



Incorporating Environmentally Preferable Latex Paint Procurement into Your Purchasing Goals

To help support a sustainable paint recycling system, it is critical that purchasers of paint create the demand for recycled-content paint. That is why the Be Paint WiSe Partners developed this document – to provide clear directions on how you can help ensure a closed loop management system for paint.

This document explains what recycled -content latex paint is, how to purchase it, and how to create an Extended Producer Responsibility (EPR) program for paint. If you have an existing Environmentally Preferable Purchasing (EPP) policy or are just getting started with your EPP goals, use this document as a guide for incorporating environmentally preferable paint procurement and recycling into your EPP program.

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SF Environment
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Why Purchase Recycled-Content Latex Paint?

- **Excellent Quality.** Recycled-content latex paint certified by the Master Painters Institute or Green Seal meets the same paint performance standards as virgin paint.
- **Lower Cost.** Recycled -content latex paint is often sold at one-third to half the price of virgin paint of comparable quality.
- **Product Choices.** Recycled-content latex paint is available in numerous grades, colors, and percentages of post-consumer content. Recycled-content latex paint meets a wide variety of specifications and can be custom blended to contain additives such as anti-mildew fungicides and color pigments that can be matched between batches. It is also available for metal surfaces and as primer. It can be sprayed, rolled, or brushed on, just like any other paint.
- **Disposal Problem.** It costs Californian's more than \$27 million annually to manage leftover paint.
- **Help Create Demand for Recycled-Content Paint.** Purchasing recycled paint supports paint recycling and helps build a convenient and cost-effective collection system for leftover paint.

How to Use This Document:

- **If your Public Agency has not yet adopted an Environmentally Preferable Purchasing (EPP) policy**, use this document as a guide to develop the paint procurement and disposal section of your EPP policy. For more information on creating an EPP program visit <http://www.green.ca.gov/EPP/default.htm>. For links to sample policies visit: <http://www.calrecycle.ca.gov/EPP/LawPolicy/>

- **If your Public Agency currently has an EPP policy in place that does not include specifications for purchasing recycled-content latex paint or EPR for leftover paint products**, use this document as a guide to craft recycled paint procurement and EPR language.

I. Definitions

“*Bidder*” refers to any person, group of persons, business, consultant, designing architect, association, partnership, corporation, supplier, vendor or other entity that is bidding on a contract with the Public Agency to provide goods or services.

“*Buyer*” refers to personnel authorized to purchase or contract for purchases on behalf of the Public Agency or its subdivisions.

“*Contractor*” refers to any person, group of persons, business, consultant, designing architect, association, partnership, corporation, supplier, vendor or other entity that has a contract with the Public Agency or serves in a subcontracting capacity with an entity having a contract with the Public Agency for the provision of goods or services.

“*Agency*” refers to any municipality, Public Agency or municipality, or any public entity that wishes to use the EPR paint policy.

“*Extended Producer Responsibility*” Extended Producer Responsibility (EPR), otherwise known as Product Stewardship, is the extension of the responsibility of producers, and all entities involved in the product chain, to reduce the cradle-to-cradle impacts of a product and its packaging; the primary responsibility lies with the producer, or brand owner, who makes design and marketing decisions.¹

“*GS 43*” is the Green Seal² standard that establishes environmental and performance requirements for recycled content interior and exterior latex paint. For the purposes of this Standard, recycled content latex paints are made by two distinct methods, consolidation and reprocessing (also called remanufacturing). This Standard does not apply to stains, clear finishes, paints sold in aerosol cans, or oil-based paints. This standard can be found at http://www.greenseal.org/Portals/0/Documents/Standards/GS-43/GS-43_Recycled_Content_Latex_Paint_Standard.pdf

“*Paint*” Latex, liquid, liquefiable composition that is converted to a solid protective, decorative, or functional adherent film after application as a thin layer. These coatings are intended for, but not restricted to, on-site application to interior or exterior surfaces of residential, commercial, institutional or industrial buildings.

“*Procurement*” purchasing department or agent of Public Agency.

“*Producer*” any manufacturer or brand owner of paint.

“*Supplier*” any provider of paint to the Public Agency.

“*Vendor*” any sales agent of paint for the Public Agency.

¹ www.calrecycle.ca.gov/EPR/Framework/Framework.pdf

² http://www.greenseal.org/Portals/0/Documents/Standards/GS-43/GS-43_Recycled_Content_Latex_Paint_Standard.pdf

I. Responsibilities of Procurement Services

A. Whenever possible, Procurement shall purchase paints that comply with the Green Seal Recycled Content Interior and Exterior Latex Paint Environmental and Performance Standard (GS 43) or equivalent. This standard was reviewed and approved by consensus of the stakeholder committee, as defined by the International Organization for Standardization (ISO) and the Federal Government (Office of Management and Budget Circular A-119), and is therefore a consensus standard. For more information on purchasing recycled-content paint, visit <http://www.bidsync.com/DPX?ac=agencycontview&contid=3626>.³

B. Procurement shall track and report purchased goods, including used paint containers and leftover paint, to the appropriate state agency. Reports should include the amount of latex paint purchased, by whom, and the percent purchased that was recycled paint versus virgin paint. Tracking and reporting purchases helps log successes and challenges, product prices, availability and performance. Refer to the California Department of General Services Model Tracking Form as a guide for developing internal tracking protocol, which can be found at: <http://www.green.ca.gov/EPP/Introduction/track.htm>.

