

[Second Reprint]

SENATE, No. 3723

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MARCH 13, 2023

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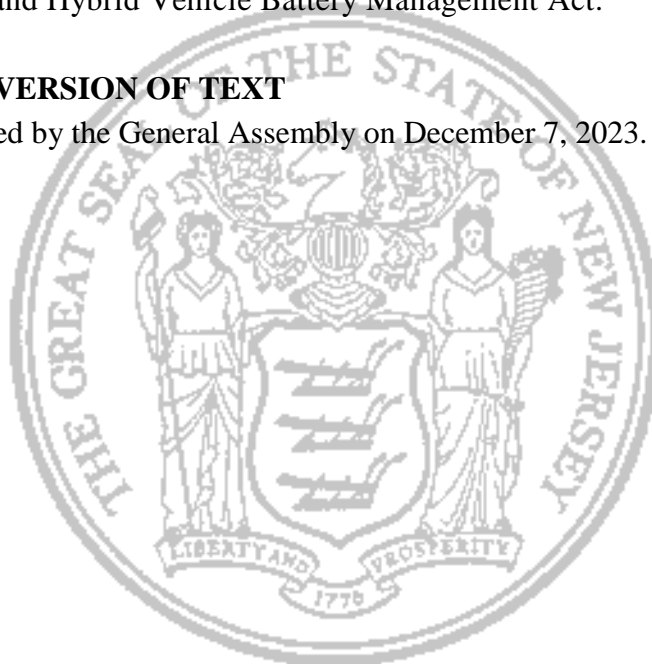
Senators Gopal, O'Scanlon and Durr

SYNOPSIS

"Electric and Hybrid Vehicle Battery Management Act."

CURRENT VERSION OF TEXT

As amended by the General Assembly on December 7, 2023.



(Sponsorship Updated As Of: 12/21/2023)

1 AN ACT concerning electric vehicle batteries and supplementing
2 Title 13 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. This act shall be known and may be cited as the "Electric
8 ¹and Hybrid¹ Vehicle Battery Management Act."

9
10 2. As used in this act:

11 ²"Authorized propulsion battery recycler" means an entity or
12 facility that is authorized by the department or an equivalent agency
13 in another state to collect, sort, separate, and refine the elemental
14 components of end-of-life propulsion batteries, or battery materials,
15 and to refine the elemental components back to usable battery
16 chemicals that include, but are not limited to, nickel sulfates, cobalt
17 sulfate, and lithium salts. "Authorized propulsion battery recycler"
18 does not include entities or facilities that are engaged only in the
19 collection or logistics of moving materials for recycling.

20 "Authorized propulsion battery transporter" means a person that
21 is authorized, under a battery management plan developed and
22 approved pursuant to sections 6 and 7 of this act, to transport
23 propulsion batteries for the purpose of recycling.²

24 "Battery cell" means the basic electrochemical component of a
25 battery, which provides a source of electrical energy and which
26 consists of an assembly of a cathode, an anode, and an electrolyte.

27 ¹"Battery management plan" means a plan for the collection,
28 transportation, remanufacturing, reuse, recycling and disposal,
29 using environmentally sound management practices, of used
30 propulsion batteries prepared pursuant to section ²**[5]** ⁶² of this
31 act.¹

32 "Battery module" means an array of multiple battery cells
33 connected in series or parallel and encased in one structure.

34 "Commissioner" means the Commissioner of Environmental
35 Protection.

36 "Department" means the Department of Environmental
37 Protection.

38 ¹**["Electric vehicle"** means a vehicle that derives all or part of its
39 power from electricity supplied by the electric grid, and that has a
40 battery or equivalent energy storage device that can be charged
41 from an electricity supply external to the vehicle with an electric
42 plug. "Electric vehicle" includes a plug-in hybrid vehicle.

43 "Electric vehicle battery" means a rechargeable battery that is
44 used to power the electric motors that propel an electric vehicle.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEN committee amendments adopted May 15, 2023.

²Assembly floor amendments adopted December 7, 2023.

