

**CalRecycle Responses to 45-day Comments, Proposed Regulation on Architectural Paint Recovery Program  
Sorted by Proposed Regulation Section Number**

Section/ Area	Comment Number	Commenter Affiliation	First name	Last name	Summary of Comment	CalRecycle Response	Revisions Needed
<b>General Comment</b>	--	--	--	--	CalRecycle received numerous comments asserting that the department lacks the authority to include requirements not expressly contained in AB 1343	CalRecycle has been given authority by the legislature to make regulations whenever there is substantial evidence that regulations are needed to implement, interpret, make specific, or to govern CalRecycle's procedure when there is ambiguity regarding any requirement under the program, to effectuate the purpose of the statute. Therefore, this rulemaking seeks to add clarity regarding provisions that CalRecycle believes are needed to properly oversee the program and establish the necessary administrative procedures to fulfill CalRecycle's responsibilities under AB 1343. CAL. GOV. CODE § 11342.2, § 11342.600, § 11349, § 11349.1 CAL. PRC. CODE § 40502	--
<b>§18951. Definitions</b>							
§18951	W02-02	American Coatings Association (ACA)	Alison	Keane	CalRecycle should make it clear that the review of the manufacturer/stewardship organization's costs is to ensure that the budget and assessment rate meet, but do not exceed program costs, and that CalRecycle will not interfere with a manufacturer/stewardship organization's negotiation of contract pricing.	PRC §48703 (b)(4) states that the assessment as approved by CalRecycle "shall be sufficient to recover, but not exceed, the cost of the architectural paint stewardship program."  CalRecycle cannot get involved in contractual agreements between manufacturers/stewardship organizations and service providers, and therefore no change has been made to the regulation in response to this comment.	None
§18951	W14-07	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	Expand to include a new definition for "Collection cost" to read as follows: "Collection costs' means the costs incurred by the service provider for the collection of architectural paint including costs for administration, planning, set-up, storage, advertising, and outreach."	The definition of "operational costs" in §18951(f) of the proposed regulation is inclusive of the activities mentioned, therefore a new definition is not required.  It is the responsibility of a prospective service provider to negotiate a contract with a manufacturer or stewardship organization that adequately covers its own costs.	None
§18951	W14-09	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	Expand to include a new definition for "Paint Collection Site." [See 18953(a)(5)(E)]. Definition must clarify that the collection will be "free" to the residents and no additional fees will be charged to the residents for the collection of architectural paint.	While statute specifically requires a point of sale fee to fund the program, staff can find no statutory basis for the definition suggested by this commenter. Therefore, staff do not see a necessity for defining the term "Paint collection site" in regulation. However, this comment brings to staff's attention that §18953(a)(5)(E) uses the term "site" while statute uses the term "point" and so the statutory term will be used instead. Statute does not prohibit fees being charged at the point of disposal.	Various locations – changing "collection site" to "collection point"
§18951(c)	W10-09	San Joaquin county Public Works	Desi	Reno	To further incentivize growth of emerging markets it would be beneficial to allow for eliminating the assessment that is paint 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.	Promoting reuse is consistent with statute per PRC §48702(a).  CalRecycle will make the determination, on a case-by-case basis, whether, during the course of resale of architectural paint, a seller of the paint is required to remit the paint stewardship assessment to a manufacturer. CalRecycle does not intend	None

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						to enforce the retailer requirements of AB 1343 on a retailer such as Habitat for Humanity that does not purchase the paint directly from a manufacturer or distributor. It is not CalRecycle's intent that a single container of paint be assessed twice.	
§18951(c)	W14-08	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	The definition of "Assessment" (Subsection 18951(c)) should be revised to read as follows: "'Assessment' means the amount added to the purchase price of architectural paint sold in this state necessary to cover the cost of implementing a manufacturer or stewardship organization's paint stewardship program including the cost of collection, transportation, processing and disposal as well as the program's fair share of orphaned products." This is also consistent with the EPR Framework.	Staff considers the regulatory definitions of "collection" and "operational costs" to be inclusive of the activities mentioned (i.e., including, but not limited to, collection transportation, processing, disposal, and education and outreach costs); therefore a modification of "Assessment" is not required.  Staff believes that the language in statute is permissive of an individual manufacturer or stewardship organization collecting either their own architectural paint products or all architectural paint products. Any other interpretation would require a statutory change.	None
§18951(e)	W14-06	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	Revise the definition to read as follows: "'Collection' means any process or method by which a service provider calls for, receives, and gathers postconsumer architectural paint from a consumer."	Staff considers the definition in §18951(e) of the proposed regulation is inclusive of these activities, therefore a modification is not required.	None
§18951 (f)	W02-01	American Coatings Association (ACA)	Alison	Keane	Change the definition of "operational costs" to clarify that these costs reflect costs incurred by the manufacturer or paint stewardship organization as described in the plan, and not costs established by CalRecycle. Suggested language: "cost necessary to cover the costs of implementing a manufacturer or stewardship organization's paint stewardship program, including, but not limited to collection, transportation, processing, disposal, and education and outreach operations."	The intent of offering a definition of "operational costs" in the proposed regulation is to identify the kinds of costs that may be incurred during the operation of a program as outlined in a stewardship plan. These costs may be borne by many different stakeholders, and would be the subject of negotiation between the parties, therefore CalRecycle does not concur with restricting costs to those incurred directly by a manufacturer or stewardship organization.	None
§18951(f)	W14-10	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	Expand the definition for "operational costs" to include costs to administer the program, such as those associated with administering the collection of architectural paint through the local household hazardous waste collection programs.	The definition currently reads as follows: "Operational costs" means costs to operate a paint stewardship program, including, <i>but not limited to</i> , collection, transportation, processing, disposal, and education and outreach costs." (emphasis added). Staff consider this definition to be inclusive of administration costs, to the extent a service provider negotiates for inclusion of those costs with a manufacturer or stewardship organization.	None
§18951(f)	W22-01	Californians Against Waste	Teresa	Bui	We would like make sure that the following elements continue to be included in the regulations: Operational cost should include the cost of paint collection. The stewardship plan should include the cost to collect paint from the public and the assessment should be sufficient to include the operational costs. It is	It is the responsibility of the service provider to negotiate a contract with a manufacturer or stewardship organization that adequately covers its own costs. CalRecycle cannot get involved in contractual agreements between manufacturers/stewardship organizations and service providers, and therefore no change has been made to the regulation in response to this comment.	None

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					important that HHW facilities get reimbursed for the cost of paint collection they offer to the public.	Please also see response to comment W14-07.	
§18951 (h)	W02-03	American Coatings Association (ACA)	Alison	Keane	Change the definition of “service provider” to specifically include proper disposal services. Suggested language: “an entity, including, but not limited to, local household hazardous waste collection programs and paint retailers, as much as this is reasonably feasible and is mutually agreeable, that contracts with a manufacturer or stewardship organization to provide services including, but not limited to collection, consolidation, transportation, processing or disposal of postconsumer architectural paint.”	Staff agrees that proper disposal is among the tasks performed by service providers, and has revised the regulation to reflect this.	§18951 (h)
<b>§18952. Submittals</b>							
§18952(a)	W02-04	American Coatings Association (ACA)	Alison	Keane	ACA is concerned that the language “according to instructions provided by the department” is too vague. ACA is unable to assess whether or not the process will be acceptable without knowing the specifics.	This comment is in reference to CalRecycle’s internal administrative procedures, which are beyond the scope of this rulemaking.	None
§18952(a)(1) (H)	W11-01	Self	Billy	Puk	§18952(a)(1)(H), “custodian of records” is so vague in this regard. Should the records be cradle-to-grave documentation like bill of lading or manifest? Or should the records be the paint stewardship contract/plan only? Or should this section address both? I would suggest defining this term in detail.	Staff proposes deleting the requirement for the provision of “location and custodian of records” since this is adequately addressed under §18954(a)(9).	§18952(a)(1)(H)
§18952(a)(2)	W02-05	American Coatings Association (ACA)	Alison	Keane	The web address and physical address should not be required of every manufacturer participating in a stewardship organization, as they are burdensome to provide and do not provide CalRecycle with any significant benefit for enforcement purposes.	CalRecycle staff agrees that not all of the contact information from individual manufacturers participating in a stewardship organization needs to be provided during the registration period. However, staff may need contact information such as a mailing address for individual manufacturers for notification purposes in the event that a stewardship organization is no longer operational or is not in compliance. Therefore, staff modified the regulation such that a website, if applicable, and a physical address for each manufacturer need only be provided upon request. In addition, staff propose deleting the requirement for provision of “location and custodian of records” since this is adequately addressed under §18954(a)(9).	§18952(a)(2)
§18952(a)(2) (E)	W02-06	American Coatings Association (ACA)	Alison	Keane	ACA requests that any contact information requests from CalRecycle to a manufacturer/stewardship organization come with a specified time period for the manufacturer and/or stewardship organization to respond and a reason for the request.	CalRecycle staff agree with recommended change with additions. It is important to specify who determines what is reasonable and timely. Through experience with other regulatory programs, CalRecycle knows that it is the entity that should make this determination and that a time period should vary depending on the situation. For this reason, CalRecycle will not specify an exact time period in the regulation.  Staff also agrees that an information request should be accompanied by a reason and has revised the regulation to reflect this.	§18952(a)(2)
§18952(a)(3)	W11-02	Self	Billy	Puk	Although Behr is a paint brand under CalRecycle’s acceptance category, the model of 2-part epoxy paint that does not cover under the stewardship plan would create confusion to the local paint collection sites.  Since I would still not foresee that all paint models to be covered under any	Architectural paint is defined in PRC §48701(a) and would require a statutory change. §18953 of the proposed regulation would require a manufacturer or stewardship organization to describe the program products and participating brands.	None

