

WEBINAR: PAINT STEWARDSHIP IN CALIFORNIA – NEXT STEPS



Wednesday, March 23, 2011

10:00-11:30 AM PST

Agenda

Introductions:

Heidi Sanborn, Executive Director for the California Product Stewardship Council (CPSC), welcomed webinar participants and mentioned that this webinar is the final in a series of three webinars to discuss the next steps in implementation of California's Paint Stewardship law.

Presentations:

Lessons Learned from California's Pilot Project

Presented by: Kimbra Andrews, San Joaquin County

Ms. Andrews presented an overview of the lessons learned from the Be Paint Wi\$e Partnership, a collaborative project between San Joaquin, Tehama and San Francisco Counties, funded by a grant from CalRecycle. CPSC is the lead partner for implementing this 17th cycle household hazardous waste grant, which ends April 15, 2011.

Ms. Andrews discussed the five grant objectives: educating consumers on how to buy the right amount of paint and recycle the rest, fostering the demand for recycled-content paint, establishing retail latex paint collection sites, encouraging paint reuse, and facilitating the roll-out of a statewide stewardship system. The project can be followed online at <http://www.calpsc.org/projects/SanJoaquin.html>.

For each objective, Ms. Andrews discussed the lessons learned from them. For the first objective on consumer outreach and education, a consumer focus group was held to review and test the effectiveness of the education materials developed by the national PPSI group. Based on feedback from the focus group, materials were refined for use in the pilot project and used to create a point-of-sale card for consumers and a retail display poster on how to buy the right amount of paint. We found that most retailers did not use the large poster, but some had enough space and utilized the smaller poster. The first objective also included presentations to a wide variety of stakeholder groups.

The second objective was to foster the demand for recycled-content paint and to teach local governments how to buy off the State DGS paint contract. Presentations were given to purchasing officials and others, and a positive outcome of this objective is that two retail stores in San Joaquin County now carry the Visions brand of recycled-content paint.

The third objective was to recruit retail sites for latex paint collection. There are 21 participating sites in the three counties. The partnership developed recruitment materials and a training binder, all of which are available on the grant project webpage. The sites have collected more than 8,000 gallons of paint since March, 2010. A barrier study was also conducted by Stephen Groner Associates to identify both the barriers and motivators to participation by retailers. The project revealed the importance of a strong advertising campaign at driving collection rates. Following incremental advertising distribution, all stores experienced significant increases in the amount of paint collected and customer traffic.

The fourth objective was to increase paint reuse through paint swaps or give-aways. The partnership developed a reuse fact sheet and provided technical assistance to establish three new paint swap sites: one in San Joaquin County and two in Tehama County. Additionally, a third site was established in Tehama County: a thrift store is acting as a distribution point for paint collected through the County's paint swap and HHW programs, although the site is not a drop-off point for paint donations.

The fifth objective was to provide assistance with the statewide roll-out of the industry-managed and funded stewardship system. CPSC and the grant team hosted a statewide workshop in October, 2010 and have facilitated webinars, conference calls, media coverage and are in the final stages of collecting data on existing HHW infrastructure to assist PaintCare in program planning.

Update on California Paint Stewardship Roll-Out

Presented by: Alison Keane, PaintCare

Ms. Keane began by acknowledging that lessons learned from the program roll-out in Oregon have been beneficial in planning for the California program. She gave a brief update on the Oregon program and then discussed a more detailed plan on how the California roll-out will work.

Ms. Keane discussed program plans, including the accepted products under the program, which includes all architectural paint, as defined in the law. She mentioned that it is important to identify and capture all applicable products that would be regularly generated by residents. Ms. Keane also discussed paint manufacturer participation in the program and noted that approximately 95% of the paint manufacturers are already affiliated with Paint Care, but they are continuing to recruit the remaining manufacturers to be a part of their program.

