

ACA and PaintCare®: Steering a Post-Consumer Paint Solution

Today's paints offer consumers the aesthetic value they seek, as well as the protective properties necessary to safeguard their valuable assets. Additionally, environmental consciousness has pushed coatings technology toward creating more eco-friendly, sustainable products. The results are safer and easier-to-use paints that deliver top quality aesthetics and protection.

THE PROBLEM

Despite its many valuable uses, paint — when disposed of — is often the largest volume product collected by municipal household hazardous waste (HHW) programs: an estimated 10% of the more than 650 million gallons of architectural paint — paint used to coat the interior and exterior of houses and other structures — sold each year in the United States goes unused. Much, if not most of this is latex — which is considered “non-hazardous” according to U.S. Environmental Protection Agency (EPA) testing protocols. This paint is typically managed along with other products in HHW programs as a hazardous waste, which can be very costly. In addition, management of latex paint poses a challenge for many municipalities and counties, because liquid latex paint cannot be disposed of as “mixed municipal solid waste” in the regular waste stream. However, latex paint has potential for recycling and diversion from landfills, and as such, the paint industry favors not regarding leftover paint as waste but, rather, as a product that is meant to be completely used or reused.

Yet, while leftover paint can be captured for reuse, recycling, energy recovery or safe disposal, doing so requires public awareness and a convenient and effective local collection system. Many municipal, locally operated HHW programs have been collecting paint for many years; however, as paint collection is expensive, many have discontinued collecting latex-based paints, instead directing the consumer to dry and dispose of it through their regular garbage. With continuing budget constraints, this is a trend that is gaining acceptance; simply put, post-consumer paint collection is currently beyond the capacity of, and budgets for, many local governments — the traditional solution.

THE SOLUTION

The new solution to the issue, and one that the paint industry supports and has championed, is an extended producer responsibility or product stewardship approach — an approach that is increasingly being implemented in the United States and in other countries for other products. Instead of shifting the cost burden from the government to producers, product stewardship is a principle that directs all participants involved in the life cycle of a product to take shared responsibility for the impacts to human health and the natural environment that result from the production, use, and end-of-life management of the product.

Extended producer responsibility principles assert that it is in the best interest of state and local governments that manufacturers manage environmentally sound and cost-effective end-of-life stewardship programs for their products. These terms, ‘extended producer responsibility’ and ‘product stewardship’ — often used interchangeably — allow a reduction of overall system costs by privatizing the end-of-life management for products and shifting the cost burden from rate and tax payers to users and producers of the products. All participants in the life cycle of a product have a role to play — manufacturers, retailers, consumers, and government. However, if producers are going to have the primary responsibility for the end-of-life management of their products, they must be given the ability to develop, own and operate the programs — and not simply be forced to fund current programs.

PAINTCARE®

The American Coatings Association (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 education and professional development. After more than five years of promoting a model solution for post-consumer paint management, ACA was instrumental in securing passage of the

first-ever paint product stewardship law in the United States in the state of Oregon in July 2009. Since then, ACA has sponsored and successfully passed parallel legislation in California, Connecticut, Rhode Island, Vermont, Minnesota, Maine, Colorado, and the District of Columbia. In order to implement these programs on behalf of all architectural paint manufacturers across the United States, ACA created a new 501(c)(3) service organization — PaintCare® — to run the program. Once the legislation is passed, PaintCare® directs the industry-led end-of-life management program for post-consumer architectural paint; that is, both oil-based and latex paint, sold in containers of five gallons or less, that are used for the interior and exterior of buildings. This model extended producer responsibility solution was developed as part of an agreement with federal, state and local government stakeholders.

The PaintCare® program institutes a true product stewardship model that ensures environmentally sensitive end-of-life management for leftover paint, while relieving local and state governments of their economic burden, without creating new, expensive local or state-run programs. This *Issue Background* focuses on ACA's leadership efforts to address post-consumer paint management and the momentum that its PaintCare® program is building as a national model for managing leftover paint.

THE PAINTCARE® LEGISLATIVE MODEL

In Oregon, House Bill 3037 created the first-ever paint stewardship program in the United States, which began operations in July 2010. The legislation enables the industry to implement the program; provides for a level playing field among manufacturers and retailers; and establishes a sustainable financing system. The Oregon bill became the basis for model PaintCare® state legislation.

The legislation is necessary to provide for a level playing field — all producers and retailers must participate — and to establish a sustainable financing system. While ACA continues to provide advocacy for the program, PaintCare® represents architectural paint manufacturers in implementing the program and is open to all architectural paint manufacturers (producers do not have to be ACA members for PaintCare® to act as their stewardship organization). The financing system is termed a “paint stewardship assessment.” This assessment is paid to PaintCare® by producers for all architectural paint sold in a state where the program is operating. Under the law, it must be added to the wholesale price of paint for all distributors and retailers and included in the final purchase price of paint for all consumers in the state. This financing system is a consumer cost-recovery model similar to the Product Care program — an established product-stewardship organization running similar programs for paint in Canada for over 25 years.