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					paint stewardship plan, how would CalRecycle intend to control all non-recyclable models? How would CalRecycle make Paint Care or other stewardship organization be responsible and held liability for any non-recyclable paint and its end-of-life management? Therefore, I would suggest to change the "List of brands" to "List of models" to eliminate the confusion.	It is our understanding that this comment is referring to program products that may not be recyclable and where the liability for end-of-life management of those materials lies.  Please also see response to comment W11-03.	
§18952(b)	W02-07	American Coatings Association (ACA)	Alison	Keane	The following sections specified as required in the stewardship plan are beyond the scope of AB1343 and should be removed: Market Development; Program Performance Measurement; Stakeholder Consultation; and Audits.	Market development: Please see response to comment W02-15. Program Performance Measurement: Please see response to comment W02-12. Stakeholder Consultation: Please see response to comment W02-20. Audits: This section is included to fulfill the requirement of PRC§48705 (a)(6).	None
§18952(c)	W02-08	American Coatings Association (ACA)	Alison	Keane	The following sections specified as required in the annual report are beyond the scope of AB1343 and should be removed: Executive Summary; Scope; Program Outline; Description of Goals and Activities based on the Stewardship Plan; and Market Development.	PRC §48705 (a) requires manufacturers to submit a report "describing its architectural paint recovery efforts," and specifies only the <u>minimum</u> of what an annual report shall include.  The information requested would provide the department the information necessary to ensure that program costs are sufficient to meet, but not exceed, the cost of the architectural paint stewardship program pursuant to PRC §48703(b)(4).  Executive Summary: Please see response to comment W02-22.  Scope: Please see response to comment W02-23.  Program Outline: The inclusion of this section is also consistent with the annual report delivered to the state of Oregon as part of PaintCare's responsibilities under the Oregon paint stewardship law; this also enables ACA to "...ensure consistency among all states implementing the PaintCare program" as stated in the comment letter.  Description of Goals and Activities based on the Stewardship Plan: Please see response to comment W02-30.  Market Development: Please see response to comment W02-15.	None
<b>§18953. Stewardship Plan Approval Criteria</b>							
§18953	W17-01	San Luis Obispo County Integrated Waste Management Authority	Bill	Worrell	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.	Please see response to comment W14-07.	None
§18953(a)(2)	W02-10	American Coatings Association	Alison	Keane	AB 1343 did not include language specifying that stewardship organizations and manufacturers needed to include paint container management in their stewardship plans, and therefore CalRecycle should not ask for such in the	PRC §48700 states that the purpose of the program is to ..."reduce the costs and environmental impacts of the disposal of postconsumer paint." PRC also lists the items to be included in an annual report as a "minimum." Therefore, CalRecycle	None

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		(ACA)			program plan.	<p>staff suggests it is reasonable to include the requirement to describe paint container management in the stewardship plan and to report on paint container management in the annual report.</p> <p>Further, to respond to stakeholder concerns that the California program is consistent with the PaintCare program in other states, staff notes that paint container management is included in PaintCare’s stewardship plan and annual report in Oregon.</p> <p>In addition, during the CEQA review of a stewardship plan, the department may need to evaluate impacts related to paint container management.</p>	
§18953	W10-02	San Joaquin county Public Works	Desi	Reno	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.	Please see response to comment W02-10.	None
§18953(a)	W02-09	American Coatings Association (ACA)	Alison	Keane	This section specifies certain required elements in the stewardship plans that are beyond the scope of AB1343 and should be removed.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
§18953(a)	W11-04	Self	Billy	Puk	§18953(a), I found the reference §18942 in Title 14 CCR under the proposed rulemaking of proposed Carpet Stewardship regulation. Since there may have a change in the Carpet Stewardship regulation after the 45-day public commenting period similar to the proposed Paint Stewardship regulation, I would suggest the referral section to be §18952 instead of §18942 to keep the consistency under the proposed Paint Stewardship regulation.	The reference to §18942 was an oversight and staff agrees with the proposed change.	§18953(a)
§18953(a)	W14-11	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	The reference to section 18942 should be changed to 18952.	Please see response to comment W11-04.	§18953(a)
§18953(a)(2)	W02-11	American Coatings Association (ACA)	Alison	Keane	Manufacturers/stewardship organizations should notify CalRecycle of any changes to their list of brands in a timely manner (30 days). This allows retailers to have a timely updated list of the participating brands they are allowed to sell. Manufacturers and stewardship organizations would then only need to update their brand/manufacturer list whenever changes occurred, and	PRC §48702(c)(1) requires the department to update the online posting of participating manufacturers no less than once every six months, therefore CalRecycle must ensure that the list is current at least every six months after date of plan approval. The updates are required “at least” every six months so they could be submitted more frequently.	§18953(a)(2)

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					would not be required to submit a new list every six months if no changes have occurred.	<p>However, requiring manufacturers or stewardship organizations to update their list of brands in 30 days would require CalRecycle to track the 30-day periods of any new brands that emerge, and would add to enforcement costs.</p> <p>Staff agrees that allowing manufacturers and stewardship organizations to submit updates to the list of manufacturers and brands instead of a re-submitting a full list is an efficient method of maintaining an updated list, and has revised the regulation to reflect this.</p>	
§18953(a)(3)	W11-05	Self	Billy	Puk	§18953(a)(3), what is a “baseline” based on? Form 303a? I would suggest CalRecycle, instead of the manufacturer or stewardship organization, to set a sample “baseline” for stewardship organization to follow. The CalRecycle standard would help to ease the transition and set a beginning of the paint stewardship in CA when CalRecycle has been collecting data from various sources over the years.	PRC §48703(d) states that the goals are to be based on current household hazardous waste program information. The department is required to collect household hazardous waste program information annually via the Form 303 and posts this data online annually; this would be a cost effective means by which to establish certain program goals. As a broad array of goals may be proposed by a manufacturer or stewardship organization, and could be based on information sources separate from the form 303, staff does not want to restrict the baseline solely to form 303 data.	§18953(a)(3)
§18953(a)(3)	W02-12	American Coatings Association (ACA)	Alison	Keane	<p>Elements that go beyond legislative scope are the inclusion of a baseline, current infrastructure ad capacity estimates, estimates of future infrastructure and capacity, and market conditions. Additionally, ACA would like it to be clear that the manufacturer/stewardship organization sets the goals and is allowed to revise them, not CalRecycle.</p> <p>ACA recommends that the language be modified to read: “include program goals established by the manufacturer or stewardship organization 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. The goals shall include recovery and recycling of postconsumer paint, as practical. The goals shall be based on current household hazardous waste program information available to the manufacturer or stewardship organization. The goals may be revised by the manufacturer or stewardship organization based on information collected through implementation of the program and reported through the annual report.”</p>	<p>CalRecycle knows, based on experience with other programs, that a thorough and transparent description of goals and how they are derived and measured contributes to a successful program. A goal without a baseline is meaningless and without context.</p> <p>Revisions were made to offer suggestions in this regard while still providing a minimum description of the goals that a manufacturer or stewardship organization establishes pursuant to PRC §48703 (d), so that CalRecycle and other stakeholders have a basic understanding of those goals.</p> <p>PRC §48703(d) also states that the goals are to be based on current household hazardous waste program information. The department is required to collect household hazardous waste program information annually via the Form 303 and posts this data online annually; this would be a cost effective means by which to establish certain program goals and a baseline. As a broad array of goals may be proposed by a manufacturer or stewardship organization, and could be based on information sources separate from the form 303, staff does not want to restrict the baseline solely to form 303 data.</p> <p>Additionally, “architectural paint” was replaced with “household hazardous waste” in order to better align with statute.</p>	§18953(a)(3)
§18953(a)(3)	W14-12	LA Co. Solid Waste Mgmt Cmte/Integrate	Margaret	Clark	Expand to include an initial recovery goal and provisions to require a manufacturer or stewardship organization to achieve annual increases in the recovery rate of postconsumer paint while maintaining a free service to the	PRC §48703(d) states that goals shall be “established by the manufacturer or stewardship organization...and may be revised by the manufacturer or stewardship organization based on information collected for the annual report.”	None

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		d Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA			consumer.	Therefore, CalRecycle may not set goals.  Please see response to comment W14-09 regarding “free service to the consumer”.	
§18952(b)(2) (D) and §18953(a)(4)	W12-04	Amazon Environmental, Inc.	Lorraine	Segala	We suggest that the sections of the proposed regulations referring to the “Solid Waste Management Hierarchy: 18952 (b) (D) and 18953 (a) (4) be applied solely to those materials that are to be designated as “solid waste”. The final disposition of all architectural coatings should be accounted for in the plan and report, but PRC Section 45001 should be aggressively applied only to materials that are solid wastes.	§18953(a)(4) was included because the management hierarchy set forth in statute [PRC §48702(a)] is consistent with the state’s solid waste management hierarchy (PRC §40051) and not because the department suggests that paint is a solid waste. Due to confusion from multiple stakeholders regarding this section, staff suggest removing §18953(a)(4) and adding the language, “in an environmentally sound fashion” to §18953(a)(3)(c) to make it consistent with PRC §48702(a). This is still consistent with CalRecycle’s solid waste management hierarchy but will remove the confusion about paint and solid waste.	§18953(a)(3)(C)
§18953(a)(3)	W10-03	San Joaquin county Public Works	Desi	Reno	PRC section 48700 (AB 1343) states the purpose of this program as un 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.”	Staff believes §18953 and §18954 of the regulation sufficiently address this concern to the extent of the Authority granted to the department in statute in PRC §48700 and PRC §48702.	None
§18953(a)(4)	W10-05	San Joaquin county Public Works	Desi	Reno	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 solid waste management hierarchy...and describe strategies to move materials up the waste management hierarchy.	Please see response to comment W12-04.	§18953(a)(3)(C)
§18953(a)(4)	W11-06	Self	Billy	Puk	§18953(a)(4), “solid waste management hierarchy” was referred back to California Public Resource Code §40051. However, §18953(a)(4)(C) does not include the clause “at the discretion of the City or County” for “safe land disposal.” What is CalRecycle’s intension in this case? Does the missing clause now become the discretion of the paint stewardship organization? Please clarify.	Please see response to comment W12-04.	§18953(a)(3)(C)
§18953(a)(4)	W12-02	Amazon Environmental, Inc.	Lorraine	Segala	Latex paint recyclers have the ability to reuse and recycle all of the high quality paint received, thus it is the “nonrecyclables” that should be of primary concern of the regulations and the applicability of the “Solid Waste Management Hierarchy”.	Please see response to comment W12-04.	§18953(a)(3)(C)
§18953(a)(5) (B)	W10-06	San Joaquin county Public	Desi	Reno	§18953(a)(5)(B) destination of reuse activities, processing (including recycling and recovery) and/or disposal for architectural paint (products) by type, in an	Please see response to comment W12-04.	§18953(a)(3)(C)