1 "Electric vehicle battery" includes, but is not limited to, lithium-ion
2 batteries and nickel-metal hydride batteries.】

3 "Environmentally sound management practices" mean the
4 policies and procedures for the collection, transportation, reuse, and
5 recycling or disposal of used electric vehicle batteries, implemented
6 by a producer to ensure compliance with all applicable federal,
7 State, and local laws, rules, regulations, and ordinances, to protect
8 human health, safety, and the environment, and to provide for the
9 adequate recordkeeping, tracking, and documentation of the
10 disposal of used propulsion batteries within the State.

11 "Producer" means a ²【propulsion battery manufacturer,
12 remanufacturer, or importer, a person who repurposes propulsion
13 batteries, or a motor vehicle manufacturer, brand or trademark
14 licensee, or importer, who manufactures, sells, offers for sale, or
15 imports a propulsion battery in or into the State】 person responsible
16 for a propulsion battery², as provided pursuant to subsection b. of
17 section ²【5】 6² of this act.

18 "Propulsion battery" means an electrical energy storage device,
19 consisting of one or more individual battery modules or battery
20 cells, which are used to supply power to propel an electric or hybrid
21 road vehicle. "Propulsion battery" includes, but is not limited to,
22 lithium-ion batteries and nickel-metal hydride batteries.
23 "Propulsion battery" does not include a starter battery or a battery
24 used for, or embedded in, products for industrial applications.¹

25 "Recycling center" means the same as the term is defined in
26 section 2 of P.L.1987, c.102 (C.13:1E-99.12).

27 ¹"Remanufacture" means any repair or modification to a
28 propulsion battery that results in the complete battery, or any
29 battery modules or battery cells thereof, being used for the same
30 purpose or application as the one for which the battery was
31 originally designed.

32 "Repurpose" means any operation to a propulsion battery that
33 results in the complete battery, or any battery modules or battery
34 cells thereof, being used for a different purpose or application than
35 the one for which the battery was originally designed.

36 "Reuse" means the use of a propulsion battery in another vehicle
37 of the same type, which does not require modification to the
38 battery.¹

39 "Solid waste" means the same as the term is defined in section 3
40 of P.L.1970, c.39 (C.13:1E-3).

41 "Solid waste facility" means the same as the term is defined in
42 section 3 of P.L.1970, c.39 (C.13:1E-3).

43 "Vehicle recycler" means the same as the term is defined in
44 section 3 of P.L.2005, c.54 (C.13:1E-99.84).

45

46 3. ¹**【An electric vehicle】** A propulsion¹ battery sold in the State
47 ², whether embedded in a vehicle or not,² shall include a permanent

1 label providing information about the battery ² [. Pursuant to
2 P.L.2003, c.266 (C.26:2C-8.15), the label shall conform to the
3 provisions of the California Low Emission Vehicle program.] , in
4 accordance with rules and regulations adopted by the department.
5 Any person who remanufactures or repurposes a propulsion battery
6 shall relabel the remanufactured or repurposed propulsion battery
7 pursuant to the labeling standard adopted by the department prior to
8 selling, importing, or distributing the propulsion battery for use in
9 the State.²

10
11 ²4. a. No later than six months after the effective date of this act,
12 the department shall commence a needs assessment to determine the
13 availability of authorized propulsion battery recyclers and related
14 infrastructure, both public and private, needed to implement the
15 provisions of this act, in addition to any other necessary
16 information, as identified by the department.

17 b. The department may use a qualified third-party organization
18 to perform the needs assessment required by this section.

19 c. The needs assessment shall be completed no later than 18
20 months after the effective date of this act.

21 d. The department shall transmit a report of the completed needs
22 assessment to the Governor and, pursuant to section 2 of P.L.1991,
23 c.164 (C.52:14-19.1), to the Legislature no later than two months
24 after the needs assessment is completed.

25 e. The department shall publish the completed needs assessment
26 on its Internet website.

27 f. The department shall use the results of the needs assessment
28 to assist in the implementation of this act.²

29
30 ²[4.] ^{5.}² a. ²[No] Commencing three years after the effective
31 date of this act, no² person shall dispose of ¹[an electric vehicle] a
32 propulsion¹ battery, or any battery module or battery cell thereof, as
33 solid waste ², unless authorized to do so by the department² .

