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Date: (Filing No. S-)

ENVIRONMENT AND NATURAL RESOURCES

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**STATE OF MAINE
SENATE
126TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 451, L.D. 1308, Bill, “An Act To Establish a Stewardship Program for Architectural Paint ”

Amend the bill in section 1 in §2144 by striking out all of subsection 2 and inserting the following:

2. Establishment of a paint stewardship program. By April 1, 2015, a producer, a group of producers or a representative organization shall submit a plan for the establishment of a paint stewardship program to the commissioner for approval. The plan must include:

A. A description of how the program will collect, transport, recycle and process post-consumer paint from entities covered by the program for end-of-life management to meet the following goals:

- (1) A reduction in the generation of unwanted paint and the promotion of its reuse and recycling;
- (2) Provision of convenient and available statewide collection of post-consumer paint from entities covered by the program in all areas of the State;
- (3) Management of post-consumer paint using environmentally sound management practices in an economically sound manner, including following the paint waste management hierarchy of source reduction, reuse, recycling, energy recovery and disposal;
- (4) Establishment of a process for managing paint containers collected under the program, including recycling all recyclable containers;
- (5) Negotiation and execution by the operator of agreements to collect, transport, reuse, recycle, burn for energy recovery and dispose of post-consumer paint using environmentally sound management practices; and
- (6) Provision of education and outreach efforts by the operator to promote the program. The education and outreach efforts must include strategies for reaching

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1 consumers in all areas of the State and the method the program will use to
2 evaluate the effectiveness of its education and outreach efforts;

3 B. Contact information for all persons that will be responsible for the operation of
4 the paint stewardship program and a list of paint brands and producers covered under
5 the program;

6 C. Goals as may be practical to reduce the generation of post-consumer paint, to
7 promote the reuse and recycling of post-consumer paint, for the overall collection of
8 post-consumer paint and for the proper end-of-life management of post-consumer
9 paint. The goals may be revised by a representative organization based on
10 information collected annually;

11 D. A list of all potential processors that will be used to manage post-consumer paint
12 collected by the paint stewardship program, a list of each collection site name and
13 location that will accept post-consumer paint under the program and a list of all
14 processors that will be used for final disposition;

15 E. A method to determine the number and geographic distribution of paint collection
16 sites based on the use of geographic information modeling. The plan must provide
17 that at least 90% of state residents have a permanent paint collection site within a
18 15-mile radius of their residences, unless the commissioner determines that the 90%
19 requirement is not practicable due to geographical constraints. If the commissioner
20 determines the 90% requirement is not practicable, the commissioner may approve a
21 plan that includes a geographic distribution of paint collection sites that is practicable.
22 The distribution of paint collection sites must include at least one additional paint
23 collection site for each 30,000 residents in a population center that is located to
24 provide convenient and reasonably equitable access for residents within the
25 population center unless otherwise approved by the commissioner;

26 F. Identification of the ways in which the program will coordinate with existing solid
27 waste collection programs and events, including strategies to reach the State's
28 residents that do not have a permanent paint collection site within a 15-mile radius of
29 their residences and to ensure adequate coverage of service center communities as
30 defined in Title 30-A, section 4301, subsection 14-A;

31 G. A time frame for accomplishing the geographical coverage required under
32 paragraphs E and F;

33 H. An anticipated budget for operation of the paint stewardship program, including
34 the suggested method of funding the program, which must include the method of
35 calculating a paint stewardship assessment that meets the requirements of subsection
36 4;

37 I. A description of how post-consumer paint collected under this section will be
38 managed at each collection site, including how post-consumer paint will be labeled
39 and provisions for secondary containment;

40 J. A description of how consolidation facilities in the State accepting materials under
41 this section will meet applicable requirements for the consolidation of universal waste
42 in accordance with rules adopted by the department; and

1 K. For a consolidation facility where post-consumer paint may be transferred out of
2 the post-consumer paint's original container, an environmental monitoring plan and a
3 closure plan with financial assurance and proof of liability insurance.'

4 Amend the bill in section 1 in §2144 in subsection 3 in the 9th line (page 3, line 39 in
5 L.D.) by striking out the following: "may" and inserting the following: 'shall'

6 Amend the bill in section 1 in §2144 by striking out all of subsection 4 and inserting
7 the following:

8 **4. Funding of paint stewardship program.** An operator of a paint stewardship
9 program shall administer a paint stewardship assessment for all architectural paint sold in
10 the State. The amount of the paint stewardship assessment must be approved by the
11 commissioner under subsection 3 and must be sufficient to recover, but may not exceed,
12 the cost of the paint stewardship program. If the funds generated by the program exceed
13 the amount necessary to operate the program, excess funds must be used to reduce future
14 paint stewardship assessments or improve services under the program.