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§18953(a)(5) (D)	W02-13	American Coatings Association (ACA)	Alison	Keane	Statute does not include language about convenient collection, and therefore any references to convenience standards are beyond the scope of AB 1343 and should not be included in regulation. The provision for listing sites in each county needs to be removed.	CalRecycle’s perspective is that that since every consumer will be paying an assessment, then every consumer should have some level of access in geographic regions throughout the state.  CalRecycle’s proposed language here enables ACA to “...ensure consistency among all states implementing the PaintCare program” as stated in their comment letter, as Oregon’s paint stewardship law specifies that the plan, “...Provide for convenient and available statewide collection of post-consumer architectural paint in urban and rural areas of this state”. In Oregon, PaintCare lists “collection sites” by county and describes access to the PaintCare program via a target of 97.21% of Oregon’s population having access to a collection site.	§18953(a)(5)(D)
§18953(a)(5) (D)	W14-01	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	If local governments choose not to contract with the manufacturer or stewardship organization to provide collection services, the plan must describe in detail how reasonable access to convenient product collection locations will be provided to all consumers as well as how collection and financing will be coordinated if there is more than one stewardship organization plan (i.e., will each individual plan or manufacturer only collect their own brands?).	§18953(a)(5)(D) of the proposed regulation requires manufacturers or stewardship organizations to describe how paint consumers in California will have access to collection opportunities, regardless of whether or not local governments choose to sign contracts with a manufacturer or stewardship organization.  PRC §48703 requires a manufacturer or stewardship organization to describe in its plan how the program will be funded, and the department is required to ensure that the assessment is sufficient to recover, but not exceed, the cost of the program. Therefore, the department will review each stewardship plan on a case-by-case basis, ensuring that these requirements are satisfied.	None
§18953(a)(5) (D)	W18-01	Rural Counties Environmental Services Joint Powers Authority	Mary	Pitto	The ESJPA supports the proposed regulations and believes the language in Section 18953 (a)(5)(D) is a particularly important aspect of the criteria for approval to our organization: Description of convenient collection for California residents to recycle and properly manage their unwanted architectural paint on a state wide basis, including the proposed number, location, and type of collection sites located in each county.	This is a general comment to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
§18953(a)(5) (E)	W02-14	American Coatings Association (ACA)	Alison	Keane	The language describing retailer participation may be modified in upcoming statutory amendments, but if not, the regulatory text should be modified to read “The plan shall address the coordination of the architectural paint stewardship program with retail collection locations, who may participate on a voluntary basis, as much as this is reasonable feasible and is mutually agreeable between the parties.”	The recently chaptered language in AB 408 is not sufficiently different from chaptered language in AB 1343 to justify the changes proposed by ACA.	None
§18953(a)(5) (E)	W14-13	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA	Margaret	Clark	Expand to list the minimum qualifications that a retailer must meet to operate as a “paint collection site.”	CalRecycle is not a permitting authority for paint collection points. However, staff notes that collection points will have to comply with all applicable state, local, and federal laws and regulations from authorities which can include, but may not be limited to, the Department of Toxic Substances Control and California Certified Unified Program Agencies.	None

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		Co./Sanitation Districts of LA Co./City of LA					
§18953(a)(5) (E)	W17-03	San Luis Obispo County Integrated Waste Management Authority	Bill	Worrell	AS 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.	Under the proposed regulation, a retailer would be considered a “service provider.” Service providers contract directly with a manufacturer or stewardship organization under their program to the extent that they can establish mutually agreeable and reasonably feasible agreements that address all operational costs.  This section requires a manufacturer or stewardship organization to verify that they have attempted to reach such an agreement with any retailers that wished to participate in the program as collection points, pursuant to PRC §48703(f).	None
§18953(a)(5) (E)	W22-02	Californians Against Waste	Teresa	Bui	We would like make sure that the following elements continue to be included in the regulations: Any retailer who want to participate in the program as a collection site can do so.	Please see response to comment W17-03.	None
§18953(a)(5) (E)	W21-02	Sacramento County	Patrick	Quinn	On behalf of my department, I urge CalRecycle to enact regulations that: Do not allow the paint industry to limit the number of paint retailers that may voluntarily participate in the paint stewardship program.	Please see response to comment W17-03.	None
§18953(a)(6)	W02-15	American Coatings Association (ACA)	Alison	Keane	Market development is beyond the scope of AB 1343 and should be removed. If not, CalRecycle should make it clear that this element is permissive and not mandatory.	Note – the written comment references §18953(1)(5) but the comment appears to refer to §18953(a)(6).  PRC §48700 states that one of the purposes of the architectural paint recovery program is to “reduce environmental impacts of disposal” PRC §48702(a) also requires manufacturers to create a program that will “promote the reuse of postconsumer architectural paint, in an environmentally sound fashion”  As promoting markets for recycled paint is one method of achieving this goal, it seems reasonable for the department to ask for manufacturers or stewardship organizations to report on any activities in this arena.  This section, §18953(a)(6), allows a manufacturer of stewardship organization, to describe these activities to the extent that they plan to engage in them.  The inclusion of this section is also consistent with the annual report delivered to the state of Oregon as part of the paint stewardship program in that state; this helps stewardship organizations to ensure program consistency when implementing among multiple states.	§18953(a)(6)
§18953(a)(7)	W14-14	LA Co. Solid Waste Mgmt	Margaret	Clark	The “funding mechanism” should also include the “Administrative Fee.” Therefore Subsection 18953(a)(7)(B) – reference to Section 19858 should be	Staff agrees.	§18953(a)(7)

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		Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA			changed to 18958.		
§18953(a)(7)	W14-02	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	The proposed regulations should be revised to require that the funding mechanism be sufficient to compensate local governments for their full costs to manage architectural paint delivered to their programs/facilities even though no agreement may have been established.	Please see responses to comments W14-07 and W22-01.	None
§18953(a)(7)(B)	W02-16	American Coatings Association (ACA)	Alison	Keane	This provision should read “operational costs” instead of “full program costs.”	Staff agrees and has revised the regulation to include this change.	§18953(a)(7)(B)
§18953(a)(7)(D)	W02-17	American Coatings Association (ACA)	Alison	Keane	This provision is irrelevant as the existence of contractual agreements should be evidence enough that the manufacturer/stewardship organization has established mutually agreeable and reasonably feasible agreements.	PRC §48703(b)(1) requires that the program demonstrate sufficient funding for all “administrative, operational, and capital costs.”  This section of the regulation allows the department to verify that a manufacturer or stewardship organization is taking into consideration all operational costs when negotiating contracts with service providers.	None
§18953(a)(7)(D)	W14-03	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	§18953(a)(7)(D) Should be revised to require that a copy of the signed agreement with a local government service provider be submitted with the stewardship plan if the plan is to rely on the local program to meet the collection system requirements.	Please see responses to comments W14-07 and W22-01.	None
§18953(a)(7)(D)	W14-15	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	Revise Subsection to state that the agreements established between the manufacturers or the stewardship organization and the service providers will not just address all operational costs but will ensure compensation of all operational costs to the service providers.	Please see responses to comments W14-07 and W22-01.	None
§18953	W03-02	PaintCare	Marjaneh	Zarrehp	CalRecycle must make it clear that their review of a manufacturer or product	PRC §48703 (b)(4) states that the assessment as approved by CalRecycle “shall be	None

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				arvar	<p>stewardship organization's costs is only to ensure that the budget and assessment rate meet, but do not exceed the costs of the program, and not a review of individual costs for these operations. PaintCare must be able to contract directly with service providers and negotiate prices based on marketability – costs are a manufacturer or product stewardship organizations costs – not CalRecycle's or any other program's costs.</p> <p>Thus, CalRecycle must change the definition of operational costs to reflect this and must make it clear in the Proposed Regulations under sections §18953(a)(5)(E) – coordination with collection locations; §18953(a)(7)(D) – evidencing contracts are mutually agreeable, feasible and cover all operational costs, and §18953(a)(10) – coordination with current household hazardous waste collection locations do not impose any restrictions in this regard.</p>	<p>sufficient to recover, but not exceed, the cost of the architectural paint stewardship program.”</p> <p>Please also see responses to comments W02-01 and W02-46.</p>	
§18953(a)(7)(D)	W02-18	American Coatings Association (ACA)	Alison	Keane	Individual service provider agreements will not address “all operational costs” as each agreement will be for different services as each service provider is capable of providing (i.e. a contract with a transporter would not address recycling or marketing costs)	Staff agrees and has revised the regulation to include this change.	§18953(a)(7)(D)
§18953(a)(7)(D)	W10-12	San Joaquin county Public Works	Desi	Reno	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.	<p>Statute does not specify, “equitable fair share funding allocations for HHW programs”.</p> <p>Please also see responses to comments W14-07 and W22-01.</p>	None
§18953(a)(7)(F)	W02-19	American Coatings Association (ACA)	Alison	Keane	This statement is beyond the scope of statutory language and is unnecessary. Collection and expenditure of assessment funds will not be kept separate since this funding is meant to cover all costs for the program. Additionally, the funds will be protected by the independent financial audit.	<p>PRC §48703 (b)(4) states that the assessment as approved by CalRecycle “shall be sufficient to recover, but not exceed, the cost of the architectural paint stewardship program.”</p> <p>If a stewardship organization is conducting activities that are separate from the California paint stewardship program, CalRecycle needs to ensure that funds meant for paint stewardship are not used to fund non-paint stewardship program activities. Staff has added language to the regulation to clarify this.</p>	§18953(a)(7)(F)
§18953(a)(8)	W14-16	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	Expand to require that the manufacturers or the product stewardship organization provide free education, outreach, and promotional materials to service providers to be distributed to consumers to promote source reduction and recycling of architectural paint and create awareness on the services available through the paint stewardship program.	<p>PRC §48703(e) outlines what elements manufacturers and stewardship organizations need to include in their education and outreach programs to promote source reduction and recycling, and states that educational materials must be made available to retailers.</p> <p>The level of availability of education and outreach materials for any service provider may be determined during contract negotiations between a manufacturer or stewardship organization and a service provider.</p>	None
§18953(a)(10)	W02-20	American Coatings Association	Alison	Keane	A stakeholder consultation process is beyond the scope of what is required in statutory language and should be removed. If not, CalRecycle should make it clear that this element is permissive and not mandatory.	CalRecycle staff intends for manufacturers and stewardship organizations to describe in this section of their stewardship plan the actions that they have undertaken to address PRC §48703(c), and does not intend to mandate a specific	§18953(a)(10)

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		(ACA)				stakeholder consultation process. Staff has also revised the regulation to clarify that only consultations with existing local household hazardous waste collection programs are required, while other stakeholder consultation is permissive.	
§18953(a)(10)	W10-10	San Joaquin county Public Works	Desi	Reno	HHW programs should not be relied upon as the main service providers. A primary objective of the product stewardship program, as stated in PRC section 48700 (AB 1343), is to “require paint manufacturers to...reduce 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.	This would require a statutory change, and is therefore beyond the scope of this rulemaking.	None
§18953(a)(10)	W14-17	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	Expand to require that manufacturers or the stewardship organization maintain close communication with local government programs in developing a paint stewardship plan.	PRC §48703(c) states: “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.”  Requiring a manufacturer or stewardship organization to “maintain <i>close</i> communication with local government programs” [emphasis added] goes beyond the requirement in statute.  Please also see response to comment W02-20.	None
§18953(a)(10)	W19-03	Solid Waste Association of North America, CA Chapters	William	Merry	The proposed regulations contain only minimal requirements for manufacturers and/or stewardship organizations to work collaboratively with existing local government collection programs.	Please see responses to comment W02-20 and W14-17.	None
§18953(a)(11)(B)	W02-21	American Coatings Association (ACA)	Alison	Keane	This provision requires a description of how postconsumer paint “was managed” and the total amount sold, neither of which will be available at the time of the submission of a stewardship plan, and are more consistent with Annual Report criteria.	Staff proposes removing the non-financial audit section as CalRecycle believes that it will have sufficient audit authority within §18954(a)(9)(A) and as part of the oversight role granted to the department pursuant to PRC §48703(b) and PRC §48704(d).	§18953(a)(11)(B)
<b>§18954. Annual Report Compliance Criteria</b>							
§18954	W10-07	San Joaquin county Public Works	Desi	Reno	§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 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.	Please see response to comment W12-04.	None
§18954(a)(2)	W02-22	American Coatings Association	Alison	Keane	An executive summary and evaluation of the stewardship plan and anticipated steps to improve performance are not elements included in statute and would add burdensome and costly evaluation requirements on a manufacturer or	PRC §48705 (a) requires manufacturers to submit a report “describing its architectural paint recovery efforts,” and specifies only the <u>minimum</u> of what an annual report shall include.	§18954(a)(2)