C. Whenever possible, Procurement shall include contract language that fosters take-back and management services for environmentally responsible leftover paint disposal. See sample procurement contract language below:

Example Procurement Contract Language:

Recycled Content Paint Procurement: The Public Agency shall specify and purchase recycled content paint products that are certified to meet the [GS 43 Recycled-Content Latex Paint Standard](#)⁴ or equivalent. Paint products shall:

- Contain the highest postconsumer content practicable, but no less than the minimum of 50% post-consumer content by volume. Products with higher percentages of recycled content will receive additional price preferences using the following criteria: 5% price preference for products with at least 75% post-consumer recycled content by volume and 10% price preference for products containing at least 90% post-consumer recycled content.
- Meet applicable Master Painters Institute (MPI) detailed performance standards for the appropriate MPI category.
- Demonstrate that the finished product contains a maximum VOC level of 250 g/l as determined by the U.S. Environmental Protection Agency Test Method 24.
- The sum total of aromatic compounds in the virgin and secondary industrial materials of the product shall contain no more than 1.0% by weight.
- Adhere with the GS 43 chemical component restrictions. See Appendix 3

³ Please note, this website links to the DGS contract for recycled latex paint. This contract will expire on 4/10. After which the website may change.

⁴ http://www.greenseal.org/Portals/0/Documents/Standards/GS-43/GS-43_Recycled_Content_Latex_Paint_Standard.pdf

Mandatory Leftover Paint Management: If Public Agency chooses to discard leftover paint, producers must provide take-back and management services for leftover paint products at no cost to the Public Agency. This can be accomplished through a contractual provision whereby the supplier/vendor agrees to be responsible for taking back the paint products on behalf of the producers and providing for appropriate reuse or recycling when the buyer no longer needs the paint products. Such take-back methods may include but are not limited to:

Example A: Exchange of leftover paint products offered by, or previously purchased from the Producer or Supplier, upon purchase of new paint products from said Producer.

Example B: Collection of any leftover paint products by Producer, Supplier or subcontractor for reuse or recycling shall include provisions to continue recycling operation should they no longer be able to perform such activities.

Example C: Coupon system for pre-paid take-back at permanent regional paint collection centers.

Example D: A Producer or Supplier must provide to each buyer, free of charge, information for the consumer on available take-back and leftover paint product management options.

Example E: The paint containers marketed by a Producer or Supplier must clearly display information on the recyclability of the discarded paints.

Example F: A buyer must post the aforementioned consumer information on at least one clearly visible sign within the area where the end party using the product is picking up the paint.

Any proposed programs must comply with the following **Leftover Paint Management Policy**:

A Producer or Supplier must manage all leftover paint products collected at a collection facility provided by that Producer or Supplier in adherence to the following descending order of preference, such that pollution prevention is not undertaken at one level unless or until all feasible opportunities for pollution prevention at a higher level have been taken (insofar as their reclamation is technically possible and the costs associated with the reclamation do not put its competitiveness at risk):

1. Reuse the paint;
2. Recycle the paint;
3. Otherwise dispose of the leftover paint in compliance with the respective regulations pertaining to each specific type of leftover paint products.⁵

III. Responsibilities of Vendors

A. Whenever applicable, vendors should work with Procurement to include Extended Producer Responsibility (EPR) language into Requests for Proposal, commodities contracts and service agreements for paint products. Examples include specifying product packaging collection and excess product recycling requirements. See specific examples below:

⁵ For more information on each of these disposal methods see Appendix 2. For additional disposal information see Appendix 3.

1. Bidders and contractors must arrange for the collection and recycling of used paint containers and leftover paint by either the original manufacturer or third party and include a list of recyclers⁶ with whom they plan to subcontract in their original bids. The cost of this service is to be included in the original bid. Bidders and contractors must ensure that all paint containers and leftover paint are sent to a recycler and make certain that no hazardous material is incinerated, landfilled, or shipped to developing countries for non environmentally preferable disposal but can be sent as paint for reuse. Bidders and contractors shall provide to the purchasing department description and documentation of receipt and proper disposal of all paint containers and excess paint.

B. Whenever possible, Vendors are required to ask paint producers to reduce toxicity and packaging at the source (“upstream”) to decrease the amount of end waste disposed of by the Public Agency, and provide documentation of toxicity and packaging reduction to the Public Agency. Paint products should be designed using the principles of [Design for Environment](#)⁷ to increase durability, reusability, recyclability and compostability and decrease overall packaging and end of life waste generation.

⁶ Qualification and/or certifications of recyclers must be provided.