The funding covers all operational aspects of the program — collection, transportation and processing — as well as administrative costs for the program. Note: ACA and PaintCare®, while affiliated organizations, have separate financial records — compensation and expense for ACA's advocacy on behalf of the organization do not come from the assessment, but rather ACA member dues. PaintCare® submits a comprehensive plan to the requisite state agency on behalf of paint manufacturers, which details these costs and outlines how PaintCare® will set up and run a convenient, statewide system for the collection of post-consumer architectural paint and the management of its end-of-product-life that is reuse, recycling, energy recovery, and proper disposal. In addition, PaintCare® financing and budget submitted to the state agency is used to educate consumers about the issue: reducing post-consumer paint waste, collection and recycling opportunities and how the program is financed. Finally, the model legislation requires yearly reporting to the state agency on the progress of the program and any changes necessary, which PaintCare® also undertakes on behalf of its producer participants. These reports include how much paint was collected, the method of recycling and an independent financial audit of the program.

The legislation also provides important protection for manufacturers and retailers — a limited antitrust exemption for activities pursuant to the program — most notably, the financing system — so that competitors can come together for the purpose of the program and establish the assessment on their products, and that PaintCare® can then apportion such based on market share. The legislation states the public policy behind this exemption in that “it is in the best interest of [State] for architectural paint manufacturers to finance and manage an environmentally sound, cost-effective architectural paint stewardship pilot program, undertaking responsibility for the development and implementation of strategies to reduce the generation of post-consumer architectural paint, promote the reuse of post-consumer architectural paint, and collect, transport and process post-consumer architectural paint for end-of-product-life management, including reuse, recycling, energy recovery and disposal.”

The PaintCare® program is designed to allow consumers who have not had access to collection and recycling services, particularly for latex paint, or who have had to pay additional fees for such services, like contractors, to have full access to the program. That means in PaintCare® states, consumers now have more places to take leftover paint and contractors will have the opportunity to drop off leftover paint for recycling and proper disposal without having to pay a fee at the point of collection.

Although fees may change and vary by state, and in one state, PaintCare® has requested an adjustment, current fees are based on container size as follows: \$0.35 on quarts; \$0.75 on gallons and \$1.60

PaintCare® has collected and recycled or properly managed 12 million gallons of post-consumer paint through December 2015, and has recycled approximately 5,400 tons of metal and plastic containers.

on 5-gallon containers. This nominal fee not only covers the costs of collecting, transporting and recycling, or properly disposing of recently purchased paint, it also covers these costs for old, leftover paint that residents already have in their basements and garages. In addition, consumers now have better education on the issue of post-consumer paint management and transparency with regard to the financing of the program. The law mandates that consumers be informed that funding for the operation of the paint stewardship program has been added to the purchase price of all architectural paint sold in the state and what services that entails. To further ensure fairness, consumer protection, and transparency, the legislation specifies that the assessment funding the program must be approved by the state agency as part of the program plan and must be sufficient to cover, but not exceed, the costs of the program.

PAINTCARE® SUCCESSES & MILESTONES

As mentioned above, nine jurisdictions — eight states and the District of Columbia — have enacted legislation to establish the PaintCare® program. All PaintCare® state program operations are up and running, and District of Columbia program operations are slated to commence in September 2016.

PaintCare® has had remarkable success since its inception. In fact, the Oregon program was only intended to be a four-year pilot, but due to its incontrovertible success, the PaintCare® program was made permanent by law in 2013.

And that's not all. In just its first five-and-a-half years of operation, the Oregon PaintCare® program has established 168 permanent collection sites for paint in that state, as opposed to their 15 sites pre-program. PaintCare®'s Oregon program has collected over 3 million gallons of paint for recycling and proper disposal, and nearly 500 tons of plastic pails and metal cans have been recycled. The program is relieving a considerable financial burden on local governments that previously funded these programs. For example, Portland Metro government alone estimates that the PaintCare® program saves it over \$1 million annually. In fact, an evaluation of the Oregon PaintCare® program by the Product Stewardship Institute found that the majority of HHW programs cited cost savings as a benefit of the program, as well as an increase in paint collection overall; fewer incidences of improperly discarded paint in their communities; increased number of visits from residents; and a heightened sense of community and empowerment to "do the right thing."

The PaintCare® program launched in California in October 2012, and it has 751 sites for residents to drop off paint, which means 98.4% of residents in the state live within a 15-mile radius of a permanent drop-off site. The program has collected close to 7 million gallons of paint in California for recycling and proper management. In three years of program implementation in California, PaintCare® has increased paint recovery by 20%, which is very significant for a state with a robust pre-program collection infrastructure. The majority of HHW programs (82%) reported

cost savings to their municipal governments, ranging from \$2,750 to \$800,000 a year. And, the majority of respondents in each stakeholder group — retailers, HHWs, and contractors — reported that they were satisfied or very satisfied with the program.