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		(ACA)			stewardship organization. This provision must be removed.	The department is tasked, via PRC 48705(b), with adopting a finding of compliance or noncompliance with this chapter relative to the annual report. As a general summation of the contents of the annual report, an executive summary enables the department to better make this determination. The inclusion of an executive summary is also consistent with the annual report delivered to the state of Oregon as part of PaintCare's responsibilities under the Oregon paint stewardship law; this also enables ACA to "...ensure consistency among all states implementing the PaintCare program" as stated in the comment letter.	
§18954(a)(3)	W02-23	American Coatings Association (ACA)	Alison	Keane	This section asks for information that is previously supplied in a program plan and is therefore duplicative and unnecessary.	PRC §48705 (a) requires manufacturers to submit a report "describing its architectural paint recovery efforts."  The list of participating manufacturers may change from the original list submitted with the plan, therefore §18954 (a)(3) provides transparency to the scope of the program at the time of report submittal.	None
§18954(a)(4)	W02-24	American Coatings Association (ACA)	Alison	Keane	This section asks for many requirements that are far beyond the plain language of the statute, and ask for duplicative information and burden without commensurate benefit.	PRC §48705 (a) requires manufacturers to submit a report "describing its architectural paint recovery efforts," and specifies only the <u>minimum</u> of what an annual report shall include.  While a plan describes a proposed program, the report is where manufacturers describe the program as it was actually implemented, and thus this section is not duplicative.  The information requested would provide the department the information necessary to ensure that program costs are sufficient to meet, but not exceed, the cost of the architectural paint stewardship program pursuant to PRC §48703(b)(4).	None
§18954(a)(4) (A)	W02-25	American Coatings Association (ACA)	Alison	Keane	Regulation asks for collection methods "by type" of paint. This is not included in statute and should be removed.	PRC §48705 (a) requires manufacturers to submit a report "describing its architectural paint recovery efforts." The stewardship program is intended to cover the collection and handling of both latex and alkyd-based paints. Staff notes that current hazardous waste handling regulations are different for these different types of paint, and may subsequently require different collection methods. Staff is requesting information on the collection methods for all types of paint covered under a stewardship plan in order to have a full understanding of the collection program as implemented.	None
§18954(a)(4) (B)	W02-26	American Coatings Association (ACA)	Alison	Keane	Convenient collection is not mandated in statute. Additionally, this information was already requested in the plan and asking for it here would be duplicative. This should be removed.	PRC §48705 (a) requires manufacturers to submit a report "describing its architectural paint recovery efforts," and specifies only the <u>minimum</u> of what an annual report shall include.  While a plan describes a proposed program, the report is where manufacturers describe that program as it was actually implemented, and thus this section is not duplicative.	§18954(a)(4)(B)

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						Please also see response to comment W02-13	
§18954(a)(4) (C)	W02-27	American Coatings Association (ACA)	Alison	Keane	Best management practices will already be addressed in the program plan, making this section duplicative and unnecessary.	<p>PRC §48705 (a) requires manufacturers to submit a report “describing its architectural paint recovery efforts,” and specifies only the <u>minimum</u> of what an annual report shall include.</p> <p>While a plan describes a proposed program, the report is where manufacturers describe that program as it was actually implemented, and thus is not duplicative.</p>	None
18954(a)(4)( D)	W02-28	American Coatings Association (ACA)	Alison	Keane	A “description of how each consumer of architectural paint had an opportunity to properly manage their postconsumer paint” is seemingly impossible to articulate except that there is a statewide system in place to do so	<p>Since all consumers of paint are paying the assessment, it seems reasonable to include some description of how services will be provided to consumers in geographic regions throughout the state.</p> <p>Please also see response to comment W02-13.</p>	§18954(a)(4)(B)
§18954(a)(4) (E)	W02-29	American Coatings Association (ACA)	Alison	Keane	This provision is unnecessary as the existence of negotiated contracts is already requested in the plan.	<p>PRC §48703(f) allows for any retailer to participate in the paint stewardship program, on a voluntary basis.</p> <p>§18954(a)(4)(E) is the means by which the department can verify that any retailer who wished to participate was given the opportunity to participate in the paint stewardship program.</p> <p>§18954(a)(4)(E) does not ask if all signed contracts are mutually agreeable and reasonably feasible; that is covered in §18953(a)(7)(D).</p>	None
§18954(a)(4) (E)	W10-11	San Joaquin county Public Works	Desi	Reno	In addition to retailers, §18954(a)(4)(E) ought to take account of other service providers including local HHW programs.	The intent of §18954(a)(4)(E) is to address the participation of service providers who wish to participate in the program as a collection point, pursuant to PRC §48703(f), and staff has revised the regulation to reflect this. Additionally, not all service providers will be acting as collection points and staff has added language to clarify that this requirement only applies to sites that wish to serve as collection points.	§18954(a)(4)(E)
§18954(a)(4) (E)	W10-13	San Joaquin county Public Works	Desi	Reno	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.	Please see responses to comments W14-07 and W22-01.	None
§18954(a)(5)	W02-30	American Coatings Association (ACA)	Alison	Keane	This provision on goals mandates information that is beyond statutory language. Statute does not mandate the reporting on achievement of goals or measurement of such against a baseline. It also does not mandate adjustments to goals, unless a manufacturer or stewardship organization chooses to do so.	<p>PRC §48705 (a) requires manufacturers to submit a report “describing its architectural paint recovery efforts,” and specifies only the <u>minimum</u> of what an annual report shall include.</p> <p>The additional information requested would provide the department the information necessary to ensure that the manufacturer or stewardship organization reports on their progress towards the goals set by the plan pursuant to PRC §48703(d).</p>	None

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						Because MFR/SO is required to include a description of goals as part of its stewardship plan, it seems reasonable to ask for a description of progress made on these goals in the annual report.	
§18954(a)(5)	W02-31	American Coatings Association (ACA)	Alison	Keane	There is also no mandate for a description of efforts to increase reuse or recyclability of postconsumer paint. These elements should all be removed.	<p>PRC §48702(a) states that a manufacturer or stewardship organization develop and implement a program to, "...reduce the generation of postconsumer architectural paint, promote the <i>reuse</i> [emphasis added] of postconsumer architectural paint, and manage the end-of-life of postconsumer paint...".</p> <p>PRC §48700 states that the purpose of the architectural paint recovery program is to, "...reduce the ...environmental impacts of the disposal of postconsumer paint in this state", therefore, §18954(a)(5)(F) &amp; (G) are a means by which a manufacturer or stewardship organization will report on their efforts to increase the reuse and recyclability of postconsumer paint in an effort to satisfy these statutory requirements.</p>	None
§18954(a)(5) (F) & (G)	W11-08	Self	Billy	Puk	§18954(a)(5)(F) & (G), what is the intent of the terms "reuse" and "recyclability"? Does a paint stewardship organization need to track the manufacturer's responsibility and of consumer behavioral responsibility on reuse and recycling efforts? I would suggest that a more clarification of such "description of efforts" would help.	Please see response to comment W02-31.	None
§18954(a)(5) (H)	W10-04	San Joaquin county Public Works	Desi	Reno	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."	Staff consider the intent of this comment to be addressed in §18954(a)(4) and (5) and therefore no further modifications are required.	None
§18954(a)(6)	W02-32	American Coatings Association (ACA)	Alison	Keane	Market development is beyond the scope of AB 1343 and should be removed from the report. If not, CalRecycle should make it clear that this element is permissive and not mandatory.	<p>PRC §48705 (a) requires manufacturers to submit a report "describing its architectural paint recovery efforts," and specifies only the <u>minimum</u> of what an annual report shall include.</p> <p>Please also see response to comment W02-15.</p>	§18954(a)(6)
§18954(a)(7)	W02-33	American Coatings Association (ACA)	Alison	Keane	Provisions (D) through (K) ask for financial information above and beyond what is in statute and should be removed. The independent financial audit should provide all the financial information required. Additionally, some information in (D) through (K) will be provided in the budget submitted with the program plan and would be considered confidential business information and should therefore not be contained in the Annual Report, which is public.	<p>Please see response to comment W02-36 for a description of the department's authority for §(a)(7) (D) through (K).</p> <p>§18957 describes the process by which manufacturers or stewardship organizations may indicate that any information provided to the department is confidential or proprietary pursuant to PRC §48704(b) and Title 14, California Code of Regulations, Division 7, Chapter 1, Article 4 (commencing with §17041).</p>	None
§18954(a)(7) (G)	W11-09	Self	Billy	Puk	§18954(a)(7)(G), the term "landfilling" is confusing in the scope of "end-of-life materials management." Several existing paint recycling facilities have a process of using solidified latex paint and send to a landfill to use as alternative daily cover (ADC), which is considered as recycling under the existing CA law. How would this ADC material be considered as "landfilling" or "recycling" in regard to this Paint Stewardship regulation? A brief definition of "landfilling" in §18951 would eliminate the confusion.	<p>Pursuant to PRC §41781.3(a), "The use of solid waste for beneficial reuse in the construction and operation of a solid waste landfill, including use of alternative daily cover, which reduces or eliminates the amount of solid waste being disposed pursuant to Section 40124, shall constitute diversion through recycling and shall not be considered disposal for the purposes of this division."</p> <p>Pursuant to 27 CCR 20690(b), all types of alternative daily cover must be approved</p>	None

