

### **III. Draft of Guidance for Stewardship Plan Approval Criteria**

*Note: this is a discussion outline providing guidance on criteria for stewardship plan approval. The final proposed regulations will include other sections on: submittals, payments to the department, records retention, confidentiality, enforcement, and other topics. These will eventually be combined into one document.*

#### **I. Definitions**

#### **II. Submittals**

#### **III. Stewardship Plan Approval Criteria**

Department staff shall use the criteria below to review stewardship plan contents and determine if they meet the requirements in statute. This section first describes the requirements (stated or inferred) in AB 1343 Architectural Paint Recovery Program, followed by a description of how the department shall evaluate the requirements.

1. **Contact information.** Identify the manufacturer or designated stewardship organization responsible for the stewardship plan submittal.

How this criterion will be evaluated:

The department shall verify that the manufacturer or its designated stewardship organization has registered on-line according to instructions provided by the department.

2. **Scope.** The program described in the plan is designed to accept and manage all applicable postconsumer architectural paint products. A manufacturer or stewardship organization shall provide an updated list of manufacturers and brands to the department at least every six months.

How this criterion will be evaluated:

- a. To evaluate this criterion, the department shall ensure that the stewardship plan clearly identifies the covered products, manufacturers, and brands; and
  - b. The department shall verify receipt of lists of manufacturers and brands at least every six months. The department will update its website within 7 working days of receipt of updated information provided by the manufacturer or stewardship organization.
3. **Program Goals and Activities.** Include program goals that are specific to and appropriate for California, recognizing the current recycling infrastructure and capacity, estimating changes in market conditions, and anticipating recycling infrastructure and capacity in California. Discussion on goals must include a baseline, to be provided by the manufacturer or stewardship organization, from which the goals will be measured and reported in the manufacturer or stewardship organization's annual reports. A methodology for estimating the amount of leftover paint available for collection in California must be provided by the manufacturer or stewardship organization. Describe how the program goals will be achieved to:
    - a. Reduce the generation of postconsumer paint;

- b. Promote the reuse of postconsumer paint; and
- c. Properly manage postconsumer paint at end-of-life, including recovery and recycling of postconsumer paint.

How this criterion will be evaluated:

The department shall check for:

- a. Completeness
  - b. Clearly-stated goals
  - c. Evidence that goals are specific to and appropriate for California, recognizing the current recycling infrastructure and capacity, estimating changes in market conditions, and anticipating recycling infrastructure and capacity in California
4. **Solid Waste Management Hierarchy.** Describe proposed measures that will enable the management of postconsumer paint in a manner consistent with the state's solid waste management hierarchy:
- a. Source reduction
  - b. Recycling
  - c. Environmentally safe transformation and safe land disposal

How this criterion will be evaluated:

The department staff shall review plans for descriptions of how PRC §48702(a) will be addressed: "A manufacturer of architectural paint sold in this state shall, individually or through a stewardship organization, submit an architectural paint stewardship plan to the department to develop and implement a recovery program to reduce the generation of postconsumer architectural paint, and manage the end-of-life of postconsumer architectural paint, in an environmentally sound fashion, including collection, transportation, processing, and disposal."

This may include efforts to educate consumers on the correct amount of paint to purchase, increase postconsumer content in new architectural paint, recycling and reuse efforts, etc.

5. **Collection Systems.** Describe the system that will be used to collect and properly manage postconsumer paint. This description must include the following:
- a. Collection methods used for oil-based and water-based architectural paint.
  - b. Destination for reuse activities, processing (including recycling) and/or disposal for oil-based and water-based architectural paint.
  - c. Description of best management practices to be followed by the service providers, including any training that the manufacturer or stewardship organization intends to provide to or require of service providers to ensure proper collection and management of postconsumer architectural paint.
  - d. Description of how every consumer of architectural paint will have an opportunity to properly manage their postconsumer architectural paint.

How this criterion will be evaluated:

The department shall review for completeness. The department encourages a manufacturer or stewardship organization to conduct training at each collection site during initial and annual site visits. Subsequent site visits should be conducted as needed or requested. The department shall consider the extent to which every consumer that is paying the assessment will have an opportunity to participate in the program. This may include:

- a. Ensuring that collection opportunities are available in every county.
  - b. Ensuring that collection opportunities are available within a certain distance (radius) of population centers.
  - c. Ensuring that all consumers have at least one type of collection opportunity available annually.
6. **Market Development.** Describe incentives or methods to increase recycling of architectural paint into secondary materials, as applicable.