34 b. ²[No] Commencing three years after the effective date of
35 this act, no² solid waste collector registered pursuant to sections 4
36 and 5 of P.L.1970, c.39 (C.13:1E-4 and C.13:1E-5) and holding a
37 certificate of public convenience and necessity pursuant to sections
38 7 and 10 of P.L.1970, c.40 (C.48:13A-6 and C.48:13A-9) shall
39 knowingly collect ¹[an electric vehicle] a propulsion¹ battery, or
40 any module or cell thereof, placed for collection and disposal as
41 solid waste ², unless authorized to do so by the department² . A
42 solid waste collector may refuse to collect a solid waste container
43 containing ¹[an electric vehicle] a propulsion¹ battery, or any
44 module or cell thereof.

45 c. ²[No] Commencing three years after the effective date of
46 this act, no² solid waste facility in this State shall knowingly accept

1 for disposal ¹~~an electric vehicle~~ a propulsion¹ battery, or any
2 module or cell thereof, or a truckload or roll-off container of solid
3 waste containing ¹~~an electric vehicle~~ a propulsion¹ battery, or any
4 module or cell thereof ², unless authorized to do so by the
5 department². The owner or operator of a solid waste facility may
6 refuse to accept for disposal ¹~~an electric vehicle~~ a propulsion¹
7 battery, or any module or cell thereof, or any truckload or roll-off
8 container of solid waste containing ¹~~an electric vehicle~~ a
9 propulsion¹ battery, or any module or cell thereof.

10
11 ¹~~5.~~ a. If an electric vehicle's battery, or any battery module or
12 battery cell thereof, is replaced, and the vehicle remains in service,
13 the person performing the replacement shall provide for the proper
14 reuse, repurposing, or recycling of the battery, module, or cell. The
15 person performing the replacement shall use a core deposit
16 program, or other similar system, to ensure that electric vehicle
17 batteries, battery modules, and battery cells are properly managed
18 and tracked.

19 b. For an electric vehicle that is taken out of service, a vehicle
20 recycler who takes ownership of the end-of-life vehicle shall
21 provide for the proper reuse, repurposing, or recycling of the
22 battery. In the event that the electric vehicle is not transferred to a
23 vehicle recycler, the person who assumes ownership of vehicle after
24 it has been taken out of service shall provide for the proper reuse,
25 repurposing, or recycling of the battery. ¹

26
27 ²~~15.~~ ²~~6.~~ a. No later than 180 days after ²~~the effective date of~~
28 ~~this act,~~ the department completes the needs assessment required
29 under section 4 of this act, ² each producer of propulsion batteries
30 sold within the State, either individually or as a part of a group of
31 producers, shall, in consultation with the department, develop and
32 submit a battery management plan to the department for review and
33 approval pursuant to section ²~~6~~ ²~~7~~ of this act. The plan shall
34 provide for producers to be responsible for the collection and
35 management of the producer's used propulsion batteries that are
36 offered to the producer for take-back by the current battery owner.

37 b. A producer shall be deemed responsible for the end-of-life
38 management of a propulsion battery pursuant to this act as follows:

39 (1) for a propulsion battery embedded in a vehicle that is sold in
40 the State, or sold or distributed in or into the State via remote sale
41 or distribution;

42 (a) if the battery is sold in a vehicle under the vehicle
43 manufacturer's own brand, the vehicle manufacturer shall be
44 responsible for the battery;

45 (b) if the battery is sold in a vehicle under a different brand than
46 that of the vehicle manufacturer, the person that is the licensee of
47 the brand or trademark under which the vehicle is sold, offered for

1 sale, or distributed in or into the State, whether or not the trademark
2 is registered in the State, shall be responsible for the battery; and

3 (c) if there is no person described by subparagraphs (a) or (b) of
4 this paragraph within the United States, the person that imports the
5 battery-containing vehicle into the United States for sale, offering
6 for sale, or distribution in the State shall be responsible for the
7 battery; and

8 (2) for a propulsion battery that is sold in the State, or sold or
9 distributed in or into the State via remote sale or distribution, and
10 which is not embedded in a vehicle:

11 (a) if the battery was manufactured in the United States, and has
12 not been remanufactured or repurposed, the battery manufacturer
13 shall be responsible for the battery.

