



Californians Against Waste

Conserving Resources. Preventing Pollution. Protecting the Environment.

October 25, 2011

Cynthia Dunn
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CalRecycle
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Dear Cynthia,

Thank you for the opportunity to comment on the rulemaking process for implementation of AB 1343. We are pleased with the general direction the regulations are going. In addition to our previous comments from September 8, 2011, we would also like to make comments on this 15-day comment period.

While we all are supportive of making this program as cost-effective as possible, the first order of responsibility under the statute is to ensure program success in meeting its goals to:

'reduce the generation of postconsumer paint, to promote the reuse of postconsumer paint, and for the proper end-of-life management of postconsumer paint, including recovery and recycling of postconsumer paint'. PRC 48703(d)

Both latex and oil-based paints are recognized as hazardous waste in California, and their disposal in the solid waste stream is prohibited. California taxpayers and local governments are incurring considerable costs today in an attempt to provide safe end-of-life management of used paint. And those efforts are failing. As stated in AB 1343, 'architectural paint is convenient to buy and inconvenient to recycle or legally dispose of in California'.

The promise and innovative approach of AB 1343 is that the same environmental objectives might be more cost effectively achieved by a single statewide, non-governmental enterprise financed by paint consumers, rather than hundreds of separately operated and taxpayer funded local programs. We remain supportive of this vision.

Unlike most state recycling policies, AB 1343 did not contain specific recycling targets. This is in large part due to the sponsor (CAW) and the author's acquiescence to the proposition by paint manufacturers that a core objective of the program would be to 'source reduce' the volume of used paint requiring end-of-life management by helping educate consumers on correct purchasing volumes.

However, without targeted, measurable 'numeric recovery goals', demonstration of program success and accountability becomes more dependent on ensuring that proven recycling program elements are in place (such as consumer convenience).

The prime objective of AB 1343 is to ensure that California consumers have the best and most cost-effective paint recycling program. To meet that objective, we need, among other things, substantially greater consumer awareness and convenience by enticing the maximum number of retail participants.

Currently in California, every retail grocery stores provides plastic bag recycling. There are more than 2000 recycling locations in the state to provide beverage container recycling and there are 600 e-waste collection points. California is a big state – in all of these examples, having retail participation is critical to providing convenient collection infrastructure.

We recognize that it is up to the stewardship organization to set the initial price for reimbursing retailers and household hazardous waste (HHW) facilities and other collectors – however, it is equally the responsibility of Paintcare to ensure that that price is sufficient to achieve program recovery goals. Retailers can choose to participate at that reimbursement level or not. HHW can choose to continue to collect paint or stop collecting paint at that reimbursement level.

If Paintcare can demonstrate that they can achieve the goals of the stewardship plan at the price, then they should do so. However, if Paintcare fails to meet the recycling objectives, they will need to take additional action.

As with any ‘problem product’ with an ‘end-of-life-management cost’, a successful program with high levels of public participation will be more expensive than a less successful program with poor participation. As the program becomes more successful, the total cost will increase even if the cost-per-unit may come down.

Market Development

According to Public Resources Code (PRC) 40180, "Recycle" or "recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and **returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products** which meet the quality standards necessary to be used in the marketplace. "Recycling" does not include transformation, as defined in Section 40201.

CalRecycle is correct in requiring market development in the regulations because market development is, by definition, part of recycling. Recycling is a required element in the goals as stated in PRC 48703(d).

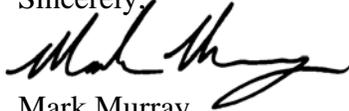
Paint Containers:

CalRecycle is correct in including paint containers in the stewardship program - the statute is clear on this issue that the funding mechanism is to provide a stewardship assessment on each container, not just the paint in the container. Manufacturers cannot sell paint without the container so it is logical that they cannot take back paint without taking back the containers as well.

PRC 48703 (a)(2) The funding mechanism shall provide for an architectural paint stewardship assessment **for each container of architectural paint sold** by manufacturers in this state and the assessment shall be remitted to the stewardship organization, if applicable.

We look forward to working with you on the successful implementation of this important program.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Murray". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark Murray
Executive Director