



March 9, 2026

Bradley Baker

Manager
Resource Management Program
Land and Materials Administration
Maryland Department of the Environment
1800 Washington Blvd
Suite 610
Baltimore, MD 21230

RE: Producer Responsibility Packaging and Paper Products Regulations – Public Comment

Dear Mr. Baker:

The American Coatings Association (ACA) submits the following comments to the Maryland Department of the Environment (MDE) regarding the agency’s proposal to adopt new regulations, COMAR 26.04.14 Packaging and Paper Products – Producer Responsibility. 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 and coatings science. ACA appreciates the opportunity to comment and looks forward to working with MDE throughout the rulemaking process.

ACA provides the following recommendations to alleviate any undue burden imposed on the paint and coatings industry.

- 1. Define ‘de minimis producer’ as an individual that, in the most recent fiscal year, has generated less than a total gross revenue of \$5,000,000.**

Section B(25)(j) of COMAR 26.04.14.02 provides that the term ‘producer’ does not include de minimis producers. Section B(14)(b) of COMAR 26.04.14.02 defines the term ‘de minimis producer’ as an individual that, in the most recent fiscal year, earned a global gross revenue of less than \$2,000,000. MDE’s definition does not align with the standard for defining the term ‘de minimis producer,’ which can be found in several other states’ packaging extended producer responsibility (EPR) laws. In Washington, the term ‘de minimis producer’ is defined as a producer with a total gross revenue of less than \$5,000,000 for the prior fiscal year. Similarly, in Oregon, the term ‘small producer’ is defined as a producer that earned a gross revenue of less than \$5,000,000 during the prior fiscal year. Finally, in Colorado, producers that realized a gross total revenue of less than \$5,000,000 during the prior calendar year are exempt from the state’s packaging EPR law.



This deviation from the standard practice of exempting producers that generate less than a total revenue of \$5,000,000 during the prior fiscal year unfairly burdens members of the paint and coatings industry. Companies that earned over \$2,000,000 in total global gross revenue will be required to comply with Maryland's packaging EPR law despite being made exempt from other states' packaging EPR laws. Setting a uniform de minimis threshold of \$5,000,000 is a practical measure to take to avoid an added layer of confusion to an already complex compliance burden for members of the industry. Accordingly, ACA recommends that MDE not enforce the state's packaging EPR law's definition for the term 'de minimis producer,' and instead recognize a de minimis producer as an individual that, in the most recent fiscal year, generated less than a total gross revenue of \$5,000,000.

2. Provide that all primary, secondary, and tertiary packaging associated with products subject to Maryland's paint stewardship program is considered 'exempt material.'

Section B(16)(a)(xii) of COMAR 26.04.14.02 provides that only primary packaging for products subject to the state's PaintCare program constitutes 'exempt material.' This definition negatively impacts the paint and coatings industry because it complicates manufacturers' compliance efforts with Maryland's packaging EPR law and other states' existing packaging and paint stewardship programs. For instance, California's packaging EPR law excludes "[p]ackaging associated with paint products," as defined in the state's PaintCare law, from the definition of 'covered material.' This decision was reinforced by the fact that a significant portion of coatings products are considered hazardous or flammable, which is another characteristic that may necessitate exempting secondary and tertiary packaging. Rather than create a maze of contingent and duplicative reporting requirements, California has chosen a clear compliance path for paint manufacturers in the state to register their PaintCare products with a single producer responsibility organization. Accordingly, to align with preexisting requirements in other states' packaging and paint stewardship programs and to ease any future compliance burdens, ACA recommends that Section B(16)(a)(xii) of COMAR 26.04.14.02 be revised to provide that all primary, secondary, and tertiary packaging associated with products subject to the state's PaintCare program be considered 'exempt material' under Maryland's packaging EPR law.

3. Provide that secondary and tertiary packaging constitutes 'exempt material' under COMAR 26.04.14.

Section B(16)(b) of COMAR 26.04.14.02 provides that secondary and/or tertiary packaging is not considered 'exempt material.' This definition negatively impacts members of the paint and coatings industry by overcomplicating an already complex compliance burden. Members of the industry are already required to determine whether they are (1) a producer of (2) a covered or exempt material. If a company is deemed to be a producer of an exempt material, rather than be made exempt from the state's packaging EPR law altogether, then the company will be required to comply with the law's various registration and reporting requirements for any secondary and tertiary packaging associated with the exempt material. Accordingly, to ease an already complex compliance burden, ACA recommends that COMAR 26.04.14 be revised to provide that secondary and tertiary packaging is considered 'exempt material' under Maryland's packaging EPR law.

Thank you for your consideration of ACA's comments. Please do not hesitate to contact me should you have any questions and/or require further clarification.

Sincerely,

A handwritten signature in black ink, appearing to read "Annebelle Klein". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

Annebelle Klein

Environmental Policy Counsel, Government Affairs
American Coatings Association
901 New York Ave NW, Ste 300 W
Washington, DC 20001
aklein@paint.org | 202.893.3949