Ms. Keane also stated that Paint Care is looking at how much of the covered paint products are sold and expected to be sold in California and how much paint would be collected under the program in order to help determine expected program costs and to develop the appropriate assessment rate for purchased paint in the state. Ms. Keane mentioned how seeing and hearing about the current paint recycling infrastructure has helped them determine the amount of paint currently collected in the state. She also reiterated that there will be no reimbursement to participating HHW programs for costs such as staffing or collection, but that they will be setting up contracts to pay for the transport and processing of paint collected from HHW sites. It is expected that a Request for Proposals (RFP) for transportation and processing will be released by PaintCare in mid-2011.

Ms. Keane also discussed some refinements to make before the program is rolled out, including being able to allow for all sites to collect all covered products, which would include both latex and oil-based paints. Ms. Keane's presentation included photos of the bins used by PaintCare in the Oregon program.

Retail Collection: The Oregon Experience

Presented by: Karl Schmitt, Sherwin Williams

Mr. Schmitt described his experience working with PaintCare as a manufacturer and a retailer in Oregon. He gave a brief background of the Oregon bill passage and what it meant to their store.

Mr. Schmitt discussed the benefits of the PaintCare program from a manufacturer, retailer and consumer perspective – consistency being one of the primary benefits of the program. Consistency in the messaging, covered products, assessment fee, and the paint handling process are benefits to the consumer, the retailers and the manufacturers alike.

Mr. Schmitt then showed examples of outreach material developed by PaintCare and supplemental materials developed by Sherwin Williams, which included a poster that described the program, the fee and where to take back your leftover paint, as well as other handouts.

CalRecycle Regulatory Process Update

Presented by: Cynthia Dunn, CalRecycle

Ms. Dunn gave a brief overview of the responsibility of CalRecycle in implementing the paint stewardship law. She reviewed the draft regulations timeline and discussed that the current draft regulations were written to create a consistency between plans already in place in Oregon and British Columbia. Ms. Dunn reviewed some of the comments that were brought up in the regulatory workshop held on March 10th, including the need for more specific goals in the stewardship program proposals and modifications needed on some definitions. CalRecycle is currently addressing all these questions for the final proposed regulations, which will be discussed at the next public meeting on April 12th. The regulations will be available a week before the meeting and on CalRecycle's website: <http://www.calrecycle.ca.gov/Laws/Rulemaking/Paint/default.htm>.

CalCUPA's Role in the Statewide Roll-Out

Presented by: Mike Vizzier, CalCUPA

Mr. Vizzier gave a brief background on CalCUPA and its role in implementing and enforcing Unified Hazardous Materials Programs through local agencies. CUPAs work closely with state agencies to ensure consistent implementation of the Unified Program. There are a total of 117 CUPAs statewide.

Mr. Vizzier emphasized that CalCUPA strive for consistency and support the paint stewardship concept. He discussed the regulations currently in place for paint take-back at retail locations and the requirements these locations must follow until there is a change in the law. He also discussed the concerns CalCUPA has about how they will regulate returned latex and oil-based paint in the new program and that CalCUPA will invite a presentation to their annual conference next February 2012 on the issue.

CalCUPA's next steps include starting discussions with PaintCare on the program and having DTSC prepare a fact sheet for CUPAs and others on how to regulate paint. Mr. Vizzier recommended that all local governments contact their regional CUPAs about attending regularly scheduled meetings to discuss this situation.

Questions & Answers

- 1. Q: For Kimbra Andrews: Do you accept unlabeled and rusty containers in the retail collection program?**

A: We do not accept rusty, dented or unlabeled containers.

- 2. Q: For Kimbra Andrews: Had the Tehama and San Joaquin Counties experienced a spike of abandoned hazardous wastes when a retail store joined to be a paint collection site? If so, how would the store handle and report to your local jurisdiction on the abandoned hazardous wastes? Does each store have to manage abandoned hazardous wastes as part of its business practice?**

A: No, throughout the entire year of the pilot program, there was only one reported incident of illegal dumping and it was not of hazardous waste. One of the retail sites in San Joaquin County had some miscellaneous household items abandoned on the premises, but the store owner did not attribute it to the program because this particular store has long been the site of illegal dumping due to its location. The stores were instructed to contact their local HHW program to make arrangements for hazardous waste if there was a need.

