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Sent: Friday, September 02, 2011 4:39 PM
To: Paint Product Stewardship
Cc: Desi Reno; Alison Hudson
Subject: Comments on Proposed Paint Stewardship Regulation
Attachments: SJC Comment Letter - Draft Paint Regs.pdf

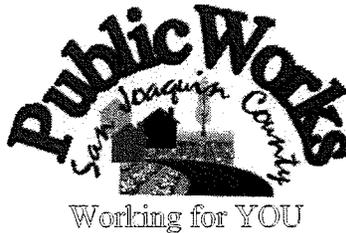
Attached please find San Joaquin County's comments on the draft regulation for California's Architectural Paint Recovery Program.

Thank you,
Kimbra Andrews

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SENT VIA EMAIL: paint@calrecycle.ca.gov

September 2, 2011

Ms. Cynthia Dunn
California Department of Resources Recycling and Recovery
Post Office Box 4025
Sacramento, California 95812-4025

SUBJECT: DRAFT REGULATION COMMENTS: ARCHITECTURAL PAINT RECOVERY PROGRAM

Dear Ms. Dunn:

As Integrated Waste Manager for San Joaquin County, I ask that you please consider the following comments and recommendations for the Architectural Paint Recovery Program draft regulations. Our County spearheaded a multi-county pilot project demonstrating the benefits of paint stewardship programs, many elements of which will be replicated with the implementation of the statewide Architectural Paint Recovery Program. We are also the lead agency for the regional Household Hazardous Waste (HHW) Program for the Cities and County of San Joaquin, and we operate more than a dozen permanent paint collection sites.

Plan and Report Requirements. The Stewardship Plan and Annual Report requirements are inconsistent; they need to follow the same standard outline. We suggest that the required elements of the Annual Report be consistent with the criteria for approval in the Stewardship Plan as outlined in §18952(b)(2) and §18953. Currently, the **Annual Report criteria (§18954)** lack the following criteria outlined in §18952(b)(2): (D) **Solid Waste Management Hierarchy**, and (E) **Collection Systems**. These two elements are critical to evaluating the success and effectiveness of the paint stewardship program.

Paint Containers. Paint containers are included in the description of "all applicable architectural paint products" and should be covered in the Stewardship Plan. To ensure paint containers are covered in the Plan, list "**all applicable architectural paint products**," including paint containers, in each of the program goals (instead of "postconsumer paint") in §18953(a)(3)(A) through (C), as well as in §18953(a)(4), Waste Management Hierarchy, and §18953(a)(5), Collection Systems.

Environmental Impacts. PRC section 48700 (AB 1343) states the purpose of this program is in part to "require paint manufacturers to ... reduce the costs and environmental impacts..." – **Efforts to reduce environmental impacts** need to be described in the Stewardship Plan and Annual Reports, as this is a key component of the product stewardship program. This can be achieved by adding the following:

In the Stewardship Plan, add a description of the following efforts to the program goals in §18953(a)(3): (D) "Eliminate or reduce the environmental impacts of architectural paint products throughout the product life cycle, and to increase reusability or recyclability at the end of the life cycle."

In the Annual Reports, add the following to §18954(a)(5): (H) "A description of efforts taken by or on behalf of the manufacturer to eliminate or reduce the environmental impacts of architectural paint products."

Waste Management Hierarchy. The sections on solid waste management hierarchy are vague. In California paint is considered a liquid household hazardous waste. To clarify the manufacturer's responsibilities in managing architectural paint products, we suggest the following sections be written as follows:

§18953(a)(4), Waste Management Hierarchy. Describe proposed measures that will **provide for** the management of architectural paint (products) in a manner **consistent with the order of preference in the state's waste management hierarchy**... and describe strategies to move materials up the waste management hierarchy.

§18953(a)(5)(B) Destination for reuse activities, processing (including recycling **and recovery**) and/or disposal for architectural paint (products) by type, in an environmentally sound fashion and **in a manner consistent with the order of preference in the waste management hierarchy.**

Furthermore, §18954, Annual Report, needs a section on the Solid Waste Management Hierarchy that includes efforts to manage paint products in adherence to the order of preference in the waste management hierarchy. Adding the following language will address disposition in §18954(a)(5)(C): Describe how paint products were managed to reduce their environmental impact, such that the **most environmentally sound waste management methods take priority.**

Market Development. The sections on Market Development are vague, and **should not be optional.** Requiring manufacturers to explore methods to stimulate technology development and incentivize market growth of recycled content products as well as less hazardous products, will reduce the products life cycle impact. Please **delete the phrase 'as applicable'** in §18953(a)(6) and §18954(a)(6). Add descriptions of ongoing efforts to identify and develop local alternatives for recycling to the Stewardship Plan and Annual Report.

To further incentivize growth of emerging markets it would be beneficial to allow for eliminating the assessment that is paid on reused paint sold in retail stores, such as Habitat for Humanity ReStores. Waiving the assessment charged at point of sale for reused paint will encourage reuse.

Existing Infrastructure. California HHW programs provide for significant support in the management of postconsumer paint products, including the funding of paint collection, transportation, processing, extensive capital, as well as public outreach and education, program advertising, and administration. While most HHW programs want to continue to provide related services they should not be relied upon as the main service providers. Many publicly funded programs cannot continue to shoulder this responsibility, and developing a new infrastructure is necessary for the purpose of managing postconsumer paint products in California.

A primary objective of the product stewardship program, as stated in PRC section 48700 (AB 1343), is to "require paint manufacturers to ... reduce the costs..." in this state. Describe **efforts to reduce the costs incurred by publicly funded HHW programs** to manage postconsumer paint products in the Stewardship Plan and Annual Reports. In §18953(a)(10), instead of simply considering existing infrastructure in the development of the plan, stakeholder consultations should include strategies to complement existing HHW programs, to expand infrastructure and to reduce the burdens on publicly operated programs.

Funding Allocations. While publicly funded HHW programs are extremely diverse and vary across the state, many will continue to play a significant role supporting the statewide paint program in their communities. In addition to retailers, §18954(a)(4)(E) ought to take account of other service providers including local HHW programs. Furthermore, in addition to addressing all operational costs in §18953(a)(7)(D) and §18954(a)(4)(E), the statements need to address equitable fair share funding allocations for HHW programs, and describe any coordination issues with HHW programs, including an explanation of what is not a "mutually agreeable and reasonably feasible" agreement.

San Joaquin County strongly urges your incorporation of these comments into the Architectural Paint Recovery Program regulations. Please contact me at (209) 468-8505, or Alison Hudson, Planning Division Manager, at (209) 468-3066 with any questions.

Respectfully,



DESI RENO
Integrated Waste Manager

DR:kb

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c: San Joaquin County Integrated Waste Management Planning Committee Members

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