



TO: The Honorable James J. Kennedy, Chair
Members, Assembly Standing Committee on Environment, Natural Resources, and Solid Waste

FROM: American Coatings Association

DATE: May 7, 2025

RE: Assembly Bill 5009 – An Act Concerning the Disposal of Packaging Products (Packaging Product Stewardship Act)

The American Coatings Association (ACA)¹ submits the following comments to the Assembly Standing Committee on Environment, Natural Resources, and Solid Waste regarding Assembly Bill 5009, An Act Concerning the Disposal of Packaging Products (A5009). ACA represents approximately 96% of the paint and coatings products manufactured in the United States (U.S.), including architectural, industrial, and specialty coatings.

The \$600 million paint and coatings industry in New Jersey manufactures a wide variety of coatings products for consumers, businesses, and manufacturing establishments alike. With the exception of powder coatings, most paint and coatings products are in liquid form and utilize containers in a range of sizes. The sizes range from small containers of less than a liter or pint to large containers that hold several hundred gallons. These containers are typically either metal, plastic, or a hybrid of metal and plastic.

With the increasing number of packaging extended producer responsibility (EPR) laws across the country, ACA members will be required to evaluate the packaging being used for paint and coatings products to ensure compliance with these laws. Consequently, ACA has a significant interest in assisting our industry in compliance with any legal requirements.

ACA is concerned that the differing requirements from state to state will result in confusion for manufacturers as well as New Jersey residents. Significant differences from state to state in regulatory programs are problematic and burdensome for the paint and coatings industry since manufacturers with a nationwide customer base will find developing any compliance plan(s) to be extremely challenging. The coatings industry routinely conducts interstate transactions where their products are shipped across state lines, thereby requiring companies to comply with various applicable federal and state laws.

ACA provides the following recommendation to A5009 to provide consistency with other existing packaging EPR laws in the U.S.

1. To promote ease of compliance by industry, amend Section 13 of A5009² to include additional exemptions commonly found in other states' packaging EPR laws.

Within other states' packaging EPR laws, there exists several exemptions to what constitutes a covered product. These exemptions include but are not limited to the following:

¹ ACA is a voluntary, nonprofit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it. The organization represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA serves as an advocate and ally for members on legislative, regulatory, and judicial issues, and provides forums for the advancement and promotion of the industry through educational and professional development services.

² Section 13 of A5009 exempts packaging products from the Packaging Product Stewardship Act's requirements if certain conditions have been met.

- a) Packaging for products subject to a paint stewardship law in the state;³
- b) Packaging materials that are used for the long-term storage (e.g., 5+ years) and/or protection of a durable product;
- c) Packaging materials that are exclusive to the manufacturing or industrial process;
- d) Packaging materials that are used solely for business-to-business operations;
- e) Packaging materials that are sold and/or supplied in connection with products regulated by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) under 7 U.S.C. section 136 et. seq.;
- f) Packaging materials that are sold and/or supplied in connection with products that meet certain poison prevention requirements;
- g) Packaging materials that are sold and/or supplied in connection with hazardous or dangerous goods regulated by 49 C.F.R. section 178;
- h) Packaging materials that are sold and/or supplied in connection with hazardous or flammable goods regulated by 29 C.F.R. section 1910;
- i) Packaging materials that are sold and/or supplied in connection with products regulated by the Federal Food, Drug, and Cosmetic Act (FDCA) under 21 U.S.C. section 301 et. seq.;
- j) Packaging materials that are used to contain, among others, drugs that are used for animal medicines;
- k) Packaging materials that are used to contain infant formula, medical food, and/or necessary fortified oral nutritional supplements;
- l) Refillable containers of liquefied petroleum gas; and
- m) Other packaging materials that the relevant authority identifies.

The paint and coatings industry operates from coast to coast in all directions. Harmonization of the requirements of the states' packaging EPR laws would greatly aid our member companies in developing compliance schemes. Currently, out of the foregoing exemptions, A5009 only provides for packaging materials that are (1) sold and/or supplied in connection with products regulated by FIFRA or FDCA; and (2) sold and/or supplied in connection with hazardous or dangerous goods regulated by 49 C.F.R. section 178. Consequently, ACA urges consideration and incorporation of the above-mentioned exemptions in order to provide some harmonization with packaging EPR laws adopted in other states.

Conclusion

Overall, ACA appreciates the opportunity to provide comments to the Assembly Standing Committee on Environment, Natural Resources, and Solid Waste on A5009, and we look forward to working cooperatively on this matter.

Respectfully submitted,



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³ Assembly Bill 4965 and Senate Bill 2433, both of which require producers of architectural paint sold in New Jersey to implement or participate in a statewide paint stewardship program, are pending before the state legislature. Given the possibility of these two bills being enacted concurrently alongside A5009, providing an exemption for these types of packaging materials is imperative.