⁷ <http://www.epa.gov/dfe/>

Appendix 1

Leftover Paint Management – Disposal Hierarchy

1. Reuse the Paint Product -

All paint collection facilities must develop/adopt a comprehensive paint receiving protocol (addressing inspection, sorting, and labeling methods) for reusable paints that will facilitate and encourage paint reuse. Collection facilities are required to identify and label reusable paints by, at a minimum, the following categories:

- Use: Interior, Exterior or Dual-Purpose
- System: Latex (water-based) or Alkyd (oil-based)
- Color Description
- Finish: Flat, Semi-Gloss, Gloss, etc.

2. Recycle the Paint Product -

Recycling of leftover paint products must be handled by a responsible recycling operation with an environmental management system in place.

3. Otherwise dispose of paint product waste in compliance with applicable regulations -

Hazardous paint waste shall not be sent to landfills for disposal. [Comment: nor should such waste be incinerated.]

Any and all hazardous paint waste products must be disposed in accordance with the Hazardous Waste requirements established by the California Department of Toxic Substances Control (DTSC).

Disposal of hazardous non-empty aerosol cans is subject to compliance with Chapter 23 - Standards for Universal Waste Management of California Code of Regulations - Title 22. According to the DTSC, Universal Waste may not be discarded in solid waste landfills.

Aerosol cans are not hazardous waste when they have been completely emptied of contents, but non-empty aerosol cans may be hazardous wastes. A non-empty aerosol can is considered hazardous if its contents have any of the following characteristics (California Code of Regulations, Title 22, Division 4.5, Chapter 11):

- Ignitability (can readily catch fire)
- Corrosivity (acidic or alkaline)
- Reactivity (can explode)
- Toxicity (poisonous)

Provide disclosure and documentation to the Public Agency upon request that demonstrates compliance with the above requirements above.

Appendix 2

Additional Paint Disposal Regulations:

- Latex paint is defined as a “Household Hazardous Waste” (HHW) by California Health and Safety Code Section 25218-25218.13. Unless latex paint is reused or recycled, it is considered a hazardous waste and must be managed in accordance with all applicable hazardous waste regulations. (California Integrated Waste Management Board <http://www.calrecycle.ca.gov/ConDemo/Paint/> see also Wastes Banned From the Trash: Hazardous Waste & Universal Waste <http://www.calrecycle.ca.gov/HomeHazWaste/info/>)
- Oil-based paint is presumed to be hazardous waste under Appendix X, Chapter 11, Division 4.5, Title 22, of the California Code of Regulations. (Identification & Listing of Hazardous Waste http://www.dtsc.ca.gov/LawsRegsPolicies/Title22/upload/Appendix-X_Ch11_ready-to-post.pdf)
- Paint (or varnish) remover or stripper is listed as hazardous material/waste in Appendix X, Chapter 11, Division 4.5, Title 22, of the California Code of Regulations.
- Paint thinner is listed as hazardous material/waste in Appendix X, Chapter 11, Division 4.5, Title 22, of the California Code of Regulations.
- Paint waste (or slops) is listed as hazardous material/waste in Appendix X, Chapter 11, Division 4.5, Title 22, of the California Code of Regulations.
- Non-empty aerosol paint or solvent cans are regulated as hazardous Universal Waste under Chapter 23, Title 22, of the California Code of Regulations. (Wastes Banned From the Trash: Hazardous Waste & Universal Waste <http://www.calrecycle.ca.gov/HomeHazWaste/info/>)
- Solvents (includes materials such as paint thinners) are presumed to be hazardous waste under Appendix X, Chapter 11, Division 4.5, Title 22, of the California Code of Regulations. (Wastes Banned From the Trash: Hazardous Waste & Universal Waste <http://www.calrecycle.ca.gov/HomeHazWaste/info/> ; see also Identification and Listing of Hazardous Waste http://www.dtsc.ca.gov/LawsRegsPolicies/Title22/upload/Appendix-X_Ch11_ready-to-post.pdf)

Appendix 3

Recycled Paint Chemical Component Restrictions

The manufacturer shall demonstrate that the following chemical compounds are not used as ingredients in any virgin or secondary industrial materials added to recyclable latex paint in the consolidation or reprocessing of the product:

Halomethanes:

methylene chloride

Chlorinated ethanes:

1,1,1, -trichloroethane

Aromatic Compounds:

benzene

toluene (methylbenzene)

ethylbenzene

Chlorinated ethylenes:

vinyl chloride

Polynuclear aromatics:

naphthalene

Chlorobenzenes:

1,2-dichlorobenzene

Phthalate esters:

di (2-ethylhexyl) phthalate

butyl benzyl phthalate

di-n-butyl phthalate

di-n-octyl phthalate

diethyl phthalate

dimethyl phthalate

Miscellaneous semi-volatile organics:

isophorone

Metals and their compounds:

antimony

cadmium

hexavalent chromium

lead

mercury

Preservatives (antifouling agents):

formaldehyde

Ketones:

methyl ethyl ketone

methyl isobutyl ketone

Miscellaneous volatile organics:

acrolein

acrylonitrile