



November 30, 2013

Sent via email.

Howard Levenson, Deputy Director
Materials Management and Local Assistance Division
Department of Resources Recycling and Recovery
1001 I Street
Sacramento, CA 95814

RE: PaintCare 2013 California Paint Stewardship Program Year 1 Annual Report

Dear Mr. Levenson:

PaintCare is in receipt of your letter dated October 31, 2013 regarding our 2013 California Annual Report and more specifically the Department's completeness review of the Report. Below, please find PaintCare's response to the three areas for which the Department requested additional information in order to consider the Annual Report complete.

Issue 1: Baseline for program goals and methodology for baseline.

The California Architectural Paint Stewardship Plan (Plan) submitted April 2, 2012, revised and resubmitted June 4, 2012, and approved by the Department July 16, 2012 stated that the current data provided by the State's Form 303 was used for budgeting and collection projections, however, given the fact that the data likely overstates the amount of oil-based paint collected by California HHW programs, the data from the first year of the California PaintCare Program (Program) will serve as a baseline from which to plan for future volumes and costs. However, as stated in the California Paint Stewardship Program Year 1 Annual Report (Report), PaintCare will use the Program's second year collection volumes as the baseline; see Section 4.B. of the Report which states that unfortunately, as not all HHW programs were signed up with PaintCare by the end of the first reporting period, it is premature to use the first year collection volumes as a baseline. Thus, PaintCare will continue to engage the remaining interested HHW programs in order to bring them on board in the next year (year 2), resulting in what should be a more accurate baseline collection volumes from which to measure collection changes in future years.

It is important to note that while PaintCare will use the second year's collection volumes as the baseline for estimating future volumes and costs, the Plan specifically did not establish a collection volume goal, but instead established quantitative service level goals and qualitative outreach and education goals (See Section 6.b. and Section 7 of the Plan).

Issue 2: Total volume of architectural paint sold, by type.

Neither the regulations (Title 14, Division 7, Chapter 11, Article 2), nor the underlying statute (Chapter 420, Statutes of 2010, Huffman, AB 1343) define "type." Thus, to address this lack of clarity, PaintCare specified in the Plan that it would report architectural paint sales by container type. This is supported by Section 11.c. of the Plan (see the top of page 38):

“The Annual Report will include, at a minimum:

1. Data and discussion on the quantity of architectural paint sold in California, broken down by the **container size categories** used for the assessment fees.”

Thus, PaintCare provided what was approved by the Department under the Program Plan for architectural paint sold, by type.

Issue 3: End-of-life materials management line-item percentages of total program cost.

As noted in Section 5.G. of the Report, cost broken down by disposition is not available due to the format of contract pricing with PaintCare’s transportation and processing vendors. Specifically, PaintCare pays the same per pound disposal rate for all loose-packed paint collected through the Program, and in fact, pays the highest rate offered by each vendor because of our requirement to maximize highest-best use (generally considered paint-to-paint recycling at this time).

This means that every can of loose-packed paint collected – the form in which the majority of paint is received – goes through the same process that paint destined for highest-best use goes through, the most labor intensive and expensive process which includes:

1. Hand separating every can of latex paint from oil-based paint at the transporters consolidation facility and repacking the paint into the two different streams;
2. Sending every can of latex paint downstream to a recycler that produces a recycled-content paint;
3. Once at a latex recycler’s facility, each can is individually inspected, opened, and color and quality sorted for final disposition;
4. Once color sorted, latex paint goes through a variety of physical and chemical treatments in order to produce a high quality recycled-content latex paint; and
5. The resulting latex paint is then repackaged into 1 to 275 gallons containers, labelled, and put out to market.

It should be noted that PaintCare does not intend to change its paint management methods, and thus, is unlikely to ever be able to provide data in the format that CalRecycle is requesting. To comply with CalRecycle’s request, and to accomplish it with actual and accurate values, PaintCare would need to pre-determine the disposition of paint collected through the Program, which would necessarily require that we relax our current standard of highest-best use.

