crayon, lipstick, nail polish, or shoe polish, from a variety of noncloth or nonfabric substrates.

(i) “Ground traffic or marking application” means an “aerosol coating product” designed and labeled on the product’s packaging or on the manufacturer’s website exclusively to be used as a handheld or in specialized equipment and applied to dirt, gravel, grass, concrete, asphalt, warehouse floors, or parking lots. Aerosol coating products used for ground traffic or marking applications must be in a container equipped with a valve and spray head designed to direct the spray toward the surface when the can is held in an inverted vertical position.

(j) “Manufacturer” means, with regard to a paint product that is sold, offered for sale, or distributed in the state, any of the following:

(1) The person who manufactures the paint product and who sells, offers for sale, or distributes the paint product in or into the state under that person’s own name or brand.

(2) If no person meets the definition in paragraph (1), manufacturer means the owner or licensee of a trademark or brand under which the paint product is sold or distributed in or into the state, whether or not the trademark is registered.

(3) If no person meets the definition in paragraphs (1) and (2), manufacturer means the person who distributes the paint product in or into the state for sale or distribution.

(4) If no person meets the definition in paragraphs (1), (2), and (3), manufacturer means the person who imports the paint product in or into the state for sale or distribution.

(5) If no person meets the definition in paragraphs (1), (2), (3), and (4), the manufacturer of that paint product is the person who sells the paint product to a consumer in the state.

~~(f)~~(k) “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.

(l) “Paint remover” means any product designed and labeled on the product’s packaging or on the manufacturer’s website to strip or remove paints or other related coatings, by chemical action, from a substrate without markedly affecting the substrate.

(m) "Paint thinner" means any product that is designed or labeled on the product's packaging or on the manufacturer's website to reduce the viscosity of coating compositions or components, or a product that prominently displays terms such as "Paint Thinner," "Lacquer Thinner," "Thinner," or "Reducer" on the label, packaging, or on the manufacturer's website.

(n) "Pigment" means any nonvolatile ingredient of either natural or synthetic insoluble material added to a paint product to provide color, opacity, or corrosion inhibition.

(o) "Propellant" means a liquefied or compressed gas that is used in whole or in part to expel a liquid or any other material from the same self-pressurized container or from a separate container.

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

(p) "Resin" means any nonvolatile ingredient that comprises film-forming ingredients. Examples of resin ingredients include, but are not limited to, acrylic, alkyd, enamel, epoxy, lacquer, polyurethane, polyvinyl chloride, shellac, silicone, and polystyrene.

~~(h)~~(q) "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.~~

(r) "Stewardship organization" in sections 48701(m), 48702(c), 48703.1(d), 48703.3(e), 48703.4(d), 48703.4(e), 48704.1(a), 48705(a)(11), 48705.1(a), and 48705.1(b) of the Public Resources Code also refers to individual manufacturers with approved stewardship plans.

Authority cited: Sections 40401 ~~and~~, 40502, 48701.1, and 48707, Public Resources Code.

Reference: Sections 48700, 48701, 48701.1, 48702, 48703, 48703.1, 48703.3, 48703.4, 48704, 48704.1, and 48705, and 48705.1, Public Resources Code.

Section 18952. Document Submittals: Stewardship Plan, Annual Report, and Lists.

(a) A stewardship plan, annual report, or any document associated with the preceding that is submitted to the department by a manufacturer or stewardship organization, shall meet all of the following requirements:

(1) The document shall be submitted by an authorized representative of the manufacturer or stewardship organization pursuant to section 48705.1(b) of the Public Resources Code. The document shall include contact information for the authorized representative, including, but not limited to:

(A) Contact name

(B) Title

(C) Name of company or stewardship organization

(D) Mailing address

(E) Phone number

(F) Email address

(G) Internet website address, if applicable

(2) The document shall be submitted electronically using the department's designated electronic submittal process available on the department's website. The date of electronic submittal will be considered the date of receipt by the department.

(A) At the time of submittal, the manufacturer or stewardship organization shall immediately post the document submitted to the department on its internet website that is identified in its stewardship plan.

(i) The manufacturer or stewardship organization shall maintain approved stewardship plans on its internet website until a new plan is approved, the approved plan expires, or the approved plan is revoked.

(ii) The manufacturer or stewardship organization shall maintain its most recent annual report on its internet website until the following year's annual report is posted.

