

December 22, 2011

Attention: Cynthia Dunn
Materials Management and Local Assistance Division
Department of Resources Recycling and Recovery (CalRecycle)
PO Box 4025
Sacramento, CA 95812-4025
paint@calrecycle.ca.gov

Subject: CPSC Comments on December 7, 2011 Draft Paint Stewardship Regulations

Dear Ms. Dunn:

The California Product Stewardship Council (CPSC) appreciates the opportunity to comment again on the proposed regulations for paint stewardship which are intended to implement AB 1343, now in statute.

We previously provided oral comments at the workshop March 10, 2011, attended every hearing and submitted a comment letter September 8, 2011 on earlier draft regulations. In that letter, we stated that we were very pleased with the regulations. We also stated that we supported the retailers in their comments regarding elimination of any duplicative reporting and that penalties need not be increased beyond those outlined in the legislation and that appears to be addressed in the current version. In addition, we noted that 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. We stated that CPSC 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. Since many of the comments are legal questions, we defer to the CalRecycle legal staff opinion as to what level of detail is needed and understand if certain sections of the regulations must be amended or removed.

In the December 7, 2011 draft of the regulations, there are quite a few changes made to the regulations which were made to accommodate industry concerns and possibly to accommodate any legal questions. While CPSC may prefer some of the language remain that has been stricken, we have talked directly with PaintCare and American Coatings Association (ACA) representatives and believe that they have acted in good faith to date and we are willing to support the regulations as currently drafted. PaintCare, ACA, and CalRecycle staff are all very aware of CPSC's primary concerns:

1. All consumers that pay the fee have access to recycle their paint;
2. Regulations are fair, clear, not overly burdensome, and enforceable; and,
3. Regulations allow for effective oversight of the industry program.

CPSC will continue to follow this program through implementation and for its duration to ensure it meets the expectations of our local governments and partners.

We believe it is important to recognize that this is the first time CalRecycle staff and the California stakeholders have developed a regulations package to implement producer responsibility legislation so we are in the process of determining the details of a precedent setting program. We know much is riding on these regulations for the industry and stakeholders alike and look forward to working with all the stakeholders to ensure successful implementation. The cost of paint management is higher than almost any other product because of the volume. We know it is not a perfect Extended Producer Responsibility (EPR) model, but it will provide great financial relief to local governments and ensure that millions more gallons of paint are recycled each year. We hope everyone works together to ensure the program starts on time July 1, 2012.

We also want to thank the CalRecycle staff and Executive Staff for working so hard to draft regulations that meet the needs of many while retaining core EPR program functions. We also want to give special thanks to Director Carol Mortensen for her efforts to understand all stakeholder perspectives and to get us to this point in the process where we hopefully have a regulations package that all the stakeholders will support so we can finally start focusing on program implementation.

Thank you again for the opportunity to comment.

Sincerely,



Heidi Sanborn, Executive Director