15 A. A paint stewardship assessment must be added to the cost of all architectural paint
16 sold to retailers and distributors in the State. A retailer or distributor shall add the
17 paint stewardship assessment to the consumer's purchase price of the architectural
18 paint sold by that retailer or distributor. A producer or a representative organization
19 may not charge a paint stewardship assessment at the time of post-consumer paint
20 collection. The collection of the paint stewardship assessment must commence no
21 later than the implementation date established in subsection 5, paragraph A.

22 B. An architectural paint producer participating in a representative organization shall
23 remit to the representative organization payment of the paint stewardship assessment
24 for each container of architectural paint it sells in the State.'

25 Amend the bill in section 1 in §2144 in subsection 5 by striking out all of paragraphs
26 A and B (page 4, lines 21 to 25 in L.D.) and inserting the following:

27 'A. Beginning July 1, 2015 or 3 months after a plan is approved by the commissioner
28 under subsection 2, whichever occurs later, a producer or a representative
29 organization shall implement the plan.

30 B. Upon implementation of the plan, a producer may not sell or offer for sale
31 architectural paint in the State unless the producer or a representative organization of
32 which the producer is a member participates in a paint stewardship program. A
33 representative organization shall notify the department of all producers participating
34 in a paint stewardship program operated by the representative organization.'

35 Amend the bill in section 1 in §2144 in subsection 5 by striking out all of paragraphs
36 E and F (page 5, lines 7 to 25 in L.D.) and inserting the following:

37 'E. By October 15, 2016, and annually thereafter, the operator of a paint stewardship
38 program shall submit a report to the commissioner regarding the paint stewardship
39 program. The report must include, but is not limited to:

40 (1) A description of the methods used to collect, transport, reduce, reuse and
41 process post-consumer paint in the State;

42 (2) The volume of post-consumer paint collected in the State;

1 (3) The volume and type of post-consumer paint collected in the State by method
2 of disposition, including reuse, recycling and other methods of processing;

3 (4) The total cost of implementing the paint stewardship program, as determined
4 by an independent financial audit funded from the paint stewardship assessment.
5 The report of total cost must include a breakdown of administrative, collection,
6 transportation, disposition and communication costs;

7 (5) A summary of outreach and educational activities undertaken and samples of
8 educational materials provided to consumers of architectural paint;

9 (6) The total volume of post-consumer paint collected by the paint stewardship
10 program and a breakdown of the volume collected at each collection site;

11 (7) Based on the paint stewardship assessment collected by the paint stewardship
12 program, the total volume of architectural paint sold in the State during the
13 preceding year;

14 (8) A list of all processors used to manage post-consumer paint collected by the
15 paint stewardship program in the preceding year up to the paint's final
16 disposition, the volume each processor accepted and the disposition method used
17 by each processor; and

18 (9) An evaluation of the effectiveness of the paint stewardship program
19 compared to prior years and anticipated steps, if any are needed, to improve
20 performance throughout the State.

21 F. Reports submitted to the department under this section must be made available to
22 the public on the department's publicly accessible website, except that proprietary
23 information submitted to the department in a plan, in an amendment to a plan or
24 pursuant to reporting requirements of this section that is identified by the submitter as
25 proprietary information is confidential and must be handled by the department in the
26 same manner as confidential information is handled under section 1310-B.

27 As used in this paragraph, "proprietary information" means information that is a trade
28 secret or production, commercial or financial information the disclosure of which
29 would impair the competitive position of the submitter and would make available
30 information not otherwise publicly available.

31 G. A producer or representative organization shall submit to the department for
32 approval a request to amend an approved plan if the producer or representative
33 organization proposes to:

34 (1) Change the paint stewardship assessment;

35 (2) Cover an additional product under the plan; or

36 (3) Modify the goals of the plan.'