(3) The document shall be consistent with the standards set forth in section 7405 of the Government Code and the Web Content Accessibility Guidelines (WCAG) 2.2 published in 2024 by the World Wide Web Consortium at <http://www.w3.org/TR/WCAG22/>. The entirety of the Web Content Accessibility Guidelines (WCAG) 2.2 published in 2024 are incorporated by reference.

(A) A manufacturer or stewardship organization's failure to comply with the Web Content Accessibility Guidelines in section 18952(a)(3) is grounds for the imposition of civil penalties pursuant to section 18955.

(4) Submittals that include content the manufacturer or stewardship organization asserts is confidential in nature shall include a copy of the submittal with proposed redactions and a cover letter explaining the justification of confidentiality. The cover letter shall identify the specific submittal section(s) asserted to be confidential by page, line, and description. If the manufacturer or stewardship organization does not provide a copy of the submittal with proposed redactions and a cover letter, the department shall consider all information provided in the submittal to be public. Records supplied to the department pursuant to this Article that are, at the time of submission, claimed to be proprietary, confidential, or a trade secret shall be subject to the provisions in Title 14, California Code of Regulations, Division 7, Chapter 1, Article 4, commencing with section 17041.

(b) Lists submitted pursuant to section 48702(c) of the Public Resources Code or any document associated with the preceding that is submitted to the department by a manufacturer or stewardship organization shall meet the following requirements:

(1) The document shall be submitted by an authorized representative of the manufacturer or stewardship organization pursuant to section 48705.1(b) of the Public Resources Code.

(2) The document shall be submitted electronically using the department's designated electronic submittal process available on the department's website. The date of electronic submittal will be considered the date of receipt by the department.

(3) The document shall be consistent with the standards set forth in section 7405 of the Government Code and the Web Content Accessibility Guidelines (WCAG) 2.2 published in 2024 by the World Wide Web Consortium at <http://www.w3.org/TR/WCAG22/>. The entirety of the Web Content Accessibility Guidelines (WCAG) 2.2 published in 2024 are incorporated by reference.

(A) A manufacturer or stewardship organization's failure to comply with the Web Content Accessibility Guidelines in section 18952(a)(3) is grounds for the imposition of civil penalties pursuant to section 18955.

(4) The list of paint product manufacturers participating in the stewardship plan shall include contact information for each paint product manufacturer, including, but limited to:

(A) Name of company, including doing business as (DBA) name, if applicable

(B) Physical address, mailing address, and corporate address

(C) Email address

(D) Telephone number

(E) Internet website address

(F) Business principle contact name and title for the participating paint product manufacturer

(G) Participation status associated by paint product type(s)

(5) The list of paint products and brands of paint products that each participating manufacturer sells, distributes for sale, imports for sale, or offers for sale in or into the state shall include, but not be limited to, the following for each paint product: Paint Manufacturer, Paint Brand(s), unique product identifiers, including, but not limited to, a Global Trade Item Number (GTIN), Universal Product Code (UPC), and Stock Keeping Unit (SKU), if available, and the associated product type(s). If another product identification system is used, the department is to be contacted prior to the submission of the product identification information or data so as the department can coordinate to receive the alternative product identification information or data. The listing shall be disaggregated according to manufacturer or retailer.

(6) Upon receiving changes to the information in the lists pursuant to sections 48702(c) and 48702(d) of the Public Resources Code and section 18952(b), a manufacturer or stewardship organization with an approved stewardship plan shall submit updated lists to the department by the last business day of the month. Otherwise, a manufacturer or stewardship organization with an approved stewardship plan shall submit updated lists to the department no less frequently than once every six months.

~~(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 may 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 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.~~

~~A hard copy, signed by a corporate officer of a manufacturer or stewardship organization must 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 40401, and 40502, 48701.1, 48702, 48703, 48705, and 48707, Public Resources Code.

Reference: Sections 40502, 48700, 48702, 48703, 48703.5, 48704, and 48705, and 48705.1, Public Resources Code; and section 7405, Government Code.

Section 18952.1. Document Approvals: Stewardship Plan and Annual Report.

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

(1) A stewardship plan shall be approved if it provides for the establishment of a stewardship program that meets the requirements of sections 48703 through 48703.4 of the Public Resources Code and section 18953.