14 (b) if the battery has been remanufactured or repurposed in the
15 United States, the person that remanufactures or repurposes the
16 battery shall be responsible for the battery, except as provided in
17 subsection c. of this section; and

18 (c) if there is no person described by subparagraphs (a) or (b) of
19 this paragraph within the United States, ²[the producer is]² the
20 person that imports the battery into the United States for sale,
21 offering for sale, or distribution in the State shall be responsible for
22 the battery.

23 c. Notwithstanding the provisions of subsection b. of this section
24 to the contrary, the original producer of a propulsion battery shall
25 not be responsible for the management of a battery that a secondary
26 producer has remanufactured or repurposed, unless:

27 (1) the secondary producer is in a contractual relationship with
28 the original producer, which provides for the retention of
29 responsibility for the end-of-life management of the battery by the
30 primary producer; and

31 (2) the contract has been provided to the department as part of a
32 battery management plan or through another means approved by the
33 department.

34 d. A battery management plan prepared and submitted pursuant
35 to this section shall include, at a minimum:

36 (1) methods that will be used to collect and store the used
37 propulsion batteries returned to the producer, including proposed
38 collection services ², and the role of vehicle recyclers and
39 authorized propulsion battery recyclers² ;

40 (2) methods that will be utilized to transport used propulsion
41 batteries to authorized recycling facilities, including ²methods used
42 by both vehicle recyclers and authorized propulsion battery
43 recyclers and a delineation of the roles of each in the recycling
44 chain, as well as² the name and location of all authorized
45 ²propulsion battery² recyclers ², authorized propulsion battery
46 transporters, and vehicle recyclers² to be directly utilized pursuant
47 to the plan;

1 (3) processes and methods that will be utilized to remanufacture,
2 repurpose, or recycle propulsion batteries that have reached the end
3 of their service life, including, if necessary, a plan for final disposal
4 of such batteries, in accordance with environmentally sound
5 management practices;

6 (4) a strategy for informing consumers, vehicle repair facilities,
7 and vehicle dismantlers in the State about the requirement to
8 properly manage propulsion batteries, the environmental impact of
9 the improper handling or disposal of used propulsion batteries, and
10 the mechanisms for the management of propulsion batteries that are
11 available pursuant to the plan;

12 (5) the means that will be used to implement and finance the
13 battery management plan; and

14 (6) any other information, policies, or procedures that the
15 department deems appropriate.

16 e. ²[A battery management plan shall, to the extent practicable,
17 utilize existing recycling infrastructure. Where existing recycling
18 infrastructure is not utilized, the electric vehicle battery
19 management plan shall include the reasons for establishing a
20 separate infrastructure.

21 f. ²A propulsion battery management plan shall provide for the
22 financing of the collection, transportation, remanufacturing, reuse,
23 recycling, or disposal of used propulsion batteries. When a
24 producer is required to provide for the management of used
25 propulsion batteries, the costs of such financing shall be borne by
26 the producer of that propulsion battery.

27 ²[g.] f. ² Any entity that becomes a producer after the effective
28 date of this act shall receive approval from the department of its
29 battery management plan prior to manufacturing, selling, offering
30 for sale, or importing a propulsion battery in or into the State, and
31 shall otherwise comply with the provisions of this act.

32 ²[h.] g. ² A battery management plan shall be reviewed and
33 updated, as necessary, at least once every five years.¹

34 ²h. Each person or entity that manages a used propulsion
35 battery, including, but not limited to, a vehicle repair facility,
36 vehicle dismantler, scrap yard, dealership, showroom, or used car
37 lot, shall be required to manage the battery pursuant to an approved
38 battery management plan.

