



AmericanCoatings
ASSOCIATIONSM

TO: The Honorable Brian J. Feldman, Chair
Members, Senate Education, Energy, and the Environment Committee
The Honorable Malcolm Augustine

FROM: Andrew G. Vetter
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DATE: February 18, 2025

RE: LETTER OF INFORMATION – Senate Bill 901 – Environment – Packaging Materials – Producer Responsibility

The American Coatings Association (ACA)¹ submits the following testimony to the Senate Education, Energy, and the Environment Committee regarding the proposed exemptions for the term ‘packaging materials’ in Senate Bill 901, An Act concerning Environment – Packaging Materials – Producer Responsibility Plans (SB 901). ACA represents approximately 96% of the paint and coatings products manufactured in the United States (U.S.), including architectural, industrial, and specialty coatings.

The \$719 million paint and coatings industry in Maryland 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 Maryland 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 recommendations to SB 901 to provide clarification and consistency with other existing packaging EPR laws in the U.S.

- 1. Amend the definition of ‘packaging materials’ to clarify that products managed under MD. CODE ANN., ENV’T § 9-1733 (2024) are not covered products under SB 901.**

In states with PaintCare programs, leftover paint in their original containers are collected and managed responsibly. ACA and PaintCare’s goal is to divert leftover paint from landfills and recycle as much as possible. Our goal with respect to paint containers is the same – to divert from landfills and recycle as much as possible. This is true for all the states with PaintCare

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.

programs and Maryland is the most recent state to do so.²

In order to avoid confusion, promote efficiency, and prevent double coverage of these containers by two different EPR systems, ACA urges inclusion of the above language in SB 901 to provide that products subject to a stewardship program are exempt from the relevant packaging EPR law.³

Currently, products managed by PaintCare are not exempt under the definition for ‘packaging materials’ in SB 901. Clarification that these containers are managed under the paint stewardship law will assist municipal operators, Maryland Department of the Environment, and Maryland residents with leftover paint. Consequently, ACA recommends that Maryland harmonize its proposed packaging EPR law with the other states’ laws by amending SB 901’s definition of ‘packaging materials’ to exempt products collected under MD. CODE ANN., ENV’T § 9-1733 (2024).

2. Amend the definition of ‘packaging materials’ to include additional exemptions commonly found in other states’ packaging EPR laws.

The following states have enacted a packaging EPR law: (1) California, (2) Colorado, (3) Maine, (4) Minnesota, and (5) Oregon. Notably, within these states’ laws, there exists several exemptions to the term ‘packaging materials,’ including but not limited to the following:

- a) Packaging materials that are used for the long-term storage (e.g., 5+ years) and/or protection of a durable product;
- b) Packaging materials that are exclusive to the manufacturing or industrial process;
- c) 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. § 136 et. seq.;
- d) Packaging materials that are sold and/or supplied in connection with products that meet certain poison prevention requirements;
- e) Packaging materials that are sold and/or supplied in connection with hazardous or dangerous goods regulated by 49 C.F.R. § 178;
- f) Packaging materials that are sold and/or supplied in connection with hazardous or flammable goods regulated by 29 C.F.R. § 1910 (Occupational Safety and Health Standards);
- g) Packaging materials that are used solely for business-to-business operations; and
- h) 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, SB 901 only provides for packaging materials that are sold and/or supplied in connection with products regulated by FIFRA. 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 testimony to the Senate Education, Energy, and the Environment Committee on SB 901, and we look forward to working cooperatively on this matter.

² The following states, in addition to Washington, D.C., have enacted a paint stewardship program (e.g., PaintCare): (1) California, (2) Colorado, (3) Connecticut, (4) Illinois, (5) Maine, (6) Minnesota, (7) New York, (8) Oregon, (9) Rhode Island, (10) Vermont, and (11) Washington. In 2024, Maryland became the 12th state to adopt a paint stewardship program. Under this program, beginning in January 2026, producers will be prohibited from selling and/or distributing certain products into the state of Maryland prior to implementing an approved paint stewardship program.

³ See ME. STAT. tit. 38, § 2146(1)(I)(3) (2021); COLO. REV. STAT. § 25-17-703(13)(b)(X) (2022); MINN. STAT. § 115A.1441(16)(12) (2024); OR. REV. STAT. § 459A.863(6)(b)(I) (2021); CAL. PUB. RES. CODE § 42041(e)(2)(G) (West 2022).