(2) If the department conditionally approves a stewardship plan, the department shall identify the deficiencies in the stewardship plan and electronically provide written notice to the manufacturer or stewardship organization within 60 days of conditional approval. The manufacturer or stewardship organization shall comply with the conditions of approval within 30 days of the date the department electronically transmits the written notice to the manufacturer or stewardship organization.

(A) If the department conditionally approves a stewardship plan and the conditions are met, the department shall approve the stewardship plan.

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

(3) An amended stewardship plan submitted pursuant to section 48703.5 of the Public Resources Code shall meet the requirements of sections 48703 through 48703.4 of the Public Resources Code and section 18953.

(4) A stewardship plan shall be submitted for re-approval upon any modification of the paint stewardship assessment previously approved by the department, a change to the manufacturer or stewardship organization's reserve policy, or a change to the performance goals set by the manufacturer or stewardship organization in the existing approved stewardship plan. The department shall review the revised stewardship plan within 120 days of receipt and make a determination whether to approve, disapprove, or conditionally approve the stewardship plan. The modification shall not be implemented prior to the department's approval.

(b) The department shall adopt a finding of compliance or noncompliance for an annual report.

(1) An annual report shall be found compliant if it meets the requirements of section 48705 of the Public Resources Code and section 18954.

(2) A finding of compliance also constitutes grounds for the department to include conditions that must be met by the manufacturer or stewardship organization within 60 days of the date the department electronically transmits the written notice to the manufacturer or stewardship organization.

(3) If the department determines that there are conditions that must be met by the manufacturer or stewardship organization and the conditions are not met, that constitutes grounds for the department to adopt a finding of noncompliance.

(4) If the department adopts a finding of noncompliance, the department shall identify the deficiencies in the annual report and electronically transmit written notice of the deficiencies to the manufacturer or stewardship organization. Such a finding constitutes grounds for the department to take action pursuant to section 48706.1 of the Public Resources Code to administratively impose civil penalties as described under section 18955. A finding of noncompliance also constitutes grounds for the department to require the manufacturer or stewardship organization to resubmit an annual report or provide supplemental information requested within 60 days of the date the department electronically transmits the written notice to the manufacturer or stewardship organization.

Authority cited: Sections 40401, 40502, 48701.1, and 48707, Public Resources Code. Reference: Sections 48703, 48703.1, 48703.2, 48703.3, 48703.4, 48703.5, 48705, and 48706.1, Public Resources Code.

Section 18953. Stewardship Plans ~~Plan Approval Criteria.~~

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

~~(1) Contact information. Identify~~ Contact information of the manufacturer or designated stewardship organization responsible for the stewardship plan submittal, including contact information of the authorized representative responsible for submitting the stewardship plan pursuant to section 18952(a)(1). 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) A list of manufacturers, paint products, and brands of paint products pursuant to sections 18952(b)(4) and 18952(b)(5).

~~(2)~~(3) Program Goals and Activities. Include program Performance goals that are consistent with section 48703.2 of the Public Resources Code specific to and appropriate for California. Performance goals shall include annual goals that cover a minimum of five years. Factors to consider when determining program performance goals may include the current and future recycling infrastructure and capacity and changes in market conditions in California. Description of performance goals must include a baseline-baselines, to be provided by the manufacturer or stewardship organization, from which the performance goals will be measured and reported in the manufacturer or stewardship organization's annual reports. Each performance goal must be described so the department can determine, upon review of the annual report, whether or not the manufacturer or stewardship organization met the annual goal by the end of the calendar year. The baseline-baselines should indicate the status of household hazardous waste management in California at the time of stewardship 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 the methodology, including metrics, used to establish performance goals and that will be used to report annually pursuant to section 18954. Describe any assumptions and data sources used in establishing the performance goals, if applicable. Describe the performance goals, which shall address 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 collection, recovery, recycling, and proper disposal of postconsumer paint; and~~

~~(D) Provide a free dropoff and convenient collection system throughout the state, ensuring access to approved collection sites or events for consumers in each county, including but not limited to, rural areas. Include the proposed number, location, and type of approved collection sites located in the state.~~

~~(i) Identify whether each approved collection site is a permanent collection site pursuant to section 48701(i) of the Public Resources Code or a temporary collection site pursuant to section 48701(n) of the Public Resources Code.~~

~~(ii) Identify whether each approved collection site is a retailer, local household hazardous waste collection program, or other type of approved collection site or system, such as a collection event, large volume collection program, consumer mail-back, or other collection mechanism.~~

~~(D)~~(E) Manage postconsumer paint containers, consistent with the state's solid waste management hierarchy included in section 40051 of the Public Resources Code.

