

San Luis Obispo County Integrated Waste Management Authority

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870 Osos Street
San Luis Obispo, CA 93401

805/782-8530
FAX 805/782-8529
E-mail: iwma@iwma.com

Recycling, Compost & Haz.
Waste Info. 800/400-0811
School Programs Information
805/782-8424

Date: September 8, 2011

To: CalEPA

From: Bill Worrell, Manager

Subject: Public Hearing on Proposed Regulations for Architectural
Paint Recovery Program Rulemaking

The San Luis Obispo County Integrated Waste Management Authority (IWMA) appreciates the opportunity to comment on the rulemaking process for implementation of AB 1343. These comments will address two important issues which we believe the stewardship plan must include in order to be approved by CalRecycle. The stewardship plan must include the cost of paint collection and must allow any retailer to participate in the program. The regulations as currently drafted appear to address these two issues. The IWMA would suggest one change to the draft regulations by adding the following:

Section 18953 (a)(5)(F) A description of the coordination of the architectural paint stewardship program with existing local household hazardous waste collection programs. A manufacturer or stewardship organization shall negotiate with any local government household hazardous waste program wanting to participate in their paint stewardship program as a collection site to attempt to establish a mutually agreeable and reasonably feasible agreement with the local program that addresses all reasonable operational costs.

The IWMA is concerned that, based on the September 5, 2011 comments from PaintCare and at the HHIWIE meeting in San Diego, PaintCare is trying to limit the number of retailers that can participate and is not willing to reimburse HHW facilities for their reasonable cost to collect paint from the public. The IWMA believes that both of these principles are key to a successful paint stewardship program and an EPR program and would not have supported any legislation that did not include these two principles. The IWMA has reached its conclusions based on the following review of the legislation.

COLLECTION COSTS

The architectural paint stewardship program is defined by AB 1343. In particular it states:

Section 48700. The purpose of the architectural paint recovery program established pursuant to this chapter is to require paint manufacturers to develop and implement a program to collect, transport, and process postconsumer paint to reduce the costs and environmental impacts of the disposal of postconsumer paint in this state.

Thus it is clear that the intent of the legislation was to implement a paint stewardship program that cover the reasonable costs to collect, transport, and process postconsumer paint.

Section 48704. (a) The department shall review the plan within 90 days of receipt, and make a determination whether or not to approve the plan. The department shall approve the plan if it provides for the establishment of a paint stewardship program that meets the requirements of Section 48703.

Any stewardship plan that is approved must meet the requirements of Section 48703 including the following sections:

48703. (b) (1) The plan shall demonstrate sufficient funding for the architectural paint stewardship program as described in the plan, including a funding mechanism for securing and dispersing funds to cover administrative, operational, and capital costs, including the assessment of charges on architectural paint sold by manufacturers in this state.

48703. (b) (4) The architectural paint stewardship assessment shall be approved by the department as part of the plan, and shall be sufficient to recover, but not exceed, the cost of the architectural paint stewardship program.

48703. (c) The plan shall address the coordination of the architectural paint stewardship program with existing local household hazardous waste collection programs as much as this is reasonably feasible and is mutually agreeable between those programs.

PaintCare has stated on several occasions that they will not reimburse HHW programs for their cost to collect paint from the public. This is inconsistent with the requirements of Section 48703. The stewardship plan should include the cost to collect paint from the public and the assessment should be sufficient to include the operational costs. Finally PaintCare should work with the household hazardous waste (HHW) programs to the extent that it is reasonably feasible. While we all want a cost effective program, that should not be achieved by transferring the legitimate collection cost from PaintCare to local government.

RETAIL COLLECTION

AB 1343 states:

(f) Any retailer may participate, on a voluntary basis, as a paint collection point pursuant to the paint stewardship program.

PaintCare has indicated a desire to limit the number of retailers as a way to reduce cost. This should not be allowed for two reasons. First the IWMA believes that this language is very clear, that any retailer may participate. Second to achieve a high diversion rate and maintain a level playing field, the more retailers that participate the better. Any attempt to limit the number of retailers participating in the program should be rejected.