

FOCUS



The Paint and Coatings Industry: Piloting 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 environmentally friendly products. The results are safer and easier to use paints that deliver top quality aesthetics and protection.

Despite its many valuable uses, paint — when disposed of — is the largest volume waste collected by metropolitan household hazardous waste (HHW) programs. Much, if not most of this is latex, though research has demonstrated that latex paint is not a hazardous waste and latex paints are considered "non-hazardous" according to U.S. Environmental Protection Agency (EPA) testing protocols. Many HHW programs manage leftover latex paints as hazardous wastes, 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." 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 resource that is meant to be completely used or reused.

Many localities are faced with budget shortfalls and the issue of handling post-consumer paint. As a result, proposals have cropped up that would impose stringent and burdensome requirements on paint producers to fund and manage end-of-life systems for their products, or would mandate the imposition of "fees" or surcharges on products to pay for government waste programs. The paint industry opposes the imposition of special taxes or "advance disposal fees" on its products in order to fund government waste programs. It also maintains that imposing state regulations that would dictate the terms of "extended producer responsibility" or "product stewardship" programs on producers would be costly and inefficient.

Paint is produced with the optimal purpose of total consumption; it is not produced to become a waste. The paint industry therefore favors a true extended producer responsibility or product stewardship approach, similar to those used in Canada for post-consumer paint management — an approach that is increasingly being

implemented in the United States and in other countries for other products. Instead of just 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 interests 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.

After more than five years of promoting a model solution for post-consumer paint management, the American Coatings Association (ACA) was instrumental in securing passage of the first-ever paint product stewardship law in the United States in the state of Oregon. ACA has created a new 501(c)(3) organization — "PaintCare" — to run the program, which will pilot an industry-led end-of-life management program for post-consumer paint. This model solution was developed as part of an agreement with federal, state and local government stakeholders.



Piloting Change
Background
Moving Forward

This pilot program institutes a true product stewardship model that will ensure environmentally sensitive end-of-life treatment for leftover paint while relieving local and state governments of their economic burden, without creating new, expensive local or state-run programs. Product Care — an established product-stewardship organization running similar programs for paint in Canada — has agreed to partner with PaintCare to design the program for a start date of July 1, 2010, and to implement the program over the next four years.

THIS ISSUE BACKGROUNDER FOCUSES ON ACA'S LEADERSHIP EFFORTS TO ADDRESS POST-CONSUMER PAINT MANAGEMENT AND THE MOMENTUM THAT ITS PAINT-CARE PROGRAM IS BUILDING AS A NATIONAL MODEL FOR MANAGING LEFTOVER PAINT.

PILOTING CHANGE

In Oregon, House Bill 3037 "providing for the development and implementation of an architectural paint stewardship pilot program," was signed into law by Oregon Gov. Ted Kulongoski on July 23, 2009. The legislation creates the first-ever paint-stewardship program in the United States. It enables the industry to implement the program, providing for a level playing field among manufacturers and retailers, a sustainable financing system, and an antitrust exemption for activities pursuant to the program — most notably, the financing system. The law states that "it is in the best interest of [Oregon] 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 archi-

tectural paint, and collect, transport and process post-consumer architectural paint for end-of-product-life management, including reuse, recycling, energy recovery and disposal."

While the initial, up-front funding for this industry-run project has been borne by ACA members, the legislation was crafted to provide for a level playing field (all producers must participate — not just ACA members) — and to establish a sustainable financing system. A new non-profit association was incorporated to focus on the needs of this program that fall outside of ACA's purview — so PaintCare was established. The financing system is termed a "paint stewardship assessment." The law defines this as "the amount added to the purchase price of architectural paint sold in [Oregon] necessary to cover the cost of collecting, transporting and processing the post-consumer architectural paint managed through a statewide architectural paint stewardship pilot program." This assessment will be paid to PaintCare by producers for all architectural paint sold in Oregon. 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 Oregon consumers. This financing system is a consumer cost-recovery model similar to the Product Care program currently in place in British Columbia, Canada, as well as other provinces. In British Columbia, Product Care manages this through an "eco-fee" paid to Product Care by its members to run the program, which is in turn passed on to the consumer through the retail purchase of paint.