3. Q: For Alison Keane: Just to clarify, at this point the regulation for retailers is voluntary with the exception of San Luis Obispo where the county is mandating collection?

A: That is correct.

4. Q: For Alison Keane: PaintCare will *not* pay for the manpower to verify that there is actually paint in the containers the residents bring to collection centers, correct?

A: That is correct.

5. Q: For Alison Keane: Will the hazardous waste manifests used to ship oil-based paints from an HHWTF have Paint Care listed as the official generator on the haz waste manifest or was the expectation that each jurisdiction with the HHWTF will be considered the official generator on the haz waste manifest?

A: That will be determined by contract, but generally, we take liability once we pick up the program products from your site – you have the liability while they are on-site.

6. Q: For Alison Keane: For each loaded truck filled with 3-stack high of giant totes that contained all the recycled paint, what is the gross vehicle weight? How often will the truck exceed 80,000 lbs. Gross Vehicle Weight in Oregon's experience? Have Paint Care required the transporter to obtain a special permit to transport more than 80,000 lbs on the road in the RFP as California and Oregon have the same gross transportation standard currently?

A: No, you will not be able to ship a full truckload of PaintCare totes in CA as you will exceed the 80K gross vehicle weight limits for that state.

7. Q: For Heidi Sanborn: Will you be emailing out the presentations to those on the call?

A: No, we will not be emailing them out, but all presentations are already posted on CPSC's webinar page at <http://www.calpsc.org/webinars/index.html>. In a few days, we will also have the notes and the Q&A posted from today's webinar.

8. Q: For Cynthia Dunn: What does CalRecycle need to do to ensure the PaintCare program meets standards for exemption from federal and state antitrust laws?

A: CalRecycle is responsible for reviewing a manufacturer or stewardship organization's proposed assessment to ensure that it is sufficient to cover, but not exceed, program costs, based on the program and budget outlined in the stewardship plan. Department staff then publishes a draft copy of the plan for review at a public meeting, recommends either approval or disapproval of the stewardship plan (including the assessment) at a public meeting, hears comments from the public regarding the plan, and will ultimately make a decision whether or not to approve the plan during one of the monthly public meetings. This ensures transparency and oversight so that consumers are paying an amount appropriate to fund the program and provides an opportunity for public comment prior to any plan approval (which includes approval of assessments and other significant plan elements).

9. Q: For Mike Vizzier: With regards to flash point, I believe that the <140 degree designation would specifically categorize it as flammable. Is that correct?

A: No, it's not exactly. The term "flammable" is not used in hazardous waste regulation. Hazardous waste regulations use the term "ignitable." Hazardous waste regulations define an ignitable liquid waste as a hazardous waste if a representative sample has a flash point of <140°F. Aqueous solutions containing less than 24 percent alcohol are not a hazardous waste. (According to the May 19, 1980, Federal Register (45 FR 33108), EPA originally

intended for the alcohol exclusion to exempt alcoholic beverages and some types of latex paints, which exhibit low flash points due to the alcohol content, but do not sustain combustion because of the high water content.) The term “flammable” is used by Fire, OSHA and US DOT. A precise definition can be complex, but generally a flammable liquid is defined as having a flash point below 100° F.

10. Q: For Mike Vizzier: Would CalCUPA be willing to exempt sites from paying additional fees if the "take-back" paint bumps them up to higher volume in their haz mat plans?

A: CUPAs are required to enforce the laws of the Unified Program and to establish fees to pay necessary and reasonable program costs. These fees are set by the governing board and will vary from CUPA to CUPA. A CUPA’s governing board can consider the benefit of a take back program when establishing fees but Proposition 26 might discourage discounting CUPA fees. A properly managed take-back program that is standardized and well understood throughout California should not increase program cost significantly.

11. Q: For Mike Vizzier: Is it possible for a select group of HHW folks to meet with CUPAs to discuss issues and requirements of paint acceptance?

A: Yes. Please contact me (michael.vizzier@sdcountry.ca.gov) directly so we can arrange a meeting with the groups that you have in mind. Many CUPAs have already established close working relationships with the HHW collection facilities in their jurisdiction.