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						by the solid waste enforcement agency in writing prior to use at a solid waste landfill. Proposed uses of alternative daily cover materials not specified in regulation [see 27 CCR 20690(b)(1)-(11) for material types specified in regulation] must undergo a site specific demonstration project approved by the solid waste enforcement agency with concurrence by CalRecycle to establish suitability as daily cover.	
§18954(a)(8)	W02-34	American Coatings Association (ACA)	Alison	Keane	The description of education and outreach materials will be supplied with the program plan and need not be requested here as it will be duplicative.	<p>PRC §48705 (a) requires manufacturers to submit a report “describing its architectural paint recovery efforts,” and specifies only the <u>minimum</u> of what an annual report shall include.</p> <p>While a plan describes a proposed program, the report is where manufacturers describe that program as it was actually implemented, and thus is not duplicative.</p>	None
§18954(a)(8)	W02-35	American Coatings Association (ACA)	Alison	Keane	This provision must be revised to reflect what is statutorily mandated. Statute does not have any provisions for an evaluation of educational materials or effectiveness surveys, which would add costs and burden to the program and must be removed.	<p>PRC §48705 (a) requires manufacturers to submit a report “describing its architectural paint recovery efforts,” and specifies only the <u>minimum</u> of what an annual report shall include.</p> <p>As education and outreach are a key element to achieving the objectives of reducing the generation, promoting the reuse, and managing the end-of-life of postconsumer paint described in PRC §48702(a) , it seems reasonable for the department to ask for a MFR/SO to report on activities and progress in this arena. This section allows the department to review the implementation of the outreach and education efforts required pursuant PRC §48703(e). This section, §18954(a)(8), allows a MFR/SO to report on outreach and education activities and any evaluations or effectiveness surveys of these activities to the extent that they are engaging in them.</p> <p>The inclusion of a description of outreach and education efforts and any surveys of effectiveness performed is also consistent with the annual report delivered to the state of Oregon as part of PaintCare’s responsibilities under the Oregon paint stewardship law; this also enables ACA to “...ensure consistency among all states implementing the PaintCare program” as stated in the comment letter.</p>	§18954(a)(8)
§18954(a)(9)	W02-36	American Coatings Association (ACA)	Alison	Keane	Statute already has an independent financial audit, so mandating supplemental information to CalRecycle and giving CalRecycle the ability to investigate further expands CalRecycle’s authority beyond that granted by statute.	<p>AB 1343 explicitly specifies that the program is enforced by the department. Specifically, pursuant to PRC § 48703, the department must ensure that assessment funds were used by the MFR/SO to cover administrative, operational, and capital costs associated with the paint stewardship program. Some stewardship organizations and all manufacturers may be engaged in economic activities that are not related to the paint stewardship program. The independent financial audit under PRC § 48705 provides a mechanism to keep the assessment separate from non program funds, but the independent auditor is not the responsible agent for certifying compliance; CalRecycle must still review annual expenditures in order to verify that program expenditures are not</p>	None

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						misappropriated. In order to adequately review the annual report and certify that the manufacturer or stewardship organization complied with program requirements the additional reporting items identified in this regulation must be provided annually.	
§18954(a)(9)	W02-37	American Coatings Association (ACA)	Alison	Keane	The non-financial audit section is beyond the scope of AB 1343 and should be removed. If it is not removed, CalRecycle should make it clear that this element is permissive and not mandatory.	Please see response to comment W02-21.	§18954(a)(9)
§18954	W02-38	American Coatings Association (ACA)	Alison	Keane	This section includes many elements beyond the scope of statute and must be revised to mirror only what has been mandated in statute: <ul style="list-style-type: none"> <li>• The total volume of architectural paint sold in the state during the preceding calendar year;</li> <li>• The total volume of postconsumer architectural paint recovered in the state during the preceding calendar year;</li> <li>• A description of the methods used to collect, transport, and process postconsumer architectural paint in the state;</li> <li>• The total cost of implementing the architectural paint stewardship program;</li> <li>• An evaluation of how the architectural program’s funding mechanism operated;</li> <li>• An independent financial audit funded from the paint stewardship assessment; and</li> <li>• Examples of educational materials that were provided to consumers the first year and any changes to those materials in subsequent years.</li> </ul>	PRC §48705 (a) requires manufacturers to submit a report “describing its architectural paint recovery efforts,” and specifies only the <u>minimum</u> of what an annual report shall include.  The additional information requested would provide the department the information necessary to ensure that program costs are sufficient to meet, but not exceed, the cost of the architectural paint stewardship program [PRC§48703(b)(4)].	None
<b>§18955. Civil Penalties</b>							
§18955	W02-39	American Coatings Association (ACA)	Alison	Keane	The Proposed Regulations specify certain levels for certain penalties ranging from Level 1 to Level 3; however, there are actually no penalties that are lower than Level 2 as proposed.	In determining a penalty amount CalRecycle is governed by statute. CalRecycle can assess a penalty for more than \$1,000 per violation per day only if a person intentionally, knowingly, or negligently violated the law. The upper bound of Level 3 is set at the upper bound of the statute: \$10,000. The upper bound of Level 2 is set at \$5,000, <b>which is lower than that provided in statute</b> . CalRecycle staff has added a violation to the table that is assigned a Level 1 penalty (14 CCR 18952(b)(2), Failure to resubmit a stewardship plan or provide supplemental information within 60 days after receiving a notice of disapproval or conditional approval from the department).  The penalty severity levels establish a possible range within which a final penalty could fall. CalRecycle uses a progressive enforcement approach in determining penalty amounts. A progressive enforcement approach means, for example, that CalRecycle would generally assess a penalty in the lower end of the range for persons found in violation for the first time, persons committing a minor violation,	§18955.1

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						<p>or for other factors as listed in §18955.2. CalRecycle would generally assess a higher penalty to repeat violators, for multiple or severe violations, etc.</p> <p>Statute (PRC 48704(d)) requires CalRecycle to enforce the architectural paint recovery program law. The enforcement tool provided in statute (PRC 48704(f)) is the authority for CalRecycle to impose a civil penalty of up to \$1,000 per violation per day on any person violating the law. If a person intentionally, knowingly, or negligently violates the law, CalRecycle may assess a civil penalty of up to \$10,000 per violation per day. As statute only provides an upper bound of each type of violation, regulations are necessary to set forth the process by which CalRecycle will determine a specific penalty amount with the parameters provided in statute.</p> <p>§18955.1 provides the means to determine a base penalty range for each violation. Table 1 within §18955.1 identifies the violations subject to civil penalties and assigns a severity level for each. All but one of the listed violations come directly from statute. The only listed violation not explicitly from statute is failure to meet the record keeping requirements of §18956, which is addressed below.</p>	
§18955	W02-40	American Coatings Association (ACA)	Alison	Keane	<p>Most violations as described in the regulation are ranked as level 3, which is an outrageous severity level. This could subject manufacturers and retailers to costly penalties for even the slightest infraction of the program of which they are ostensibly running.</p> <p>The intent of the legislation was to give CalRecycle the authority to oversee the program for compliance and to ensure the financing mechanism was used to cover the cost of the program and not exceed those costs.</p> <p>The Proposed Regulations impose substantial additional requirements on a manufacturer or stewardship organization and a retailer, and impose extremely severe penalties for non-compliance with these additional requirements – penalties that range from \$5,000 to \$10,000 a day – the base penalty being 5 times the amount contemplated in the legislation, which states that the penalties should start at \$1,000 per day.</p>	Please see response to comment W02-39.	§18955.1
§18955	W02-41	American Coatings Association (ACA)	Alison	Keane	<p>While ACA appreciates §18955.2 and §18955.3 criteria in assessing or reviewing the amount of the civil penalty imposed for a violation and the procedure for imposing a civil penalty, respectively, the criteria are fairly subjective and the imposition of such is left up to the discretion of the Agency. Thus, architectural paint manufacturers, retailers, and product stewardship organizations could face substantial penalties for non-compliance with little or no notice of such. This section needs to be revised to reflect the intent of the legislation.</p>	<p>§18955.2 provides the criteria CalRecycle will consider in determining the specific penalty amount with the base penalty range (determined from §18955.1, Table 1). The criteria are consistent with those used in other CalRecycle programs and are necessary for CalRecycle to determine a final penalty amount that is fair and equitable. CalRecycle can use the criteria to raise or lower a base penalty amount.</p> <p>§18955.3 specifies that CalRecycle will impose civil penalties in accordance with the procedures outlined in the Administrative Procedures Act at Chapter 5 (commencing with §11500) of Part 1 of Division 3 of Title 2 of the Government Code (with the exception of Government Code §11505(c)). These procedures</p>	§18955.1

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						include, among other things, requirements for CalRecycle to provide notice of its intent to assess a civil penalty by filing an accusation. The respondent then has the right to take certain actions under the law including requesting a hearing in front of an administrative law judge.	
§18955.1	W16-01	California Retailers Association	Pamela	Williams	CRA is opposed to the penalty levels proposed in the regulations, which we believe are in conflict with the statute, and violate legislative intent.  Subsection [c] permits the Department to assess a virtually unlimited penalty. We support the criteria in Section 18955.2 to assist in assessing the level of penalty, but the level of penalty must not exceed that authorized by statute.	Please see responses to comments W02-39 and W02-41.	§18955.1
§18955	W03-04	PaintCare	Marjaneh	Zarrehparvar	CalRecycle must revise the penalty provisions to accurately reflect the legislative intent to start with a nominal \$1,000 a day for violations – not the Proposed Regulations \$5,000 and \$10,000 minimum penalty severity levels.	Please see response to comment W02-39.	§18955.1
<b>§18956. Record Keeping Requirements</b>							
§18956(a)	W02-42	American Coatings Association (ACA)	Alison	Keane	The recordkeeping requirements as listed for retailers are onerous and unnecessary. Retailers can check the CalRecycle posting for a list of compliant brands/manufacturers, and a list of compliant manufacturers will be maintained by manufacturers/stewardship organizations, so there is no need for retailers to maintain a separate list. Additionally, the requirement of tracking dates for all sales and purchasing transactions is onerous and impractical.	Although CalRecycle asserts that it has the authority to require the maintenance of records related to paint sales, CalRecycle is seeking access to existing records that retailers are already maintaining for other purposes.  PRC 48702(b)(1) states, “A manufacturer or retailer shall not sell or offer for sale in the state architectural paint to any person in this state unless the manufacturer is in compliance with this chapter.” The sales prohibition is effective on the 120 <sup>th</sup> day CalRecycle posts on its web site the lists of manufacturers for which CalRecycle has approved a stewardship plan after (PRC 48702(b)(2). The records required by §18956(a) are necessary to determine compliance with the sales prohibition at the retail level. A retailer must know the manufacturer of the paint they have in stock in order to cross check with the list of manufacturers for which CalRecycle’s has approved a stewardship plan. A retailer must also know the date it purchased the paint from a manufacturer and the date the retailer sold the paint to a consumer because the sales prohibition of PRC 48702(b)(2) is tied to both dates. Finally, a retailer is required to maintain a certification letter only if the retailer sells paint from a manufacturer not listed on CalRecycle’s Web site but CalRecycle has deemed the manufacturer to be in compliance via a compliance letter.	§18956(a)
§18956	W16-03	California Retailers Association	Pamela	Williams	We request that the Department clarify with PaintCare as to whether the records required of retailers in 18956 [a] 1-4 will indeed be available from the stewardship organization. If so, it would be duplicative and unnecessary to require retailers to provide the same information, and this language should be removed.	Staff disagrees that this will be duplicative, as a manufacturer or stewardship organization may not have access to point of sale information for every retailer.  Also, please see response to comment W02-42.	§18956(a)
§18956(a)	W24-02	Behr Process Corporation	Michael	Butler	The proposed regulations mandate that a retailer keep records of when the paint was purchased from a manufacturer as well as a date the retailer sold the paint. In addition, the proposed regulations mandate retailers keep certification letters demonstrating that the paint they sell is manufactured by a	Please see response to comment W02-42.	§18956(a)(4)