In addition to using the funding for the operational aspects of the program — collection, transportation and processing — the funding also is used for administrative costs. Such costs would include submittal of a comprehensive plan to the Oregon Department of Environmental Quality (DEQ) by PaintCare on behalf of paint manufacturers. The



plan is to outline 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, including reuse, recycling, energy recovery, and proper disposal. In addition, PaintCare financing will be used to educate consumers about the issue, including reducing post-consumer paint waste, collection and recycling opportunities and how the program is financed. And finally, the law requires yearly reporting to the Oregon DEQ and a report to the Oregon Legislature on the progress of the program and any changes necessary, which PaintCare will undertake on behalf of its producer participants.

The 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, to have full access to the program. That means consumers will 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. In fact, this nominal fee will not only cover the costs of collecting, transporting and recycling or properly disposing of new paint, but all the old, leftover paint consumers already have in their basements and garages. In addition, consumers will now have better education on the issue of post-consumer paint and transparency with regard to the financing of the program, because 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. Finally, to fully ensure fairness and consumer protection, the law specifies that the assessment funding the program must be approved by the Oregon DEQ as part of the program plan and must be sufficient to cover, but not exceed, the costs of the program.

BACKGROUND

There has always been discourse between the paint industry and the governmental bodies that oversee household hazardous waste (HHW) management over the proper course for the management of post-consumer paint. Much of the discussion revolves around the possibility of creating new funding sources to dispose of and recycle paint and divert it from improper disposal, incinerators and landfills. Since 2003, ACA has been engaged in a national post-consumer paint dialogue initiated by the Product Stewardship Institute (PSI), an organization consisting of local and state regulators from across the country, with a mission to "assist state and local government agencies in establishing cooperative agreements with industry and developing other initiatives that reduce the health and environmental impacts from consumer products." PSI, through a survey of state and local governments, identified post-consumer paint as a top concern to state and local agencies, based on its "high volume in the waste stream, subsequent costs to manage, and high potential for increased recovery, reuse, and recycling." The organization estimates that the cost to manage post-consumer paint on a national level could be as much as \$500 million dollars per year. As a result, PSI convened a national dialogue devoted to bringing key parties together to jointly solve problems related to post-consumer paint management. The national dialogue entitled, "the Paint Product Stewardship Initiative" (PPSI), involves representatives from the paint industry, state and local governments, U.S. EPA, recyclers, painting contractors, and retailers, among others.

In March 2005, ACA signed a Memorandum of Understanding with PPSI, which detailed the dialogue process, as well as a path forward, implementing a host of pilot projects aimed at post-consumer paint cost/volume reduction. ACA undertook and funded



several projects in order to provide the PPSI stakeholders with necessary information to form the basis for the next stage of the dialogue: development and implementation of a nationally coordinated post-consumer paint management system.

ACA'S PROJECTS FOCUSED ON THE KEY TO REDUCING THE AMOUNT AND COST OF POST-CONSUMER PAINT MANAGEMENT: EDUCATION ON WASTE MINIMIZATION AND REUSE, AS WELL AS THE NON-HAZARDOUS NATURE OF LATEX PAINT.

After all, an EPA study estimated that approximately 10 percent of the 637 million gallons of paint sold annually becomes leftover paint, equal to about 64 million gallons per year. The paint industry and the PPSI stakeholders agreed to work together for education on the purchase, use and proper disposal of latex- and oil-based paints. As such, ACA updated its *Protocol for Management of Post Consumer Paint*, which covers education, waste management programs, cost considerations and additional information about post-consumer paint, including approaches on successful collection and reuse programs.