How this criterion will be evaluated:

The department shall review this section for completeness.

7. **Financing Mechanism.** Include a funding mechanism that provides sufficient funding to recover, but not exceed, the cost of the architectural paint stewardship program, including the administrative, operational, and capital costs of the program. The funding mechanism includes the following:
- a. The amount of the assessment per unit of paint sold in the state.
  - b. A budget for the program that includes revenue estimates from the assessment, full program costs, and administrative costs (including those pursuant to Section 19858 re: service payment to the department).
  - c. A requirement that any surplus funds will be put back into the program to reduce the costs of the program, including the assessment amount.
  - d. Stewardship organization and manufacturers shall allocate revenues and expenditures applicable to this program in accordance with Generally Acceptable Accounting Principles (GAAP) as codified by Financial Accounting Standards Board. Following GAAP provides consistency in the reporting so that users of financial information can be compared (apples to apples).
  - e. The stewardship plan shall document how the collection and expenditure of assessment funds shall be kept separate from other activities of the stewardship organization.

How this criterion will be evaluated:

The plan and its supporting documents shall provide sufficient information for the department to make a determination that:

- a. The amount of the assessment is sufficient to meet, but not exceed, the anticipated cost of carrying out the plan.
- b. The allocation of the funds support the solid waste management hierarchy and program goals identified in the plan.
- c. Stewardship organization administrative costs followed established standards of good governance.

8. **Education and Outreach.** Include a description of education and outreach efforts to consumers, contractors, and retailers to promote source reduction and recycling of architectural paint. The description shall include how the outreach and education methods will be used and distributed, and how effectiveness of these activities will be measured. Educational information may include, but is not limited to, signage, written materials, advertising or other promotional materials pursuant to PRC Section 48703(e).

How this criterion will be evaluated:

- a. To evaluate this criterion, the department must ensure that the stewardship plan includes a description of educational and outreach methods that will be used, how information may be distributed, and how effectiveness of these activities will be measured. While not specified in AB 1343, the department recommends the manufacturer or stewardship organization establish and describe procedures for addressing complaints or concerns from consumers and stakeholders, such as a toll-free telephone number.
9. **Program Performance Measurement.** Describe how attainment of the goals will be measured per §18953(a)(3). Program data shall be collected for purposes of annual report submittal (see §18954 Annual Report Compliance Criteria). Information to be provided includes, but is not limited to:
    - a. Specific information on the measurement methodology, assumptions, conversion factors, if used, and data sources.

How this criterion will be evaluated:

- a. The department will review for completeness and determine that data are high quality, i.e., from reliable, non-biased sources to the extent practicable. Information must be presented in a clear format, i.e., non-technical English.
10. **Stakeholder Consultations.** A manufacturer or stewardship organization that submits a plan shall include a process of consultation with existing local household hazardous waste collection programs and other affected stakeholders, and consider the existing infrastructure in the development of the plan. Stakeholders may include, but are not limited to, consumers, retailers, architectural paint recyclers, and architectural paint contractors.

How this criterion will be evaluated:

- a. The department shall review the stewardship plan to ensure that this consultation occurred in a manner that captured statewide representation of local household hazardous waste collection programs and other affected stakeholders, as appropriate.
11. **Audits.**
    - a. **Financial Information.** Include a process by which the financial activities of the organization and individual manufacturer that are related to implementation of the plan will be subject to an independent financial audit, results of which will be

submitted in the manufacturer or stewardship organization's annual report and reviewed by the department. Submitting independently-audited financial statements demonstrate the manufacturer's commitment to financial transparency and accountability on how all funds collected from consumers are managed.

How this criterion will be evaluated:

The department shall verify that independently audited financial statements are submitted with the annual report. The department may investigate further.

- b. Non-Financial Information (optional). Include a process by which the following non-financial activities of the organization or individual manufacturer that are related to implementation of the plan will be subject to an independent non-financial audit, which will be submitted in the manufacturer or stewardship organization's annual report and reviewed by the department:
  - i. A description of how the postconsumer architectural paint was managed in accordance with the stewardship plan.
  - ii. The total amount of architectural paint sold and collected, and, if applicable, the recovery rate.

How this criterion will be evaluated:

The department shall check for completeness, if applicable.

**IV. Annual Report Compliance Criteria**

**V. Enforcement**

**VI. Record Keeping Requirements**

**VII. Proprietary, Confidential, or Trade Secret Information**

**VIII. Service Payments to the Department of Resources Recycling and Recovery**