~~(F) and undertake~~ Undertake market development activities, if a manufacturer or stewardship organization chooses to engage in these activities.

~~(3)(4) Collection Systems. Describe~~ A description of the system that will be used to collect and properly manage postconsumer architectural paint to demonstrate that demonstrates 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 postconsumer paint, by type, including latex architectural coatings, oil-based architectural coatings, nonindustrial coatings, coating-related products, and aerosol coating products.~~

(B) ~~Destination~~ Destinations for reuse activities, and processing activities, (including recycling), and/or disposal for architectural postconsumer paint, by type, including latex architectural coatings, oil-based architectural coatings, nonindustrial coatings, coating-related products, and aerosol coating products.

(C) Description of best management practices to be followed by service providers that are acting as approved collection points/sites, which may include any training that the manufacturer or stewardship organization intends to provide ~~to~~, or require of service providers to provide, 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 paint stewardship program as a collection point, as much as is reasonably feasible and is mutually agreeable.~~

(D) Description of how the manufacturer or stewardship organization will coordinate with retailers and existing household hazardous waste collection programs as potential

approved collection sites pursuant to sections 48703.3(d) and 48703.3(b) of the Public Resources Code.

~~(4)(5) Financing Mechanism. Include a~~ A description of the funding mechanism consistent with sections 48703.1 and 48704.1 of the Public Resources Code 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 and shall allocate revenues and expenditures applicable to this program in a prudent and responsible manner:

(A) The amount of the assessment per unit-container of architectural paint product 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)-a description of and estimates for:

(i) Revenue from the assessment.

(ii) Total program cost.

(iii) Administrative costs, including those pursuant to sections 48703.1 and 48704 of the Public Resources Code and section 18958.

(iv) Operational costs, including:

(I) Collection costs

(II) Transportation costs

(III) Processing costs

(IV) Education and outreach costs

(V) Any other operational costs the manufacturer or stewardship organization intends to incur

(v) Capital costs.

(vi) Independent financial audits pursuant to section 48705(a)(9) of the Public Resources Code.

(C) A description of the manufacturer or stewardship organization's reserve policy, including how it is consistent with the requirements of section 48704.1(c) of the Public Resources Code.

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

~~(5)(6) Education and Outreach. Include a~~ A description of education and outreach efforts to consumers, contractors, and retailers to promote source reduction and recycling of architectural paint products. 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)~~ section 48703.4 of the Public Resources Code. A manufacturer or stewardship organization ~~may~~ shall not advertise a collection point(s) site(s) ~~as being part of a manufacturer or stewardship organization's program that is not a contracted an approved collection point site for the manufacturer or stewardship organization's stewardship program.~~ This provision does not apply to referrals to collection points ~~sites~~ based on ~~publically~~ publicly available information.

(A) Describe how the education and outreach materials provided pursuant to section 48703.4 of the Public Resources Code will include consistent branding that clearly identifies the manufacturer or stewardship organization responsible for implementing the stewardship program. Branding may include, but is not limited to, a name, logo, design, tagline, or other element that uniquely identifies the manufacturer or stewardship organization responsible for implementing the stewardship program.

(i) The branding for a stewardship organization shall represent the stewardship organization pursuant to section 48701(l) of the Public Resources Code, not an individual company.

~~(6)(7) Stakeholder Consultations. A description of consultations with interested parties, including with~~ In addition to existing local household hazardous waste collection programs per § 18953(a)(3)(E), pursuant to section 48703.2 of the Public Resources Code. ~~Other stakeholders interested parties~~ that may be consulted include, but are not limited to, consumers, retailers, ~~architectural postconsumer paint recyclers, architectural paint contractors, and haulers.~~

(8) The implementation date pursuant to section 48701.1(b) of the Public Resources Code.