12. Q: For Alison Keane: When the paints are virgin materials, people tend to be careful in separating these two types of paint. However, when they become waste, many customers would mix these two types of paint in one container for convenient storage and transportation. If a customer returns a mixed liquid latex/oil-based paint in a 5-gal bucket at a retail drop-off location or HHW facility, how would such 5-gal paint be recycled, based on your experience in Oregon.

A: It would be sent for fuel blending.

13. Q: For Alison Keane: Is PaintCare going to have guidelines for California?

A: Yes

14. Q: For Kimbra Andrews: How did you come up with the figure of \$72K savings from the retail collection program?

A: This figure is based on the average cost to manage leftover latex paint of \$8 per gallon. It should be noted that we calculated this based on the *actual* amount of paint collected – not just the size of the container. In other words, if a 1-gallon can was half full, we only counted that as a half gallon of paint.

15. Q: For Alison Keane: Will PaintCare give a higher recycling value for recycled paint made using MPI/Green Seal standards?

A: No, PaintCare does not distinguish between paint recycling into paint (regardless of the type of paint) and paint recycling into other products.

16. Q: For Mike Vizzier: Will CalCUPA require collection points to be generators of Hazardous Waste collected? If so, how will the generator fees be reimbursed?

A: A facility that manages or uses oil based paint, solvents, recyclable latex paint, and a take-back program may generate hazardous waste and could also be subject to the hazardous materials business plan program requirements. The law requires CUPAs to enforce these

program elements and to establish a fee to pay the necessary and reasonable costs. These fees will vary from CUPA to CUPA. A CUPA's governing board can consider the benefit of a take back program when establishing fees; this could include fee reimbursement. Fee reimbursement by CUPAs is unusual but not unprecedented.

17. Q: For Alison Keane: During the March 10th meeting, cradle to grave issues were brought up. Has any of this been discussed?

A: This will continue to be a topic of conversation.

18. Q: For Alison Keane: What will be put in place to create a level playing field for recyclers and transporters?

A: An RFP will be put out for all transporters and recyclers – everyone is invited to bid.

19. Q: For Alison Keane: Will the PaintCare RFP have a performance bond and insurance requirement?

A: Yes.

20. Q: For Kimbra Andrews: The training binder for retailers created under the pilot project which is posted on the grant project webpage, page 2, says "The County will provide training for your employees." Was this just for the grant work or is it intended as a trial for statewide implementation?

A: Those instructions were specifically for the pilot project. The training binder documents could be used by PaintCare when the program is rolled out statewide, but they will likely have their own protocol.

21. Q: For Alison Keane: What if a paint can has a latex label but inside is actually a pesticide?

A: If our service provider determines after collection that any of the materials is non-program products, it will be managed in accordance with applicable law and PaintCare will pay for it – we generally budget for up to 5% non-program material.

22. Q: For Alison Keane: Will the PaintCare RFP have a performance bond and insurance requirements for the end facilities?

A: If the contract is directly with PaintCare, there will be performance bond and insurance requirements.

23. Q: For Mike Vizzier: Can you or other CUPAs convince DTSC to provide a factsheet on the oil-based paint and latex paint at the retail collection site to solve the paint collection issue, please?

A: Yes. It might take a few months, but I'm confident that DTSC will publish a factsheet for this program. DTSC is responsive to requests from the CUPA Forum Board and hazardous waste technical advisory groups. Their factsheets are *thoroughly* researched and vetted so the finished product will take time to develop. Additionally, AB 255, which proposes to change the statutes governing the "take-back" of recycled oil-based paint and latex paint, could further delay publication.

24. Q: For Alison Keane: You mentioned that the containers that are put into the collection bins should not be rusted or leaking. How are collection sites supposed to manage rusting and leaking architectural paint cans?

A: Through their current waste management systems.