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					<p>participant in a stewardship plan. These records are:</p> <ul style="list-style-type: none"> <li>☑ not generally kept</li> <li>☑ they are not required by the PaintCare program in any other state, and</li> <li>☑ given the often complex distribution network among manufacturers, distributors and retailers and the thousands of brands of paint sold, they are records that, in some cases, cannot be produced.</li> <li>☑ And, if a retailer cannot produce these records – they will be subject to a potential \$5,000 dollar a day fine.</li> </ul> <p>All of these unnecessary costs will be absorbed by the paint purchaser in California – and the nominal fee for service enjoyed by paint purchasers in Oregon and subsequent PaintCare states, will not be realized for California residents.</p>		
§18956	W16-02	California Retailers Association	Pamela	Williams	<p>The proposed regulation specifies in [b] that a retailer must “provide the Department with immediate access to its facilities, operations and any relevant records necessary to determine compliance with this Article...” In cases where public health or safety is threatened, such as a food-borne illness, or hazardous chemical incident, “immediate access” is warranted. But “immediate access” is certainly not warranted (and not set forth in the enabling legislation) to access records on paint sales. The regulation should provide what many other regulations do: a request for records within a “reasonable period of time”, or within 5-7-10 working days, for a retailer to access and provide the necessary information. We have no objection to the requirement to keep records for three years.</p>	<p>CalRecycle staff agree with recommended change with additions. It is important to specify who determines what is reasonable and timely. Through experience with other regulatory programs, CalRecycle knows that it is the entity that should make this determination and that a time period should vary depending on the situation. For this reason, CalRecycle will not specify an exact time period in the regulation.</p>	§18956
§18956(b)	W02-43	American Coatings Association (ACA)	Alison	Keane	<p>Requiring “immediate” access to the facilities or operations of a manufacturer, stewardship organization or retailer, upon request, is unreasonable. Access should be granted to relevant institutions and records with a written request and with a window of time for compliance.</p>	<p>Please see response to comment W16-02.</p>	§18956(a)
§18956	W03-05	PaintCare	Marjaneh	Zarrehparvar	<p>Recordkeeping provisions need to be revised to give timely notice to a manufacturer or stewardship organization of records requested as well as a specific reason for such request.</p>	<p>Please see response to comment W16-02.</p>	§18956(a)
§18956(a)	W23-02	California Product Stewardship Council	Heidi	Sanborn	<p>We support the retailers in their comments regarding elimination of any duplicative reporting and that penalties need not be increased beyond those outlined in the legislation.</p>	<p>Please see responses to comments W02-39 and W02-42.</p>	§18956(a)
<b>§18957. Proprietary, Confidential, or Trade Secret Information</b>							
§18957	W02-44	American Coatings Association (ACA)	Alison	Keane	<p>This section should be revised to include the special exemption afforded by the statute in PRC 48704(b)(1), which includes additional specific confidentiality requirements on records supplied by a manufacturer or stewardship organization that are not currently included in California Code.</p>	<p>Staff agrees with this comment and has revised the regulation to include a reference to PRC §48704(b).</p>	§18957
§18957	W03-06	PaintCare	Marjaneh	Zarrehparvar	<p>The Proposed Regulations must be revised to accurately reflect the special</p>	<p>Please see response to comment W02-44.</p>	

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				arvar	confidential business information provision a manufacturer or stewardship organization afforded under the statute.		
<b>§18958. Service Payments to Dept of Resources Recycling and Recovery</b>							
§18958	W02-45	American Coatings Association (ACA)	Alison	Keane	There is not sufficient notice for comment on the service payments to CalRecycle. The amount of these payments is currently unknown, and it is difficult for the stewardship organization to submit a budget without some knowledge of these costs.	This is a general comment and does not suggest any specific changes to the regulation. The comment refers to an administrative procedure that will be handled according to CalRecycle internal procedures.	None
§18958	W02-46	American Coatings Association (ACA)	Alison	Keane	CalRecycle must also publish the amount of service payments, cap these payments based on a percentage of actual program costs, and must show that the costs cover but do not exceed the actual costs of oversight and enforcement.	<p>PRC§48704(e)(2) requires the department to “impose fees in an amount that is sufficient to cover the department’s full costs of administering and enforcing this chapter...” therefore imposing a cap in regulations would be contrary to statute.</p> <p>Similarly, AB 1343 requires a manufacturer or stewardship organization to collect an assessment “sufficient to cover but not exceed the cost of the architectural paint stewardship program.” [PRC§48703(b)(4)]</p> <p>The amount of the service payments to CalRecycle will be a matter of public record.</p>	None
§18958	W03-07	PaintCare	Marjaneh	Zarrehp arvar	CalRecycle cannot finalize these regulations without notice and comment on the actual administrative costs that a manufacture or stewardship organization will be required to remit to the Agency. Even if it were not in violation of the California Administrative Procedures Act, without this information, PaintCare is not able to finalize a budget and/or assessment rate for the program – effectively stranding implementation of the program.	<p>PRC§48704(e)(2) requires the department to “impose fees in an amount that is sufficient to cover the department’s full costs of administering and enforcing this chapter...”.</p> <p>This is a general comment to the proposed regulation that does not request a specific change. The administrative costs are a matter of an administrative procedure and will be established according to CalRecycle internal administrative procedures.</p>	None
§18958(a)	W14-19	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	Expand to include a cap on the Administrative Fee that CalRecycle can charge to the Architectural paint manufacturer or stewardship organization in order to cover the costs of administering and enforcing the statute. This will minimize the ultimate Assessment Fee charged to the consumers.	Please see response to comment W02-46.	None
§18958(b)	W14-20	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	The authority to approve the Administrative Fee charged by CalRecycle must be limited to the Director and can be approved only after conducting a public hearing.	<p>§18958(b) specifies that “the department director, or his/her delegated authority, shall approve the administrative fee”.</p> <p>When approving the administrative fee, the department intends to follow established department policy for the approval of public documents. The comment refers to an administrative procedure that will be handled according to CalRecycle internal procedures.</p>	None

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<b>General Comments</b>							
General Comment	W02-47	American Coatings Association (ACA)	Alison	Keane	Simply put, the Proposed Regulations are far beyond the statutory authority granted CalRecycle by PRC §48700.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.  Staff has addressed the other individual comments submitted in this same letter elsewhere in this document.	None
General Comment	W01-01	Deft, Inc.	Charles	Ray	Supports the comments submitted by the American Coatings Association (ACA) and PaintCare. Concur with ACA that the Proposed Regulations are well beyond the scope of CalRecycle’s statutory authority and do not agree with the plain language and intent of the underlying legislation.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W01-02	Deft, Inc.	Charles	Ray	The legislation and ensuing statute provides ample plain language for CalRecycle to draft clear and reasonable regulations upon.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W03-01	PaintCare	Marjaneh	Zarrehp arvar	PaintCare is concerned that the Proposed Regulations mandate additional costly and burdensome requirements that were not contemplated by the underlying legislation, which PaintCare supported. PaintCare supports the ACA’s comments in this regard and urges the Agency to revise the regulations based on the clear language of the statute (PRC §48702).	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
Multiple General Comments	W03-03	PaintCare	Marjaneh	Zarrehp arvar	In the interests of administrative procedure and the best interests of the residents of California – the following provisions must be removed or substantially revised: <input checked="" type="checkbox"/> §18952(a)(2). Submittals - Manufacturer Contact Information <input checked="" type="checkbox"/> §18953(a)(2). Stewardship Plan Approval Criteria – Container Management <input checked="" type="checkbox"/> §18953(a)(3). Stewardship Plan Approval Criteria – Plan Goals <input checked="" type="checkbox"/> §18953(a)(6). Stewardship Plan Approval Criteria – Market Development <input checked="" type="checkbox"/> §18954(a)(2). Annual Report Compliance Criteria – Executive Summary <input checked="" type="checkbox"/> §18954(a)(4). Annual Report Compliance Criteria – Program Description <input checked="" type="checkbox"/> §18954(a)(5). Annual Report Compliance Criteria – Program Measurement <input checked="" type="checkbox"/> §18954(a)(6). Annual Report Compliance Criteria – Market Development <input checked="" type="checkbox"/> §18954(a)(7). Annual Report Compliance Criteria – Financial Information <input checked="" type="checkbox"/> §18954(a)(8). Annual Report Compliance Criteria – Educational Evaluation	§18952(a)(2). Submittals - Manufacturer Contact Information: Please see response to comment W02-11 §18953(a)(2). Stewardship Plan Approval Criteria – Container Management: Please see response to comment W02-10 §18953(a)(3). Stewardship Plan Approval Criteria – Plan Goals: Please see response to comment W02-12 §18953(a)(6). Stewardship Plan Approval Criteria – Market Development: Please see response to comment W02-15 §18954(a)(2). Annual Report Compliance Criteria – Executive Summary: Please see response to comment W02-22 §18954(a)(4). Annual Report Compliance Criteria – Program Description: Please see responses to comments W02-24, W02-25, W02-26, W02-27, W02-28, and W02-29 §18954(a)(5). Annual Report Compliance Criteria – Program Measurement: Please see responses to comment W02-30 and W02-31 §18954(a)(7). Annual Report Compliance Criteria – Financial Information: Please see response to comment W02-33 §18954(a)(8). Annual Report Compliance Criteria – Educational Evaluation: Please see response to comment W02-35	Please refer to the “Revisions Needed” column for each comment referenced in CalRecycle’s response (to the left).
General Comment	W04-01	Sherwin- Williams	John	Gerulis	Sherwin-Williams supports the comments submitted by the American Coatings Association (ACA) and PaintCare. Sherwin-Williams believes the Proposed Regulations are well beyond the scope of CalRecycle’s statutory authority and do not comport with the plain language and legislative intent of the underlying legislation.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None