(9) A signed statement by an authorized representative of the manufacturer or stewardship organization to certify that, at the time of submission to the department, the stewardship plan, including all aspects of the plan related to the collection, transportation, and disposal of postconsumer paint, is in compliance with all applicable

local, state, and federal laws and regulations, including, but not limited to sections 25201.16, 25217.2, and 25217.2.1 of the Health and Safety Code.

(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 stewardship plan in compliance with the California Environmental Quality Act.

Authority cited: Sections 40401~~and~~, 40502, 48701.1, and 48707, Public Resources Code.

Reference: Sections 40051, 48700, 48702, 48703, 48703.1, 48703.2, 48703.3, 48703.4, 48703.5, 48704, 48704.1, and 48705, Public Resources Code; and Sections 25201.16, 25217.2, and 25217.2.1, Health and Safety Code.

Section 18954. Annual Reports ~~Report Compliance Criteria~~.

(a) The annual report must contain the following for the preceding calendar year:

(1) ~~Contact information. Identify~~ Contact information of the manufacturer or stewardship organization responsible for the annual report submittal, including contact information of the authorized representative responsible for submitting the stewardship plan pursuant to section 18952(a)(1).

~~(2) Stewardship organizations shall include an~~ An updated list of participating manufacturers and any updates to their respective contact information pursuant to section per § 18952(a)(2)(b)(4).

~~(2)(3) 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~~ An executive summary of the manufacturer or stewardship organization's architectural-paint product recovery efforts during the reporting period preceding calendar year pursuant to PRC § section 48705(a) of the Public Resources Code. The executive summary includes, but is not limited to, the highlights, outcomes and challenges, and achievement of the performance goals pursuant to section 18953(a)(3). This may include anticipated steps, if needed, to improve performance and a description of challenges encountered during the reporting period preceding calendar year and how they will be addressed. This may also include a description of postconsumer paint

container management and market development activities if the manufacturer or stewardship organization has chosen to engage in those activities.

~~(3)(4) Program Outline. Describe~~ A description of 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 ~~the state.~~

(i) For reports submitted before 2029 or the approval of a stewardship plan or plan amendment that includes nonindustrial coatings, coating-related products, and aerosol coating products, the report shall describe the methods used to collect, transport, and process latex architectural coatings and oil-based architectural coatings.

(ii) For reports submitted after 2029 or the approval of a stewardship plan or plan amendment that includes nonindustrial coatings, coating-related products, and aerosol coating products, the report shall describe the methods used to collect, transport, and process latex architectural coatings, oil-based architectural coatings, nonindustrial coatings, coating-related products, and aerosol coating products.

(B) ~~Description~~ A description of how each consumer of architectural a paint product in California ~~the state had an opportunity to recycle and properly manage their postconsumer paint on a state-wide through the manufacturer or stewardship organization's program, including the number, location, and type of approved collection points-sites located in the state.~~

(i) Identify whether each approved collection site is a permanent collection site pursuant to section 48701(i) of the Public Resources Code or a temporary collection site pursuant to section 48701(n) of the Public Resources Code.

(ii) Identify whether each approved collection site is a retailer, local household hazardous waste collection program, or other type of approved collection site or system, such as a collection event, large volume collection program, consumer mail-back, or other collection mechanism.

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

(D) ~~A statement that~~ description of how the manufacturer or stewardship organization coordinated with retailers and existing household hazardous waste collection programs and retailers as potential approved collection points-sites pursuant to section per § 18953(a)(3)(E)(4)(D) and (F) during the reporting period preceding calendar year.

~~(4)(5) Description~~ A description of performance goals and activities based on the stewardship plan. State performance goals from the approved stewardship plan; and the baseline-baselines from which the performance goals were measured, and report on achievement of the performance goals during the reporting period-preceding calendar year. Describe any assumptions and data sources used in calculating the performance goals, if applicable. If the performance goals were not met, describe efforts made to achieve compliance. 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 §sections 48705(a) and PRC § 48703(d)48703.2 of the Public Resources Code:

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

(i) For reports submitted before 2029 or the approval of a stewardship plan or plan amendment that includes nonindustrial coatings, coating-related products, and aerosol coating products, the report shall include the volume of architectural coatings sold.

(ii) For reports submitted after 2029 or the approval of a stewardship plan or plan amendment that includes nonindustrial coatings, coating-related products, and aerosol coating products, the report shall include the volume of architectural coatings, nonindustrial coatings, coating-related products, and aerosol coating products sold.