- 25. Q: For Alison Keane: Have you seen greater use of recycled content paint in Oregon, either by individuals or government agencies since the program was implemented?**
A: We would not be able to determine this – you would need to request that information from recyclers marketing and selling recycled content paint.
- 26. Q: For Alison Keane: to follow-up on the potential non-program waste, will Paint Care provide the non-program waste type and quantity to that jurisdiction for reporting purposes on the annual Form 303a?**
A: Form 303a reporting for the purposes of this program still needs to be addressed by CalRecycle.
- 27. Q: For Alison Keane: You mentioned that leaky or rusted cans that are collected at an HHW facility should be managed by the HHW facility and if they're collected at a retail collection site, that site should work with their HHW facility. However, most retail sites would exceed the CESQG limits, so the HHW facilities couldn't accept it. How would PaintCare address this issue?**
A: Retail sites would not be bringing program products to an HHW facility; however, they would direct customers to HHW facilities for non-program products, such as rusted and/or leaky containers.
- 28. Q: For Alison Keane: Are leaky and rusted cans specifically prohibited or excluded under the paint bill (AB1343)? I don't see anything in the bill that precludes sites from accepting rusty or leaking cans so long as they're labeled. Could PaintCare provide a means of containing these cans, such as a 55-gallon drum that could then be shipped to their recycling and disposal sites?**
A: They are not specifically prohibited under the paint bill, but PaintCare must establish standards under current law for the collection of program products and this includes spill protection and counter control measures.
- 29. Q: For Alison Keane: If rusted cans are sent to a participating HHW facility, would PaintCare work with the HHW facility to cover the cost of disposal of these cans?**
A: No, these would be deemed non-program material and should go into your current waste management system for such products.
- 30. Q: For Alison Keane: Will there be a requirement on the recyclers of latex paint to put the paint back into the hands of consumers as recycled paint or in some other form?**
A: No, PaintCare does not distinguish between paint recycling into paint and paint recycling into other products.
- 31. Q: For Alison Keane: If recycled paint is taken into a facility, is there going to be standards established by which material that is recycled and put on shelves for resale to the public be treated to prevent odors, molds or other contaminants from forming, which pose a potential health issue in the hands of the public.**
A: Processors and retailers of recycled content paint are responsible for complying with all applicable federal, state and local law.

32. Q: For Alison Keane: If recycled paint is taken into a facility, is there going to be a time restraint placed on the facility to process the material in a timely manner to prevent companies from becoming another form of storage/collection site?

A: All processors are responsible for complying with all applicable federal, state and local law.

33. Q: For Alison Keane: Is PaintCare going to be responsible for the oversight/management of the implementation of ANY protocols that will be placed on the recyclers who intend on placing recycled/remanufactured material back into the public's hands?

A: All processors will be required under contract to comply with all applicable federal, state and local law.

34. Q: For Alison Keane: Does PaintCare intend on setting standards by which facilities are selected to participate in this process? If so, is there an established criterion?

A: Applicable criteria will be spelled out in the RFP. The RFP will be open to all. The RFP is open to all.

35. Q: For Alison Keane: As an associate of PaintCare, are we automatically re-enrolled, and what else will be required to finish the process?

A: I do not understand this question.

36. Q: For Alison Keane: Will the RFP for paint processing include any requirements or restrictions that processors have an established business with 'X' number of years of operation, a reliable record, professional references, etc, similar to the requirements of contractors bidding on state contracts?

A: Applicable criteria will be spelled out in the RFP.

Disclaimer: This document was produced under a grant by San Joaquin County. The statements and conclusions contained in this document are those of the grantee and not necessarily those of the Department of Resources Recycling and Recovery (CalRecycle), its employees, or the State of California and should not be cited or quoted as official CalRecycle policy or direction. The State makes no warranty, expressed or implied, and assumes no liability for the information contained in the succeeding text. Any mention of commercial products or processes shall not be construed as an endorsement of such products or processes.



Funded by a grant from the Department of Resources Recycling and Recovery (CalRecycle). © Copyright 2011 by the California Department of Resources Recycling and Recovery (CalRecycle). All rights reserved. This publication, or parts thereof, may not be reproduced without permission from CalRecycle.