
From: Billy P. [wowjunkmail@yahoo.com]
Sent: Monday, September 05, 2011 2:07 AM
To: Paint Product Stewardship
Cc: Wang, Emily; Dunn, Cynthia
Subject: proposed regulation comment

Dear CalRecycle Staff:

First of all, I greatly appreciate your hard work in putting together this piece of regulation to comply with the mandate of AB1343. I represent as a concern citizen who lives in the State of California. I have the following comments/questions that request CalRecycle to address under the proposed regulation in Title 14 CCR:

- 1) §18952(a)(1)(H), “custodian of records” is so vague in this regard. Should the records be cradle-to-grave documentation like bill of lading or manifest? Or should the records be the paint stewardship contract/plan only? Or should this section address both? I would suggest defining this term in detail.
- 2) §18952(a)(3), one paint brand has variety of models, or application products, like a car manufacturer. Here are two examples, Behr (a paint brand) carries:

a. 2-part Epoxy Garage Floor Coating:

http://www.behr.com/dsm-ext/v/index.jsp?vnextoid=849a536658689110VgnVCM1000006f1010acRCRD#channel=PROJECT_CENTER;vnextoid=849a536658689110VgnVCM1000006f1010acRCRD;view=17 or click [here](#)

b. Oil-Latex Redwood Stain:

http://www.behr.com/dsm-ext/v/index.jsp?vnextoid=b0ea536658689110VgnVCM1000006f1010acRCRD&vnextchannel=9cf5f11390a59110VgnVCM1000006b0910acRCRD&vnextfmt=default#channel=PROJECT_CENTER;vnextoid=b0ea536658689110VgnVCM1000006f1010acRCRD;view=17 or click [here](#)

However, from the last public meeting I attended, I recalled that Paint Care does not accept 2-part epoxy paint and, perhaps, a hard way to classify oil-latex paint as latex paint (non-RCRA hazardous; CA-only hazardous) or oil-based paint (flammable), which would trigger different shipping and storage requirements in CA according to DTSC, USDOT and USEPA.

Although Behr is a paint brand under CalRecycle’s acceptance category, the model of 2-part epoxy paint that does not cover under the stewardship plan would create confusion to the local paint collection sites. Also, if Paint Care or other stewardship organization would accidentally accept all the non-acceptable paint from a collection site, would the non-acceptable, essentially, non-recyclable paint be returned to the collection site? Or would the non-recyclable paint now be part of Paint Care’s property of doing business (like a hardware store) to manage the returned and defective hazardous material as hazardous waste in California?

Since I would still not foresee that all paint models to be covered under any paint stewardship plan, how would CalRecycle intend to control all non-recyclable models? How would CalRecycle make Paint Care or other stewardship organization be responsible and held liability for any non-recyclable paint and its end-of-life management? Therefore, I would suggest to change the “List of brands” to “List of models” to eliminate the confusion.

3) §18953(a), I found the reference §18942 in Title 14 CCR under the proposed rulemaking of proposed Carpet Stewardship regulation. Since there may have a change in the Carpet Stewardship regulation after the 45-day public commenting period similar to the proposed Paint Stewardship regulation, I would suggest the referral section to be §18952 instead of §18942 to keep the consistency under the proposed Paint Stewardship regulation.

4) §18953(a)(3), what is a “baseline” based on? Form 303a? I would suggest CalRecycle, instead of the manufacturer or stewardship organization, to set a sample “baseline” for stewardship organization to follow. The CalRecycle standard would help to ease the transition and set a beginning of the paint stewardship in CA when CalRecycle has been collecting data from various sources over the years.

5) §18953(a)(4), “solid waste management hierarchy” was referred back to California Public Resource Code §40051. However, §18953(a)(4)(C) does not include the clause “at the discretion of the City or County” for “safe land disposal.” What is CalRecycle’s intension in this case? Does the missing clause now become the discretion of the paint stewardship organization? Please clarify.

To further stressing this point, Home Depot has an instruction for anyone using paint. According to Home Depot website,

http://www.homedepot.com/webapp/wcs/stores/servlet/ContentView?pn=KH_CL_What_to_Toss&langId=-1&storeId=10051&catalogId=10053&cm_sp=Cleaning-_-RightRail-_-What_to_Toss-_-Learn_About_Cleaning, or click [here](#),

“Paint

Try giving away or trading unused or leftover paint with a neighbor or friend. You can also check online or in the phone book for a hazardous waste collection facility nearby or to see if your town offers special collection drives for such castoffs.

Using a paint hardener is another environmentally friendly paint disposal option. A paint hardener solidifies acrylic or latex paint right in the can, making it safe for household disposal. For just a few dollars, a small bag of paint hardener hardens up to 2/3 of a gallon of paint, and is available at most The Home Depot stores.”

Such paint hardener is branded “Homax Waste Away Paint Hardener” (Model# 2134), <http://www.homedepot.com/buy/homax-products/no-2134-waste-away-paint-hardener-55131.html>, or click [here](#), and is sold not exclusively at Home Depot, but also at Lowes and ACE Hardware stores. If a paint stewardship organization, at its discretion, decides that “safe land disposal” is the best and economically sound option, such paint hardener sounds like the solution of “recycling.” How would CalRecycle or the paint stewardship organization be accountable in this case?

I went further ahead and discovered that two additional paint hardeners are currently sold in the US. Here is the information:

- a) Krud Kutter Waste Paint/Colorant Hardener (<http://www.highlandwoodworking.com/krudkutterwastepainthardener35oz.aspx>)
- b) Samax Enterprise Inc. – Latex Waste Paint Hardener (3.5oz. = <http://www.hardwareharbor.com/latex-waste-paint-hardener-by-samax-enterprise-inc.aspx> or <http://www.albrightshardware.com/departments/paints-and-painting-supplies/paint-additives/paint-hardeners/3-5oz-rock-hard-latex-waste-paint-hardener.html>; 5-gal = <http://www.albrightshardware.com/departments/paints-and-painting-supplies/paint-additives/paint-hardeners/5gal-pail-waste-paint-hardener.html>)

I would suggest CalRecycle to work out a plan to eliminate the sales of this type of product in California and via online from out-of-state. When any paint stewardship organization, in addition to the individual

end-user, would have access to such paint hardener at a fairly cheap price, paint recycling effort in CA is then eliminated due to convenience is usually superseded everything, although a recycling fee is charged at the point of sales.

6) §18954(a)(5)(F) & (G), what is the intent of the terms “reuse” and “recyclability”? Does a paint stewardship organization need to track the manufacturer’s responsibility and of consumer behavioral responsibility on reuse and recycling efforts? I would suggest that a more clarification of such “description of efforts” would help.

7) §18954(a)(7)(G), the term “landfilling” is confusing in the scope of “end-of-life materials management.” Several existing paint recycling facilities have a process of using solidified latex paint and send to a landfill to use as alternative daily cover (ADC), which is considered as recycling under the existing CA law. How would this ADC material be considered as “landfilling” or “recycling” in regard to this Paint Stewardship regulation? A brief definition of “landfilling” in §18951 would eliminate the confusion.

8) General comment: Who will be the generator of the paint? Has CalRecycle worked out the status of Generator on left-over paint collection with DTSC?

Also, there is no clear direction in this proposed regulation concerning on the reporting like Form 303a by the local jurisdiction on October 1 following the end of the fiscal year ending June 30. Would the reporting requirement (§18954) by paint stewardship organization handle such responsibility for each local jurisdiction?

I am looking forward to see CalRecycle’s response. Thank you very much.

Sincerely yours,
Billy Puk