Still, in order to try to provide some kind of cost data for CalRecycle’s benefit, PaintCare has undergone an extensive exercise that included separating cost and volume by each vendor, and then applying each vendor’s specific per pound cost to their share of the total paint reported, and further separating that cost by latex paint versus oil-based paint and into each vendors latex disposition methods. The results are provided in the following table:

| | |
|--|---------------------|
| Fuel Incineration (oil-based paint) | \$ 539,560 |
| Reuse (latex and oil-based paint) | \$ 3,369 |
| Paint to Paint Recycling (latex paint) | \$ 2,322,066 |
| Beneficial Use* (latex paint) | \$ 439,017 |
| Landfill (latex paint) | \$ 134,684 |
| Total | \$ 3,438,696 |

* The category of Beneficial Use includes:

- Interlocking retaining wall blocks manufactured by Visions Paint Recycling;
- Landscaping material manufactured by Acrylatex Coatings and Recycling; and
- A biomass wood product manufactured by Amazon Environmental.

PaintCare cautions CalRecycle that the values above are gross approximates and generally overstate the dollar amount spent on the lower-value disposition methods (beneficial reuse and landfill). Again, as described above, PaintCare pays a rate that ensures as much paint as possible is managed through highest-best use. If we were to pre-establish rates for beneficial use and landfill, those rates are certain to be lower than what we currently pay. Thus, artificially applying our current disposal rates to all disposition methods inflates what it would actually cost if we contracted in advance for some percent of paint to go to lower-value disposition methods. In other words, we pay more to insure the best available end-of-life use. In addition, there are other factors that impact the accuracy of the disposition cost breakdown, including:

- As described in the Report, approximately 7% of paint collected and billed for was not yet processed so final disposition was not reported to PaintCare by the time the Report was submitted to CalRecycle. This means that the cost for an additional 7% of collected paint was applied across the 93% of collected paint reported.
- A small amount of Year 1 billing was submitted too late by our transporters and municipal partners to be included in the financial audit, and was therefore not included in the Report to the CalRecycle. Thus, some cost information is missing from our total costs. (These amounts will be included in the Year 2 report.)

In summary, PaintCare is willing provide this additional cost information in the Annual Report and go through a similar exercise each year to comply with CalRecycle's request for cost information per-disposition method, however, this data will always be flawed and overestimate the cost of less-preferable postconsumer paint management methods.

Annual Report Corrections

In addition to addressing your requests, PaintCare would like to point out two data reporting mistakes in the Annual Report. As data was coming into PaintCare from our 3 primary hazardous waste transportation contractors and more than a half dozen municipal partners during our report preparation period, we were continually updating and revising volume and cost data. Unfortunately, with some last minute updates occurring, some values within the report were not properly updated.

The total volume of paint reported in the Executive Summary and in the narrative of Section 4.B., 632,652 gallons, is correct. However, the data in Table 3 of Section 4.B. was not updated to reflect the final data. The volume of oil-based paint should be 77,138 gallons; the volume of latex paint should be 555,514 gallons; and the total volume should be 632,652 gallons. In Table 4 on page 12, the various latex disposition volumes are correct, as are the various oil-based paint disposition volumes and the total volume of oil-based paint. However, the total volume of latex paint was not updated to the accurate amount of 555,515 (note this is 1 gallon higher than Table 3 due to rounding).

Once you have reviewed PaintCare's response to issues 1-3, please let us know whether or not you would like us to further clarify parts of the Annual Report as per these issues and/or to revise the report with the corrections noted above.

With regard to the Department's compliance review, the process and content of which is not specified in either the statute or regulations, please specify what information or adjustments are being requested, rather than what "may be needed." Also, please specify how each is needed to "evaluate the effectiveness of the program and compliance with statute and the previously-approved Stewardship Plan." Lastly, based on the attachment of issues that may be needed for a compliance review, please specify whether or not the information requested will be made publically available, or is merely for internal review. Related to this, since some of the information that may be requested pertains to sensitive business information, please specify the confidential business information procedures the Department will utilize.

Thank you,

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke that ends in a large, rounded flourish.

Marjaneh Zarrehparvar
Executive Director

Cc: Caroll Mortensen, CalRecycle
Allyson Willsey, CalRecycle
Ty Moore, CalRecycle
Alison Keane, PaintCare
Caitlin Sanders, PaintCare