ACA also underwrote the development of the *Guidance Manual for Paint Reuse Programs*. The guide provides details on how to establish or maximize a reuse program, and includes case studies and sample documents from successful reuse programs across the United States. For consumers, the PPSI created a new best management program, which ACA has developed into a print brochure that is available on its website, www.Paint.org. The brochure, which advocates a "5-Point Program" for paint management, follows the 3r's — Reduce, Reuse, Recycle — and focuses on five key steps: buying the correct amount of paint, storing it properly, using it up, supporting reuse and recycle programs, and proper disposal as a last resort. The brochure also provides information to consumers on proper

recycling and disposal options for both oil and water-based paint. In addition, ACA partnered with a consumer education firm — Earth911 — which specializes in consumer product waste management issues. This partnership enables ACA to provide the public with state and local government disposal/drop-off sites, as well as nonprofit reuse centers through a "paint wise" website, www.earth911.org/recycling/paint-recycling, based on the 5-Point Program. Additionally, ACA has sponsored public service announcements detailing the 5-Point Program on radio stations throughout the country.

Other projects that ACA sponsored include: 1) a lifecycle/cost benefit analysis of various management options identified for post-consumer paint waste — from drying/solid waste disposal to reuse to recycling — in order to determine the net environmental and economic lifecycle benefit from these methods; 2) a white paper addressing health, safety and environmental compliance mandates for paint products, including regulatory barriers and potential solutions to re-blending or recycling of post-consumer paint; 3) a survey of consumers on paint purchasing behaviors; and 4) strategies to reduce over-purchases in order to promote source reduction.

Fortified with substantial data and clarity, in October 2007, ACA signed a second PPSI Memorandum of Understanding, this time in anticipation of coordinating a national system for managing post-consumer paint and demonstrating system elements of a program through a Minnesota state-wide pilot project.

Under the latest Memorandum of Understanding, in 2008, ACA introduced legislation to launch a state-wide "Demonstration Project" in Minnesota. The objective was to work through critical issues and gather information necessary to develop a functional, fully funded, environmentally sound, and cost-effective nationally coordinated leftover paint management system. Based on the results of the Minnesota Demonstration Project, a nationally coordinated system was to be implemented in the rest of the United States according to a phased-in implementation schedule. Unfortunately, while the legislation was vetoed for political reasons in Minnesota, ACA introduced the same legislation in Oregon, with a successful result.



5-POINT PROGRAM FOR LEFTOVER PAINT:

- BUYING THE CORRECT AMOUNT OF PAINT
- STORING IT PROPERLY
- USING IT UP
- SUPPORTING REUSE & RECYCLE PROGRAMS
- PROPER DISPOSAL



MOVING FORWARD

All U.S. states were invited to participate in the PPSI, but only nine states have been active: California, Connecticut (took the place of Illinois), Florida, Iowa, Minnesota, North Carolina, Oregon, Vermont, and Washington. These states contributed significant time and financial resources with the understanding that they would be first in line to introduce the paint stewardship legislation and to implement paint stewardship programs. Their engagement, along with that of other stakeholders, was formalized in the Memorandum of Understanding dated October 2007.

Together, the group is now crafting a set of recommendations, which will guide its mission moving forward, particularly with respect to enabling legislation in other states not bound by the Memorandum of Understanding. This includes a formal policy for introducing and implementing germane legislation across the United States and recommending strategies for states interested in the potential introduction of such legislation. These include, but are not limited to:

- Participating in PPSI dialogue meetings (usually held by teleconference) and signing up to receive briefings;
- Educating local governments and other stakeholders in their states about the importance of paint stewardship and how to implement it;
- Enacting programs to reduce, reuse, collect, and recycle leftover paint; and
- Engaging retailers for potential leftover paint collection sites.