Similar success is being enjoyed by residents of Connecticut, who have 142 collection locations, which translates to 99.9% of the population in the state having a paint drop off site within 15 miles of their home. In Vermont, there are 74 locations to drop off paint; Rhode Island residents enjoy 30; Minnesotans 228; Colorado has 141; and Maine has 85 — with operations in those two states just starting in 2015. Convenience for residents is paramount to making the program a success, and today PaintCare® boasts a total number of drop-off sites in all of the implementing states at approximately 1,322 retail and 297 HHW or other type of non-retail site — and that number will grow dramatically as existing programs expand, and new states come on board.

PaintCare®'s success story is astounding: PaintCare® provides **convenient take back to 61 million U.S. residents with its more than 1,600 collection sites nationwide.** What's more, PaintCare® offers direct pick up services to large volume users (anyone with 300 gallons or more) of architectural coatings, such as painting contractors, universities, hospitals and military bases. **Over 950 direct pick-ups have been arranged by PaintCare®, free of charge to the users.** Across the country **PaintCare® has supported over 900 HHW collection events** and has held 65 paint-only collection events to provide additional takeback opportunities for rural communities. **PaintCare® has collected and recycled or properly managed 12 million gallons of post-consumer paint through December 2015, and has recycled approximately 5,400 tons of metal and plastic containers.**

Overall, paint recycling is now more convenient throughout the states in which PaintCare® operates, particularly in areas where local governments do not offer paint recycling opportunities; governments that previously collected leftover paint are realizing direct financial savings; and communities that were underserved have new services.

DESIGNED FOR GROWTH

PaintCare® is a win-win, and state and local governments are carefully tracking the success of the PaintCare® program throughout the states in which it is operating, with an eye toward adopting it. Substantial commitment and resources are required to draft and enact paint stewardship legislation, including finding bill sponsors and building support among legislators and other stakeholders within the timeframe of a legislative calendar. As stated above, ACA fulfills its role as the advocacy organization and funding for such comes from ACA dues and not PaintCare® revenue. Substantial commitment and resources are

CONTINUE>>

also required to design and implement paint stewardship programs, including developing stewardship plans in coordination with the state agency; establishing an appropriate collection infrastructure; engaging retailers, local governments, and consumers to build support; and developing a marketing program targeted to specific audiences.

PaintCare® fulfills its role as the non-profit services organization and is intended to serve as the nationally coordinated system for managing leftover paint. PaintCare® revenue is collected for each state based on the sales of architectural paint manufacturers in that state, and the revenue is specific to and stays with that state. ACA's goal is to pass the legislation in any state interested in the program. The goal of PaintCare® is to reduce paint waste, while establishing mechanisms for efficient collection, reuse, recycling, and proper disposal of leftover paint. ACA and PaintCare® are committed to PaintCare® being the best, most effective program for paint stewardship, learning from its existing programs, and developing new programs on behalf of the paint and coatings industry.

ACA is committed to working toward bringing PaintCare® to any state interested in the program. While ACA will fund the advocacy,

information from existing programs and grassroots advocacy within the state are necessary for success. ACA works with local municipal HHW programs, recycling organizations, haulers and recyclers, local product stewardship organizations, county councils and the agency overseeing environmental programs in the state to bring the program to fruition.

PaintCare® legislation is currently pending or being discussed in Washington, Maryland, New Hampshire, New York, New Jersey, Massachusetts, Illinois, Texas, and Utah.

CONTACT

For more information, go to www.paintcare.org, or contact:

Alison Keane
ACA Vice President,
Government Affairs
and Industry Programs
akeane@paint.org
(202) 719-3703

Marie Clarke
ACA Counsel,
Government Affairs
and Industry Programs
mclarke@paint.org
(202) 719-3682

HOW IT ALL GOT STARTED

There has always been discourse between the paint industry and the governmental bodies that oversee HHW management over the proper course for the management of post-consumer paint. Much of the discussion revolved around the possibility of creating new funding sources to dispose of and recycle paint and divert it from improper disposal, incinerators and landfills, which the PaintCare® program now addresses.

National discussions about paint product stewardship began in earnest during 2003. The Product Stewardship Institute (PSI) spearheaded two nationally negotiated Memorandums of Understanding (MOU) through the Paint Product Stewardship Initiative (PPSI). The memorandums were signed by ACA, five paint manufacturers, eight state governments, 31 local government agencies, and several other related businesses and organizations. The second MOU called for the Paint Product Stewardship Initiative to develop a new nationally coordinated system for the management of leftover architectural paint in a "demonstration," or pilot state, which turned out to be Oregon. The intent was for the industry to undertake a state-wide "demonstration project" to work through critical issues and gather information needed to develop a functional, fully funded, environmentally sound, and cost-effective, nationally coordinated leftover paint management system. The MOUs also called for the nationally coordinated system to be implemented in the rest of the United States according to a phased implementation schedule, after completion of the demonstration project — which PaintCare® is currently undertaking.



The American Coatings Association (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.