
From: Teresa Bui [teresabui@cawrecycles.org]
Sent: Thursday, December 22, 2011 4:51 PM
To: Dunn, Cynthia
Cc: Mark Murray; scottsmithline@cawrecycles.org; Mortensen, Carol
Subject: CAW Comments on Paint Regulation
Attachments: CAW paint comment Dec 2011.pdf

Hi Cynthia,

Our comments are attached in response to the December 7th version of the Paint Regulation. Thank you.

Sincerely,

Teresa Bui
Policy Associate
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December 22, 2011

Cynthia Dunn
Materials Management and Local Assistance Division
CalRecycle
P.O.Box 4025
Sacramento, CA 95812-4025

Dear Cynthia,

Thank you for the opportunity to comment on the rulemaking process for implementation of AB 1343.

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,



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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.

We agree with the San Luis Obispo Integrated Waste Manage Authority's suggestion:

18953(a)(3)(F) Address the coordination of the architectural paint stewardship program with potential retail collection points. Any retailer may participate, on a voluntary basis, as a paint collection point site pursuant to the paint stewardship program on the same basis as any other retailer participating in the paint stewardship program. ~~A manufacturer or stewardship organization must negotiate with any retailer wanting to participate in their paint stewardship program as a collection point, site as much as is reasonably feasible and is mutually agreeable to attempt to establish a mutually agreeable and reasonably feasible agreement with the retailer that addresses all operational costs.~~

Retailers already have the ability independent of the statute to act as a collection point. As written in the current draft, PaintCare will have the ability to limit the number of retail collection points by simply not agreeing to allow a retail site to serve as a collection point. AB 1343 was very clear that retailer who wanted to be a collection point should have the opportunity to be one. This provided not only a level playing field for the retail stores, but also ensured collection opportunities for the public. The proposed language must be changed to reflect the intent of AB 1343.

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.*



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CalRecycle should reinstate 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 should require 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, as demonstrated in this section:

*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.*

Manufacturers cannot sell paint without the container so it is logical that they cannot take back paint without taking back the containers as well. We ask the department to revert to the previous regulation where it says:

*(2) Scope. Describe how the stewardship program is designed to accept and manage all applicable architectural paint products, **including paint containers**. A manufacturer or stewardship organization shall provide updates to the an updated list of manufacturers and brands to the department at least every six months.*

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

Sincerely,

Mark Murray
Executive Director

Cc: Caroll Mortensen, CalRecycle Director
Scott Smithline, Assistant Director