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General Comment	W04-02	Sherwin- Williams	John	Gerulis	Sherwin-Williams is currently participating in PaintCare and the program is working well in Oregon, without the need for implementing regulations. Therefore, the legislation and ensuing statute provide ample plain language for CalRecycle to draft clear and reasonable regulations upon.	CalRecycle staff notes that the paint stewardship program in Oregon is a pilot program and pilot programs do not necessitate regulations due to their expected short sunset periods.  Furthermore, the legislature contemplated the development of regulations in PRC § 48704(e)(2) when referring to “program development costs or regulatory costs incurred by the department prior to the submittal of the stewardship plans.”	None
General Comment	W04-03	Sherwin- Williams	John	Gerulis	In order to ensure that the residents of California receive the PaintCare program in a timely fashion, Sherwin-Williams urges CalRecycle to revise the Proposed Regulations based on ACA and PaintCare comments, removing superfluous, burdensome and costly additional requirements that the Proposed Regulations currently contain.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W05-01	Rudd Company, Inc.	Laurel	Jamison	Rudd Company supports the comments submitted by the American Coatings Association (ACA) and PaintCare. We believe the Proposed Regulations are well beyond the scope of CalRecycle’s statutory authority and do not comport with the plain language and legislative intent of the underlying legislation.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W05-02	Rudd Company, Inc.	Laurel	Jamison	Rudd Company is currently participating in PaintCare and the program is working well in Oregon, without the need for implementing regulations. Therefore, the legislation and ensuing statute provide ample plain language for CalRecycle to draft clear and reasonable regulations upon.	CalRecycle staff notes that the paint stewardship program in Oregon is a pilot program and pilot programs do not necessitate regulations due to their expected short sunset periods.  Furthermore, the legislature contemplated the development of regulations in PRC § 48704(e)(2) when referring to “program development costs or regulatory costs incurred by the department prior to the submittal of the stewardship plans.”	None
General Comment	W05-03	Rudd Company, Inc.	Laurel	Jamison	In order to ensure that the residents of California receive the PaintCare program in a timely fashion, Company urges CalRecycle to revise the Proposed Regulations based on ACA and PaintCare comments, removing superfluous, burdensome and costly additional requirements that the Proposed Regulations currently contain.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W06-01	Dunn-Edwards Corporation	Robert	Wendol l	General comment: The proposed regulations as currently drafted would impede, rather than facilitate, program efficiency. Especially troubling is that the draft regulations exceed, by a wide margin, the scope of authority granted to the Department under the plain language and clear legislative intent of AB 1343.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W06-02	Dunn-Edwards Corporation	Robert	Wendol l	Dunn-Edwards strongly supports the analyses and recommendations submitted by both PaintCare and the American Coatings Association, and we urge the Department to revise the draft regulations as suggested to remove unnecessary, costly, burdensome, and excessively punitive components.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W07-01	PPG Architectural Coatings/USCA	Mary Ellen	Shivetts	PPG supports comments submitted by the American Coatings Association (ACA) and PaintCare. PPG believes the Proposed Regulations are well beyond the scope of CalRecycle’s statutory authority and do not comport with the plain language and legislative intent of the underlying legislation.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None

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General Comment	W07-02	PPG Architectural Coatings/USCA	Mary Ellen	Shivetts	PPG is currently participating in PaintCare and the program is working well in Oregon, without the need for implementing regulations. Therefore, the legislation and ensuing statute provide ample plain language for CalRecycle to draft clear and reasonable regulations upon.	CalRecycle staff notes that the paint stewardship program in Oregon is a pilot program and pilot programs do not necessitate regulations due to their expected short sunset periods.  Furthermore, the legislature contemplated the development of regulations in PRC § 48704(e)(2) when referring to “program development costs or regulatory costs incurred by the department prior to the submittal of the stewardship plans.”	None
General Comment	W07-03	PPG Architectural Coatings/USCA	Mary Ellen	Shivetts	In order to ensure that the residents of California receive the PaintCare program in a timely fashion, Company urges CalRecycle to revise the Proposed Regulations based on ACA and PaintCare comments, removing superfluous, burdensome and costly additional requirements that the Proposed Regulations currently contain.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W08-01	Benjamin- Moore	Carl	Minche w	Benjamin-Moore & Co. supports comments submitted by the American Coatings Association (ACA) and PaintCare. Benjamin-Moore & Co. believes the Proposed Regulations are well beyond the scope of CalRecycle’s statutory authority and do not comport with the plain language and legislative intent of the underlying legislation.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W08-02	Benjamin- Moore	Carl	Minche w	In order to ensure that the residents of California receive the PaintCare program in a timely fashion, Benjamin-Moore & Co. urges comments, removing superfluous, burdensome and costly additional requirements that the Proposed Regulations currently contain.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W09-01	California Paint Council	Freidan	Anwari	Proposed regulations exceed authority of the statute. The Proposed Regulations do not meet the Office of Administrative Law’s threshold tests for legally authorized regulations for necessity, authority, clarity, consistency, reference or nonduplication. The Proposed Regulations do not as required by OAL “demonstrate by substantial evidence the need for a regulation to effectuate the purpose of the statute ... that the regulation implements, interprets, or makes specific...” The regulations quite simply are not consistent with the existing statute and in many cases actually run contrary to the statute and its underlying legislative intent.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W09-02	California Paint Council	Freidan	Anwari	Proposed Regulations establish a broad EPR regulatory framework rather than the paint-specific program enacted in AB 1343.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W09-03	California Paint Council	Freidan	Anwari	CPC cannot support what appears instead to be a broad format for extended producer responsibility regulatory policy by which products unrelated to paint are to be measured at some later date. As is evident by the ten pages of concerned comments from ACA, there is a disturbing disconnect between the statute that authorizes PaintCare and the much broader Proposed Regulations.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W09-04	California Paint Council	Freidan	Anwari	Proposed regulations inconsistent with national MOU for PaintCare and put California’s paint recovery goals at risk. As stated, the MOU was the basis for AB 1343 as well as the PaintCare program already being implemented in Oregon and that will be implemented in Connecticut. Both of those states,	Staff has reviewed the Oregon plan and annual reports, and has made efforts to harmonize that program where possible, except where the statute required differences specific to California, such as where California requires enforcement and the promulgation of regulations will assist in the implementation.	None

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					unlike California, have decided that regulations were not needed because the statute clearly outlines the PaintCare program. The industry has worked hard to ensure consistency among all states implementing PaintCare, which is the only way PaintCare will be successful on such a large national scale. The Proposed Regulations would instead subject manufacturers operating in multiple PaintCare states to inconsistent and inappropriate requirements, putting California's own goals for a successful paint recovery program at risk.	<p>CalRecycle has been an active participant in the Paint Product Stewardship Institute's Dialogue and MOU since its inception, but notes that the MOU expired on 11/1/2010, and that key elements of the MOU, such as a pilot program in Minnesota, are no longer viable. Additionally, CalRecycle opted to include a signing statement when it signed the last version of the MOU that stated that the signature did not preclude CalRecycle (then known as the California Integrated Waste Management Board) from taking alternative actions that were more appropriate for the state of California.</p> <p>CalRecycle staff has reviewed both the MOU and signing statement, and notes that both documents are available online in the Archive of Board Meetings for the California Integrated Waste Management Board: <a href="http://www.calrecycle.ca.gov/Archive/IWMBMtgDocs/Agenda.asp?RecID=1277&amp;Year=2007&amp;Comm=BRD&amp;Month=12">http://www.calrecycle.ca.gov/Archive/IWMBMtgDocs/Agenda.asp?RecID=1277&amp;Year=2007&amp;Comm=BRD&amp;Month=12</a></p> <p>CalRecycle staff notes that the paint stewardship program in Oregon is a pilot program and pilot programs do not necessitate regulations due to their expected short sunset periods.</p> <p>Furthermore, the legislature contemplated the development of regulations in PRC § 48704(e)(2) when referring to "program development costs or regulatory costs incurred by the department prior to the submittal of the stewardship plans."</p>	
General Comment	W09-05	California Paint Council	Freidan	Anwari	In order to ensure that the residents of California receive the PaintCare program in a timely fashion, CPC urges CalRecycle to revise the Proposed Regulations based on the plain language in the statute as suggested by the ACA and PaintCare comments, removing superfluous, burdensome and costly additional requirements that the Proposed Regulations currently contain.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
§18953 and §18954	W10-01	San Joaquin county Public Works	Desi	Reno	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.	<p>Staff has attempted to follow the same standard outline for both the stewardship plan and annual reports, but recognizes that there are some elements, such as stakeholder consultation, that may only apply to one item and not the other.</p> <p>Please also see response to comment W12-04.</p>	None
§18953(a)(6) and §18954(a)(6)	W10-08	San Joaquin county Public Works	Desi	Reno	The sections on Market Development are vague and should not be optional. 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.	Please see response to comment W02-31.	None
General	W11-03	Self	Billy	Puk	If Paint Care or other stewardship organization would accidentally accept all	Any manufacturer or stewardship organization must abide by all applicable laws	None

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Comment					the non-acceptable paint from a collection site, would the non-acceptable, essentially, non-recyclable paint be returned to the collection site? Or would the non-recyclable paint now be part of Paint Care's property of doing business (like a hardware store) to manage the returned and defective hazardous material as hazardous waste in California?	and regulations concerning hazardous waste management when designing its paint stewardship program. Details concerning how program and non-program products are handled will be described in the manufacturer or stewardship organization's stewardship plan.  The determination of generator/ownership status is a task that falls under the authority of the Department of Toxic Substances Control, and not CalRecycle. Therefore, this comment is beyond the scope of this rulemaking.	
General Comment	W11-07	Self	Billy	Puk	I would suggest CalRecycle to work out a plan to eliminate the sales of paint hardeners in California and via online from out-of-state. When any paint stewardship organization, in addition to the individual end-user, would have access to such products at a fairly cheap price, the paint recycling effort in CA is then eliminated due to convenience is usually superseded everything, although a recycling fee is charged at the point of sales.	This comment is beyond the scope of this rulemaking.	None
General Comment	W11-10	Self	Billy	Puk	General comment: Who will be the generator of the paint? Has CalRecycle worked out the status of Generator on left-over paint collection with DTSC?	The determination of generator/ownership status is a task that falls under the authority of the Department of Toxic Substances Control, and not CalRecycle. Therefore, this comment is beyond the scope of this rulemaking.	None
General Comment	W11-11	Self	Billy	Puk	There is no clear direction in this proposed regulation concerning on the reporting like Form 303a by the local jurisdiction on October 1 following the end of the fiscal year ending June 30. Would the reporting requirement (§18954) by paint stewardship organization handle such responsibility for each local jurisdiction?	Reporting requirements for the Form 303a and 303b remain with the local jurisdiction. If they are contracting with a mfr/stewardship organization, they may ask the MFR/SO to provide them with collection volumes, but the ultimate responsibility for form submittals remains with the local jurisdictions.	None
General Comment	W12-01	Amazon Environmental, Inc.	Lorraine	Segala	AB 1343 and the proposed regulations repeatedly refer to the materials being collected as "Architectural paints" or "postconsumer architectural paints", not solid wastes. We agree with this definition.	This is a general comment to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W12-03	Amazon Environmental, Inc.	Lorraine	Segala	The proposed regulations reinforce the concept that the materials to be collected are viable materials or products, and may be reusable or recyclable, and therefore not considered to be "solid waste". This is supported by existing legislation and regulations concerning the recycling of latex paints and reuse and materials exchange programs in the state,	This is a general comment to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W12-05	Amazon Environmental, Inc.	Lorraine	Segala	If the manufacturer or stewardship organization is to accept and manage all applicable architectural paints then it may be helpful for the regulation to specify that the manufacturer or stewardship organization is steward or owner of the collected materials. This approach will increase the number of possible collection sites, and further allow the collected paints can be picked up or delivered to any designated facility for recycling. If the recycling facility determines the materials cannot be reused or recycled, then they may be designated, as solid waste and Public Resource Code section 40051 will apply. If the materials collected are designated as solid wastes, then the oil-based materials may be considered "hazardous wastes", and this will greatly and significantly affect the viability of potential collection sites. This would	Please see response to comment W11-03.	None