37 Amend the bill in section 1 in §2144 by striking out all of subsection 7 (page 5, lines
38 34 to 42 in L.D.) and inserting the following:

1 7. Retailers. Beginning July 1, 2015 or 3 months after a plan is approved by the
 2 commissioner under subsection 2, whichever occurs later, a retailer may not sell
 3 architectural paint unless, on the date the retailer orders the architectural paint from the
 4 producer or its agent, the producer or the paint brand is listed on the department's publicly
 5 accessible website as implementing or participating in an approved paint stewardship
 6 program. A retailer may participate as a paint collection point pursuant to the paint
 7 stewardship program on a voluntary basis and pursuant to all applicable laws and rules.
 8 A retailer that collects post-consumer paint must follow a collection site procedure
 9 manual developed by a producer or representative organization to ensure the use of
 10 environmentally sound management practices when handling architectural paints at
 11 collection locations.

12 8. List of producers and brands. The department shall post on its publicly
 13 accessible website a list of the producers participating and the brands included in a paint
 14 stewardship program.

15 9. Relationship to other product stewardship program laws. A paint stewardship
 16 program established pursuant to this section is governed by the provisions of this section
 17 and is exempt from any requirements related to product stewardship programs established
 18 under chapter 18 unless otherwise specifically provided.

19 10. Rules. The department may adopt rules to implement this section. Rules
 20 adopted pursuant to this subsection are routine technical rules as defined in Title 5,
 21 chapter 375, subchapter 2-A.

22 **Sec. 2. Appropriations and allocations.** The following appropriations and
 23 allocations are made.

24 **ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

25 **Administration - Environmental Protection 0251**

26 Initiative: Provides an ongoing General Fund appropriation and Other Special Revenue
 27 Funds allocation to the Department of Environmental Protection for administrative and
 28 technology costs associated with an architectural paint product stewardship program.

29	GENERAL FUND	2013-14	2014-15
30	All Other	\$887	\$887
31			
32	GENERAL FUND TOTAL	\$887	\$887

33	OTHER SPECIAL REVENUE FUNDS	2013-14	2014-15
34	All Other	\$675	\$675
35			
36	OTHER SPECIAL REVENUE FUNDS TOTAL	\$675	\$675

37 **Remediation and Waste Management 0247**

1 Initiative: Provides an ongoing General Fund appropriation and Other Special Revenue
 2 Funds allocation to the Department of Environmental Protection for a full-time
 3 Environmental Specialist III position and related administrative and technology costs
 4 associated with an architectural paint product stewardship program.

5	GENERAL FUND	2013-14	2014-15
6	POSITIONS - LEGISLATIVE COUNT	0.500	0.500
7	Personal Services	\$34,091	\$36,337
8	All Other	\$1,495	\$1,495
9			
10	GENERAL FUND TOTAL	<u>\$35,586</u>	<u>\$37,832</u>

11	OTHER SPECIAL REVENUE FUNDS	2013-14	2014-15
12	POSITIONS - LEGISLATIVE COUNT	0.500	0.500
13	Personal Services	\$34,091	\$36,337
14			
15	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$34,091</u>	<u>\$36,337</u>

16	ENVIRONMENTAL PROTECTION,		
17	DEPARTMENT OF		
18	DEPARTMENT TOTALS	2013-14	2014-15
19			
20	GENERAL FUND	\$36,473	\$38,719
21	OTHER SPECIAL REVENUE FUNDS	\$34,766	\$37,012
22			
23	DEPARTMENT TOTAL - ALL FUNDS	<u>\$71,239</u>	<u>\$75,731</u>
24			

25 **SUMMARY**

26 This amendment is the majority report of the committee. It amends provisions in the
 27 bill related to paint stewardship plans, approval of paint stewardship plans, a paint
 28 stewardship assessment and operation of a paint stewardship program. The changes
 29 include:

- 30 1. Provisions authorizing the Commissioner of Environmental Protection to approve
 31 a plan that does not meet the geographic coverage requirement in the bill;
- 32 2. Provisions related to universal waste requirements;
- 33 3. Additional annual reporting requirements;
- 34 4. Provisions for proprietary information to be designated as confidential. The
 35 provisions provide that proprietary information submitted to the Department of
 36 Environmental Protection must be handled by the department in the same manner as
 37 confidential information is handled under the Maine Revised Statutes, Title 38, section

1 1310-B. Although section 1310-B, in part, governs the handling of confidential
2 hazardous waste information, the reference to section 1310-B in the amendment is not
3 intended to limit the applicability of the confidentiality provisions in the amendment to
4 hazardous waste information but to provide a process for how proprietary information is
5 to be handled; and

6 5. An exemption from requirements in other laws related to product stewardship
7 programs.

8 The amendment also adds an appropriations and allocations section.

9 **FISCAL NOTE REQUIRED**

10 **(See attached)**