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. Substantial commitment and resources are 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. The industry, as well as the PPSI group, are committed and seek to learn from paint stewardship programs as they are implemented. Oregon's paint stewardship program was designed as a pilot to inform other states' programs. PPSI stakeholders envision that federal paint legislation will be appropriate after programs in a representative number of states have been enacted and tested. Time is needed to learn from programs that are just now being put into place. ACA has great expectations and hopes for PaintCare as the national model for dealing with post-consumer paint.

WANT TO KNOW MORE?

For more information on this consumer and environmental issue, visit ACA's web site, www.paint.org, and download the ACA-produced *Protocol for Management of Post Consumer Paint*; *Guidance Manual for Paint Reuse Programs*; and *The 5-Point Program for Leftover Paint* brochure. Or contact ACA's Alison Keane (akeane@paint.org) or David Darling (ddarling@paint.org) for more information.

While the PaintCare website is under development, you may also visit the Product Stewardship Institute's website, www.productstewardship.us, and click on "Paint," or Product Care's website at www.productcare.org.

THE 5-POINT PROGRAM FOR LEFTOVER PAINT

1. BUY THE CORRECT AMOUNT OF PAINT FOR THE PROJECT

Be a wise consumer and buy only what you need. Check with your local paint dealer for instructions on how to determine the correct volume of paint required for your project. When you purchase the right volume of paint, it eliminates the need to store or dispose/recycle paint when the project is finished, and it might even save you money. When your painting project is complete, take a look in the can. If there is only a small quantity of paint left, use it up. Paint out the last inch-or-two of paint in the bottom of the can.

2. STORE PAINT PROPERLY TO KEEP IT FRESH

If your project is complete and you still have a fair amount of paint leftover, be sure to correctly store the paint. Proper paint storage will eliminate safety concerns and keep your paint fresh for touch-ups or future projects. For best results, cover the opening of the paint can with plastic wrap and securely seal the lid. When you are sure the lid is leak-proof, turn the can upside down, and store it in a place with a moderate room temperature to avoid freezing. Be sure to choose a safe location that is out of the reach of children and pets.

3. USE UP LEFTOVER PAINT

Now that you have safely stored your leftover paint, don't forget about it. Leftover paint can be used for touch-ups or smaller projects and lighter colors can be taken back to a paint retailer and be re-tinted for another paint project. Record the room name on the lid for future touch ups. You can blend and mix smaller quantities of latex paint to use as a base coat on larger jobs. Perhaps, you know a neighbor or relative who could use your leftover paint; now, that's being environmentally friendly!

4. REUSE OR RECYCLE

If you can't make use of the paint yourself, donate your useable leftover paint to a worthwhile community association, theatre company, church group or other local organizations that may be in need of good paint. Perhaps, your community offers a paint exchange event or a special paint collection program. Many communities collect paint for reuse, recycling or, as a last resort, proper disposal through local Household Hazardous Waste (HHW) collection programs. Check the "Earth 911" Paint Wise web portal at www.Paint.Earth911.org or call 1-800-clean-up, to learn about paint reuse, recycling and HHW collection programs that are available in your community.

5. DISPOSE OF THE PAINT PROPERLY

If there is not a leftover paint collection program available in your area, you may need to dispose of leftover latex paint yourself. Air-drying of liquid alkyd or oil-based paint is not considered safe. In regions that allow it, let your latex paint air dry in a safe location away from children and pets. A small amount of paint, less than 1/2 inch, in the bottom of a paint can is easily dried out by leaving the lid off. Once the paint is hard, discard the paint can with the lid off, preferably in a metal recycling program. If metal recycling is not available or the paint container is plastic, dispose of the container in the garbage. Larger volumes of latex paint can be dried in a box with absorbent material such as shredded paper or kitty litter. Recycle the empty can with the lid off and dispose of the dried out latex paint as garbage. If the paint in the can is solidified all the way through, it may be disposed of as garbage with the lid off to prevent the build up of pressure in the can.

AmericanCoatings
ASSOCIATION



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.