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					contravene the stated intent of PRC sections 48700, 48701 and 48702.		
General Comment	W13-01	Kelly-Moore Paint Company, Inc. (KMPC)	Robert	Stetson	KMPC supports comments submitted by the American Coatings Association (ACA) and PaintCare. Company believes the Proposed Regulations are well beyond the scope of CalRecycle's statutory authority and do not comport with the plain language and legislative intent of the underlying legislation.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W13-02	Kelly-Moore Paint Company, Inc. (KMPC)	Robert	Stetson	KMPC is currently participating in PaintCare and the program is working well in Oregon, without the need for implementing regulations. Therefore, the legislation and ensuing statute provide ample plain language for CalRecycle to draft clear and reasonable regulations upon.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W13-03	Kelly-Moore Paint Company, Inc. (KMPC)	Robert	Stetson	In order to ensure that the residents of California receive the PaintCare program in a timely fashion, Company urges CalRecycle to revise the Proposed Regulations based on ACA and PaintCare comments, removing superfluous, burdensome and costly additional requirements that the Proposed Regulations currently contain.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W14-04	LA Co. Solid Waste Mgmt Cmte/Integrate d Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	Prior to approving any new stewardship plan or plan revision, CalRecycle should give local governments a 30-day opportunity to review and comment on the plan.	When approving a stewardship plan, the department intends to follow established department policy for the approval of public documents. The comment refers to an administrative procedure that will be handled according to CalRecycle internal procedures.	None
General Comment	W14-05	LA Co. Solid Waste Mgmt Cmte/Integrate d Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	Consistent with the EPR Framework, CalRecycle should collaborate with agencies, internal and external, and other key stakeholders to effectively address cross-media and cross-organizational issues when considering approval of product stewardship plans.	Please see responses to comment W14-04.	None
General Comment	W14-18	LA Co. Solid Waste Mgmt Cmte/Integrate d Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	Since the purpose of the legislation is to reduce costs to local governments and shift the costs to manufacturers and consumers, existing local government programs/infrastructure should not be relied upon without proper compensation to the local government programs for all the costs incurred in the collection of the postconsumer paint.	Please see responses to comments W14-07 and W22-01.	None
General Comment	W15-01	LA Co. Solid Waste Mgmt Cmte/Integrate	Margaret	Clark	We expect CalRecycle to safeguard the interests of cities, counties, and other appropriate stakeholders involved should the plan not fully account for all costs burdening existing paint collection entities.	Comment letter W15 was sent to CalRecycle containing recommendations for use by CalRecycle when reviewing architectural paint stewardship plans and not directly related to the proposed paint regulation.	None

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		d Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA				This is a general comment on the proposed regulation such that no specific subject could be identified for which to provide a response.	
General Comment	W15-02	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	Any Paint Stewardship Plan submitted to CalRecycle for review/approval should include the following:  Fair-share funding allocation to HHWCPs for costs incurred from the management of postconsumer architectural paint. Local governments currently fund the administration, advertisement, and collection/transportation/treatment/disposal elements of HHWCPs that collect postconsumer architectural paint.	Please see responses to comments W14-07 and W22-01.	None
General Comment	W15-03	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	Reimbursements to local governments should be based on collection, transportation, treatment, and disposal and a percentage of the administration, advertisement, and fixed costs attributed to the paint management of the HHWCP.	Please see responses to comments W14-07 and W22-01.	None
General Comment	W15-04	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	Any Paint Stewardship Plan submitted to CalRecycle for review/approval should include the following:  (1) A comprehensive, statewide campaign focused on educating the public on appropriate paint management options. The campaign should additionally target those residents without access to the internet. (2) Publicly administered and/or operated HHWCPs should not be mentioned as ultimate management options to minimize the flow of paint to HHW collection events.	1) Regarding overall scope of education and outreach, PRC §48703(e) already lays out manufacturer/stewardship organization requirements for education and outreach efforts.  2) CalRecycle staff suggests adding a sentence to §18983(a)(8) restricting a manufacturer or stewardship organization from advertising collection points that are not contracted service providers under the manufacturer or stewardship organization's program without the consent of those collection points.	§18953(a)(8)
General Comment	W15-05	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	Any Paint Stewardship Plan submitted to CalRecycle for review/approval should include the following:  Region- or city-specific outreach strategies since a statewide advertising campaign may not provide the region- or city-specific information necessary for the public to correctly identify the most convenient location.	Staff believes the outreach and education requirements described in §18953(a)(8) sufficiently address the overall scope of education and outreach as described in PRC §48703(e).	None
General Comment	W15-06	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt	Margaret	Clark	Any Paint Stewardship Plan submitted to CalRecycle for review/approval should include the following:  Assurances of outreach to retail locations soliciting participation in the take-	Please see response to comment W15-05.	None

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		Task Force/LA Co./Sanitation Districts of LA Co./City of LA			back program including asking for reasons for non-participation, which will assist the product stewardship organization in developing strategies aimed at increasing retailer participation.		
General Comment	W15-07	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	Any Paint Stewardship Plan submitted to CalRecycle for review/approval should include the following:  A description of any coordination issues of the architectural paint stewardship program with existing HHWCPs including an explanation of what is not mutually agreeable between the programs.	Staff believes that §18953(a)(10) sufficiently addresses the description of coordination efforts between existing household hazardous waste programs and manufacturers or stewardship organizations.	None
General Comment	W15-08	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	Additionally, the Task Force would like to present the following general recommendations for developing the architectural paint stewardship plan: 1. The State Legislature in concert with CalRecycle should give consideration to future program expansion that includes paint-related substances (i.e. Turpentine, paint stripper, rust remover, paint thinner, varnish, etc.) to better accommodate and simplify HHW take-back for the public. This approach has proven successful at increasing participation rates and overall satisfaction in existing paint stewardship programs.	This comment is beyond the scope of this rulemaking.	None
General Comment	W15-09	LA Co. Solid Waste Mgmt Cmte/Integrated Waste Mgmt Task Force/LA Co./Sanitation Districts of LA Co./City of LA	Margaret	Clark	Additionally, the Task Force would like to present the following general recommendations for developing the architectural paint stewardship plan:  2. CalRecycle should provide support for emerging recycled paint markets and paint reuse programs through the Recycling Market Development Zone Loan Program.	The Recycling Market Development Zone Loan Program is beyond the scope of this rulemaking.  Additionally, market development issues are addressed in §18953(a)(6) and §18954(a)(6) of the regulation.	None
General Comment	W17-02	San Luis Obispo County Integrated Waste Management Authority	Bill	Worrell	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.	§48703(c) states: “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.	None
General Comment	W19-01	Solid Waste Association of North America, CA Chapters	William	Merry	Where allowed by statute the proposed Architectural Paint Stewardship Program regulations should be revised and expanded to be consistent with CalRecycle's EPR Framework.	AB 1343 does not grant CalRecycle the statutory authority to align the proposed regulation with all elements of the department's EPR Framework document. CalRecycle staff has sought consistency in all areas where allowed by statute.	None
General Comment	W19-02	Solid Waste Association of North America,	William	Merry	Where consistent with the requirements of AB 1343, the proposed regulations should establish a recovery program that is consistent with CalRecycle's EPR Framework. The proposed regulations should include framework policy goals,	Please see response to comment W19-01.	None

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		CA Chapters			guiding principles, roles and responsibilities, and governance, and minimum recovery rates.		
General Comment	W19-04	Solid Waste Association of North America, CA Chapters	William	Merry	A stewardship plan that relies on existing local government programs should include a copy of the signed agreement with the local government prior to be approved by CalRecycle.	Please see responses to comments W14-07 and W22-01.	None
General Comment	W19-05	Solid Waste Association of North America, CA Chapters	William	Merry	CalRecycle should modify the proposed regulations to allow and consider local government involvement in the review and approval process.	Please see response to comment W14-04.	None
General Comment	W20-01	City of Los Angeles	Brian	Ahn	We would like to reiterate that stewardship plans should be designed to remove the burden on a local government program. If local government elects to participate in the program, the proposed regulations should be revised to require that the funding mechanism be sufficient to compensate local governments for their full cost to manage architectural paint delivered to their program/facilities. Existing government programs/infrastructure should not be relied upon without proper compensation to the local government program for all their costs incurred in the collection of the postconsumer paint.	Please see responses to comments W14-07 and W22-01.	None
General Comment	W21-01	Sacramento County	Patrick	Quinn	On behalf of my department, I urge CalRecycle to enact regulations that: Shift all paint take-back costs, including the cost of both collection and of paint processing, away from local government and our local ratepayers to the paint industry.	This is a general comment to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W23-01	California Product Stewardship Council	Heidi	Sanbor n	CPSC supports the Regional Council of Rural Counties (RCRC) in ensuring that all consumers that pay a fee have access to recycle their paint. The current language does meet that test and we will defer to RCRC if there are any proposed changes to the existing language as to what meets their needs.	This is a general comment to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W23-03	California Product Stewardship Council	Heidi	Sanbor n	There were several comments made by other stakeholders that the regulations had gone beyond CalRecycle's legal authority and were overly burdensome and costly to implement. CPSC generally supports streamlined rules that are clear and meet the intent of the law while still providing enough clarity to ensure the ability to enforce the rules. Many of the comments are legal questions, therefore, we defer to the legal staff and their opinion as to what level of detail is needed and understand if certain sections of the regulations must be amended or removed.	This is a general comment to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W24-01	Behr Process Corporation	Michael	Butler	The regulations go far beyond what is necessary to actually implement the program and well beyond the authority granted to the Agency by the statute.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W24-03	Behr Process Corporation	Michael	Butler	Behr urges CalRecycle to revise the regulations based on the comments submitted by the American Coatings Association	This is a general comment to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General Comment	W25-01	AkzoNobel Paints	James	Kantola	Akzo Nobel Paints supports the comments submitted by the American Coatings Association (ACA) and PaintCare. We believe the regulations are well beyond the scope of CalRecycle's statutory authority and do not comport with the	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None

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					plain language and legislative intent of the underlying legislation.		
General comment	W25-02	AkzoNobel Paints	James	Kantola	In order to ensure that the residents of California receive the PaintCare program in a timely fashion, Company urges CalRecycle to revise the Proposed Regulations based on ACA and PaintCare comments, removing superfluous, burdensome and costly additional requirements that the Proposed Regulations currently contain.	This is a general comment to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General comment	W26-01	Behr Process Corporation	Michael	Butler	Behr supports the comments submitted by the American Coatings Association (ACA) and PaintCare. We believe the regulations are well beyond the scope of CalRecycle's statutory authority and do not comport with the plain language and legislative intent of the underlying legislation.	This is a general objection to the proposed regulation such that no specific subject could be identified for which to provide a response.	None
General comment	W26-02	Behr Process Corporation	Michael	Butler	In order to ensure that the residents of California receive the PaintCare program in a timely fashion, Company urges CalRecycle to revise the Proposed Regulations based on ACA and PaintCare comments, removing superfluous, burdensome and costly additional requirements that the Proposed Regulations currently contain.	This is a general comment to the proposed regulation such that no specific subject could be identified for which to provide a response.	None