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

(i) For reports submitted before 2029 or the approval of a stewardship plan or plan amendment that includes nonindustrial coatings, coating-related products, and aerosol coating products, the report shall include the volume of latex architectural coatings and oil-based architectural coatings recovered.

(ii) For reports submitted after 2029 or the approval of a stewardship plan or plan amendment that includes nonindustrial coatings, coating-related products, and aerosol coating products, the report shall include the volume of latex architectural coatings, oil-based architectural coatings, nonindustrial coatings, coating-related products, and aerosol coating products recovered. Also report the total volume of leftover propellant captured from aerosol coating products.

(C) ~~Disposition~~ The disposition of postconsumer paint collected, by type, and by estimated volume sent to each processing method, including name(s) and corporate address(es) for contracted processors for each.

(i) For reports submitted before 2029 or the approval of a stewardship plan or plan amendment that includes nonindustrial coatings, coating-related products, and aerosol

coating products, the report shall include the disposition of latex architectural coatings and oil-based architectural coatings.

(ii) For reports submitted after 2029 or the approval of a stewardship plan or plan amendment that includes nonindustrial coatings, coating-related products, and aerosol coating products, the report shall include the disposition of latex architectural coatings, oil-based architectural coatings, nonindustrial coatings, coating-related products, and aerosol coating products.

(D) The number of containers collected, by type, and the estimated number sent to each disposition method, including but not limited to recycling, landfill, and incineration.

(i) For reports submitted before 2029 or the approval of a stewardship plan or plan amendment that includes nonindustrial coatings, coating-related products, and aerosol coating products, the report shall include the number of containers of architectural coatings.

(ii) For reports submitted after 2029 or the approval of a stewardship plan or plan amendment that includes nonindustrial coatings, coating-related products, and aerosol coating products, the report shall include the number of containers of architectural coatings, nonindustrial coatings, coating-related products, and aerosol coating products.

~~(5)(6) Financing Mechanism. The annual report shall include the total cost of implementing the architectural paint stewardship program and an evaluation of how the stewardship 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 stewardship 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~~
The annual report shall include documentation on how the collection and expenditure of assessment funds shall be were kept separate from other activities of the manufacturer or stewardship organization and the methodology for distribution of shared costs. Consistent with PRC §sections 48705(a)(5)(7) and 48705(a)(8) of the Public Resources Code, the annual report shall include the following:

(A) Assessment amount per container

(B) Total program cost

(C) Capital costs

(C) Administrative costs with a separate line item for the annual administrative fee for service payments to the department.

(D) Operational costs, including:

(i) Collection costs

(ii) Transportation costs

(iii) Processing costs

(iv) Education and outreach costs

(v) Other operational 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)~~

(E) Capital costs

~~(I)(F) Surplus funding, if any, and how it will be applied to reduce program costs. A description of whether or not the stewardship program's funding mechanism met the reserve policy pursuant to section 18953(a)(5)(C), including any surplus funding. Describe how 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 assessment must be submitted to the department for approval pursuant to section 18952.~~

(i) If an independent financial audit concludes that a manufacturer or stewardship organization's reserve amount was inconsistent with the manufacturer or stewardship organization's reserve policy, the manufacturer or stewardship organization shall conduct an evaluation of the program's expenses and revenue within 90 days of submittal of the annual report to determine if changes are needed to the program's funding mechanism. Upon completion, the evaluation shall be submitted to the department consistent with section 18952.

~~(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(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 An independent financial audit of the California Architectural Paint Product 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., such as accounting services, development of internal controls, or management decisions). The independent financial audit shall include:~~

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

~~(i) Manufacturers with an approved stewardship plan shall provide independent financial audit information only as it pertains to the California Paint Product Recovery Program.~~

~~(B) An opinion on the manufacturer or stewardship organization's compliance with the financial aspects of PRC §section 48700 of the Public Resources Code 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 Product Recovery Program.~~

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

(8) A description of education and outreach activities consistent with the manufacturer or stewardship organization's approved stewardship plan pursuant to section 48703.4 of the Public Resources Code and section 18953(a)(6). Provide a description of educational and other outreach materials that were provided to retailers, consumers, and contractors during the preceding calendar year and provide electronic examples of these materials. Identify any method(s) used to determine the effectiveness of education and outreach efforts, if applicable, which may include surveys, hits on specific web pages, and number of participants at events.