39 i. Any organization formed for the purposes of allowing a group
40 of producers to submit a combined battery management plan
41 pursuant to this act shall:

42 (1) be a tax-exempt, nonprofit organization;

43 (2) submit a battery management plan that achieves program
44 goals established by the department; and

45 (3) submit an annual audit report and annual budget to the
46 department.²

- 1 ²[¹6.] 7.² a. No later than ²[120 days] one year² after receipt
2 by the department of a complete battery management plan, the
3 department shall approve, approve in part, or disapprove of the
4 plan. In making a determination pursuant to this section, the
5 department may solicit information from producers or other
6 stakeholders as the department deems appropriate. The department
7 may assess a producer a reasonable fee to cover the department's
8 costs for plan review, program implementation, and enforcement
9 costs pursuant to this act.
- 10 b. If the department approves the battery management plan, the
11 producer shall implement the plan within 90 days after receipt of
12 approval from the department or as otherwise agreed to by the
13 department.
- 14 c. If the department approves in part the battery management
15 plan, the department shall indicate those portions of the plan that do
16 not comply with the requirements of this act and the rules and
17 regulations adopted pursuant thereto. The producer shall implement
18 the components of the plan, as approved, within 90 days after
19 receipt of approval by the department or as otherwise agreed to by
20 the department, and submit a revised battery management plan
21 within 30 days after receipt of notification of the approval in part by
22 the department in order to bring the entire plan into compliance
23 with the requirements of this act and any rules and regulations
24 adopted pursuant thereto. The department shall review and
25 approve, conditionally approve, or disapprove a revised battery
26 management plan within 30 days after receipt of the revised plan.
- 27 d. If the battery management plan is disapproved, the
28 department shall inform the producer of the reasons for the
29 disapproval. The producer shall have 30 days thereafter to submit a
30 revised battery management plan to the department.
- 31 e. If, at the conclusion of the time period ending ²[120 days]
32 one year² after receipt by the department of a complete battery
33 management plan, the department has not approved, approved in
34 part, or disapproved the battery management plan pursuant to
35 subsections b. through d. of this section, the battery management
36 plan shall be deemed to be conditionally approved. A producer,
37 subject to any modifications required by the department, shall
38 implement a conditionally approved battery management plan
39 within 90 days after the plan has been deemed conditionally
40 approved by the department.
- 41 f. The department may impose additional plan requirements ²[,
42 at the conclusion of the time period ending 240 days after the
43 effective date of this act]² for any portion of a battery management
44 plan that does not comply with the requirements of this act, and any
45 rules and regulations adopted pursuant thereto, for a plan
46 component that has not been approved pursuant to this section.
- 47 g. The department may review a battery management plan
48 approved pursuant to this section and recommend modifications

1 thereto at any time upon a finding that the approved battery
2 management plan, as implemented, is deficient.

3 h. Within 90 days after the department's approval of a battery
4 management plan submitted in accordance with section 5 of this act,
5 or any revisions thereto, the department shall post, at a publicly
6 accessible location on its Internet website, each battery management
7 plan and a list identifying each of the producers participating in a
8 battery management plan.¹ ²A producer may provide a redacted
9 version of its battery management plan to the department for the
10 purposes of its posting on the department's Internet website, which
11 removes any proprietary or confidential information.²
12

13 ¹[6.] ²[7.¹] 8.² a. A person seeking to discard ¹[an electric
14 vehicle] a propulsion¹ battery may deliver the ¹battery or the
15 vehicle that contains the¹ battery to:

16 (1) a ¹[retailer of electric vehicles or electric vehicle batteries]
17 location designated by the producer of the battery, as specified in
18 the producer's battery management plan¹ ; or

19 (2) ²[a Class D recycling center authorized to recycle electric
20 vehicle batteries by the department] an authorized propulsion
21 battery recycler, provided that the employees of the authorized
22 propulsion battery recycler undergo mandatory safety training to
23 ensure the proper management and recycling of such batteries. The
24 department may require, develop, or select appropriate training
25 modules for this purpose² .

26 b. ¹[A retailer of electric vehicles or electric vehicle batteries,
27 upon presentation at any time during business hours by a member of
28 the public, shall accept a minimum of one electric vehicle battery
29 derived from the person's private use, at no charge.

30 c. No distributor of electric vehicles or electric vehicle batteries
31 shall refuse to accept an electric vehicle battery, collected from a
32 member of the public pursuant to this section, from any retailer of
33 the distributor's products, or from any other retailer if the battery is
34 of a type that is, or was, distributed by the distributor.

35 d.]¹ No ¹[manufacturer] producer¹ of ¹[electric vehicles or
36 electric vehicle] propulsion¹ batteries may refuse to ¹[accept any
37 electric vehicle battery,] recover a used propulsion battery that it
38 has manufactured, branded, imported, or imbedded into a product in
39 New Jersey, if the battery is¹ collected from a ¹[distributor pursuant
40 to this section, from a distributor of the manufacturer's products]
41 location or using a mechanism designated by the producer in its
42 battery management plan¹ . The ¹[manufacturer] producer¹ shall
43 provide for the proper reuse, ¹remanufacturing,¹ repurposing, or
44 recycling of ¹[an electric vehicle] a propulsion¹ battery returned
45 pursuant to this subsection. ¹The provisions of this subsection shall
46 not apply to the original producer of a propulsion battery that has

1 been remanufactured, repurposed, branded, imported, retailed, or
2 embedded into a product application by a secondary producer,
3 unless the secondary producer is in a contractual relationship with
4 the original producer pursuant to subsection c. of section 5 of this
5 act.¹

6
7 ¹**[7.** A retailer of electric vehicles or electric vehicle batteries
8 shall conspicuously post and maintain, at or near the point of sale, a
9 legible notice to consumers, not less than 8 1/2 inches by 11 inches
10 in size and bearing the State recycling logo or symbol, containing
11 the following inscription: "Electric vehicle batteries can be
12 recycled here. It is illegal to discard an electric vehicle battery in
13 New Jersey. State law requires us to accept and recycle any used
14 electric vehicle battery returned to us by a member of the public."**]**¹

15
16 ²**[8.]** 9.² a. ¹**[**The department shall develop and promulgate
17 training materials or courses for persons who handle electric vehicle
18 batteries before or at end-of-life of the battery. The materials shall
19 include clear, detailed guidelines on occupational safety and
20 storage, as well as shipping protocols and requirements.**]** In
21 implementing a battery management plan approved pursuant this
22 act, a producer shall provide consumers with educational materials
23 related to the producer's approved battery management plan and the
24 collection services that are available. The educational materials
25 shall include, but need not be limited to, information identifying the
26 end-of-life management options that are available for propulsion
27 batteries through the battery management plan, and a notice that, in
28 New Jersey, the costs of the services will be covered by the
29 producer.¹

30 b. The department shall establish a means of addressing
31 consumer complaints and a public education program to assure the
32 widespread dissemination of information concerning the purpose of
33 this act.

34
35 ²**[9.]** 10.² a. A violation of the provisions of this act shall be
36 considered a violation of the "Solid Waste Management Act,"
37 P.L.1970, c.39 (C.13:1E-1 et seq.), and the commissioner shall have
38 recourse to any of the actions ¹or penalties¹ provided for in section
39 9 of P.L.1970, c.39 (C.13:1E-9), in order to ¹**[remedy]** address¹ the
40 violation.

41 b. The department shall have the right to enter, at any time
42 during normal business hours and upon presentation of appropriate
43 credentials, the premises of a recycling center, vehicle recycler, or
44 ¹**[**retailer, distributor, or manufacturer of electric vehicles or
45 electric vehicle**]** producer of propulsion¹ batteries in order to
46 determine compliance with the provisions of this act.

1 ²11. Each producer shall register with the department. A
2 producer operating in the State on the effective date of this act shall
3 register with the department no later than 12 months after the
4 effective date of this act. The department shall establish an online
5 registration program for the purposes of this section on its Internet
6 website.²

7
8 ²12. a. Commencing 24 months after the effective date of this
9 act, and each year thereafter, each producer shall report to the
10 department, in a form and manner prescribed by the department, the
11 number of propulsion batteries sold, offered for sale, or distributed
12 in or into the State by the producer.

13 b. The annual report may include additional information, as
14 required by the department.

15 c. The department shall maintain a public non-compliance list of
16 producers that do not comply with the provisions of this section.²

17
18 ²~~10.~~ ²13. The Commissioner of Environmental Protection
19 shall adopt, pursuant to the provisions of the "Administrative
20 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and
21 regulations necessary to implement the provisions of this act.

22
23 ²~~11.~~ Section 10 of this ~~14.~~ ²This act shall take effect
24 immediately ²~~1.~~, and the remainder of the act shall take effect on the
25 first day of the twelfth month following enactment, except that the
26 department may take such administrative measures as may be
27 necessary to prepare for its timely implementation ².