Authority cited: Sections 40401, ~~and~~ 40502, 48701.1, and 48707, Public Resources Code.

Reference: Sections 48700, 48701.1, 48703, 48703.1, 48703.2, 48703.3, 48703.4, 48703.5, and 48705, Public Resources Code.

Section 18955. Civil Penalties.

~~A civil penalty may be administratively imposed by the department on any person who is in~~ Any violation of any provision of this Article or Chapter 5, commencing with section 48700, Part 7, Division 30 of the Public Resources Code constitutes grounds for the department to administratively impose a civil penalty. The responsible party or parties shall be determined by the department and civil penalties shall be based on the totality of the circumstances.

(a) Any manufacturer offering ~~architectural paint products~~ 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~~ Paint product 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)(b) Any manufacturer, distributor, importer, wholesaler, or retailer that offers architectural paint products for sale in the state is subject to enforcement under this Article.~~

Authority cited: Sections 40401, and 40502, 48701.1, 48703.1, and 48707, Public Resources Code.

Reference: Sections 48700, 48702, and 48704, and 48706.1, Public Resources Code.

~~Section 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		
<i>Violation</i>	<i>Description of Violation</i>	<i>Severity</i>
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)(3)	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(e)	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		
<i>Violation</i>	<i>Description of Violation</i>	<i>Severity</i>
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.

~~Authority cited: Sections 40401, and 40502, Public Resources Code. Reference: Sections 48700, 48702, 48703, 48704 and 48705, Public Resources Code; and Section 11506, Government Code.~~

~~Section 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.~~

~~Authority cited: Sections 40401, and 40502, Public Resources Code. Reference: Section 48704, Public Resources Code.~~

~~Section 18955.3. Procedure for Imposing Civil Penalties.~~

~~(a) Civil penalties may shall be administratively imposed in accordance with the procedures outlined in the Administrative Procedure Act starting at Chapter 4.5, (commencing with § 11500) section 11445.10 of Part 1 of Division 3 of Title 2 of the Government Code with the exception of Government Code § 11505(c). Administrative Procedure for Informal Administrative Hearings may be found at 14 California Code of Regulations sections 17063.1 et seq.~~

~~(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.~~

Authority cited: Sections 40401 and, 40502, 48701.1, and 48707, Public Resources Code.

Reference: Sections 48704, and 48706.1, Public Resources Code; and Section 1150011445.10, Government Code.

Section 18955.4. Procedure for Stewardship Plan Revocation, Resubmittal, or Additional Compliance Reporting.

(a) If the department finds that a stewardship organization, manufacturer, distributor, importer, wholesaler, or retailer has failed to meet a requirement of this Article or Chapter 5 of Part 7 of Division 30 of the Public Resources Code, that constitutes grounds for the department to, in addition to imposing any civil penalties authorized under this Article and Chapter 5 of Part 7 of Division 30 of the Public Resources Code, take one or all of the following actions:

(1) Revoke a previously approved stewardship plan,

(2) Require resubmittal of the stewardship plan,

(3) Require additional reporting to demonstrate compliance with the requirement(s), of this Article or Chapter 5 of Part 7 of Division 30 of the Public Resources Code, which were required pursuant to Section 18955, and/or.

(4) Require additional records demonstrating corrective action to address specific noncompliance finding(s).

(b) Before revoking a previously approved stewardship plan, requiring resubmittal of an approved stewardship plan, or requiring additional compliance reporting, the department shall issue a written notice to the respondent of the department's intent to revoke an approved stewardship plan, require resubmittal of an approved stewardship plan, require additional compliance reporting, or all three. The notice shall state the legal and factual basis for the proposed action.

(c) The notice described in subdivision (b) shall be served on the respondent by one of the following means:

(1) Personal service;

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

(3) Certified Mail or registered mail; or

(4) Electronically, with the consent of the respondent.

(d) A respondent may submit to the department a request for hearing to contest the proposed action within thirty (30) days of service of the notice issued pursuant to subdivision (b). The hearing request shall be in writing and shall state the basis for objecting to the department's action. Upon a failure to submit a timely hearing request under this subdivision, the respondent shall be deemed to have waived its right to hearing, which constitutes grounds for the department to revoke an approved stewardship plan, require resubmittal of an approved stewardship plan, require additional compliance reporting, or all three. Respondents in-state and out-of-state shall be held to the same deadline for requesting a hearing, regardless of method of service.

(e) Upon receipt of a conforming request for hearing, the department shall schedule and conduct a hearing in accordance with the procedures outlined in the Administrative Procedures Act at Chapter 4.5 (commencing with section 11445.10) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) The department's director or designee shall issue a written decision within sixty (60) days from the date the hearing is concluded.

Authority cited: Sections 40401, 40502, 48701.1, and 48707, Public Resources Code. Reference: Sections 48703, 48703.1, 48703.2, 48703.3, 48703.4, and 48703.5, Public Resources Code; Section 415.20, Code of Civil Procedure; and Section 11445.10, Government Code.

Section 18956. Record Keeping Requirements.

(a) Each stewardship organization, manufacturer, distributor, importer, wholesaler, or retailer required to comply with Chapter 5, ~~{commencing with §section~~ 48700, Part 7, Division 30 of the Public Resources Code~~}~~, shall:

~~(a)(1)~~ Maintain records to support the requirements in this Article. Stewardship organizations and manufacturers must maintain records to support §section 18954. Retailers and distributors must provide access to existing records on all architectural paint products sold or offered for sale in the state including:

~~(1)(A)~~ The manufacturer of the paint product.

~~(2)(B)~~ The date(s) the retailer obtained or purchased the paint product from the manufacturer, distributor, importer, or wholesaler.

~~(3)(C)~~ The date(s) the retailer sold the paint products.

~~(4)(D)~~ Certification letter(s) from the department, if provided by a manufacturer, to demonstrate that the paint product from the manufacturer is or was subject to a department-approved stewardship plan at the time the paint products were obtained or purchased. 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)~~section 48706(a) of the Public Resources Code, that a manufacturer not listed on the department's internet website is in compliance and ~~may has met the program requirements to~~ sell or offer for sale paint products in or into California.

~~(b)(2)~~ Provide the department with reasonable and timely access, which includes consent to enter the facility and operations during normal business hours and to obtain as determined by the department, to its facilities, operations, and any relevant records necessary to determine compliance with this Article and with Chapter 5, commencing with section 48700, Part 7, Division 30 of the Public Resources Code, upon request. Retailers, distributors, importers, and wholesalers will maintain and provide access to records required by this Article for ~~3~~three 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.

(3) Provide the department with access within 14 days to any data, studies, reports, or other records that were funded through the stewardship assessment, upon written request.

~~(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.~~

Authority cited: Sections 40401 and 40502, 48701.1, and 48707, Public Resources Code.

Reference: Sections 48700, 48702, 48703, 48704 and 48705, and 48706, Public Resources Code.

Section 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~~ are subject to the provisions in Title 14, California Code of Regulations, Division 7, Chapter 1, Article 4, (commencing with §section 17041), and in ~~PRC § 48704(b)~~ section 48703(c) of the Public Resources Code. In addition to these requirements, a manufacturer or stewardship organization shall comply with the submittal requirements concerning Proprietary, Confidential, or Trade Secret information under section 18952(a)(4).

Authority cited: Sections 40401 and 40502, 48701.1, and 48707, Public Resources Code; and Section ~~62537927.705~~, Government Code.

Reference: Sections 48700, 48702, 48703, 48704, 48705, and 48706, Public Resources Code; and Sections ~~62507920.000~~ et seq., Government Code.

Section 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.~~

(a) The department's costs shall include the actual and reasonable regulatory costs, including the full personnel costs related to the administration, implementation, and enforcement of this Article and Chapter 5, commencing with section 48700, Part 7, Division 30 of the Public Resources Code. Costs shall include labor, fringe benefits, travel, equipment, supplies, and contracts, as well as costs calculated using section 9213.1 of the State Administrative Manual, including for general administration, budgeting, accounting, business services, training, and legal. The fee shall also reflect the department's actual regulatory development costs and other startup costs incurred before the submittal of a stewardship plan and approval of a stewardship plan.

(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,~~ and the invoices shall be paid according to section 48704(b) of the Public Resources Code.

Authority cited: Sections 40401, 40502, and 48704, Public Resources Code.

Reference: Sections 48700, 48703, 48703.1, and 48704, Public Resources Code.