



American Coatings ASSOCIATIONSM

May 1, 2025

Barbara Flynn Currie, Chairperson
Illinois Pollution Control Board
2520 W Iles Ave
Springfield, Illinois

RE: R25-022 - Standards for Universal Waste Management (35 Ill. Adm. Code Parts 703, 720, 721, 724, 725, 728, and 733), Illinois Universal Waste Rules for Paint and Paint-Related Waste

Dear Ms. Currie,

The American Coatings Association (ACA) submits the following comments to the Illinois Pollution Control Board regarding the proposed rulemaking to add paint and paint-related waste to the universal waste regulations in Illinois, R25-022 - Standards for Universal Waste Management (35 Ill. Adm. Code Parts 703, 720, 721, 724, 725, 728, and 733).

Statement of Interest

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.

ACA established PaintCare Inc., a non-profit 501(c)(3) organization, to plan and operate post-consumer paint stewardship programs in U.S. states and jurisdictions that enact paint stewardship laws. To date, PaintCare has launched such programs in 11 jurisdictions across the country, including California, Colorado, Connecticut, the District of Columbia, Maine, Minnesota, Oregon, Rhode Island, Vermont, Washington, and New York, and is preparing to launch programs in Illinois and Maryland. Through these programs, PaintCare has collected over 77 million gallons of paint, thereby removing them from the municipal waste stream, helping local communities reduce their waste management costs, and ensuring that the leftover paints are managed in an environmentally protective way.

Overview of the Paint Stewardship Program

The mission of PaintCare is to manage the end-of-life of unwanted architectural paints in an environmentally responsible manner. PaintCare's goal is to divert as much of the collected material as possible away from landfills, recycle as much as possible, encourage reused where possible, and reduce the amount of leftover paint. The most common type of paint that is managed by PaintCare is

latex paints. The reprocessing of leftover and unused latex paint depends on a variety of factors, such as the condition of the paint as well as the tint and finish. Not all of the paint collected by PaintCare can be recycled or reprocessed. PaintCare works to ensure that the waste hierarchy is followed for the paint collected to the greatest extent possible. In the waste hierarchy, reuse and recycling are prioritized; however, if the condition of the paint is too poor to be recycled, then the leftover paint would be managed via energy recovery or other methods.

PaintCare's success can be attributed to the robust network of collection locations, which makes it convenient and easy for consumers to drop off leftover paint, and the program plans, processes, and site trainings developed to ensure that collection is safely done for approved program products. Approved program products must be in the original can with a lid along with the original manufacturer's label intact. This policy helps to safely ensure a more accurate record of the products collected. Furthermore, only leftover consumer paint will be collected and not paint-related waste.

PaintCare also conducts site training for those retail locations that voluntarily serve as a drop-off/collection site to ensure program products are collected safely and stored properly until they are transported offsite. Any products that do not match the approved program products, such as open cans with no labels, paint-related waste (roller, brushes, or other debris), buckets, or paint products not on the approved products list, should be refused at the retail site. However, if they do appear in the retail collection bins, transporters are certified for the movement of hazardous materials and will manage these non-program products in an environmentally responsible manner.

After reviewing the proposed changes to the Illinois universal waste rules for paint and paint-related waste, ACA is concerned that two provisions in the universal waste rules will deter retail sites from voluntarily participating in the PaintCare program as drop-off/collection sites. Retail participation is key to running a successful PaintCare Program in Illinois. If retail sites do not participate, the program will have low convenience levels, higher costs, and a heavier burden will be placed on local governments to shoulder the bulk of paint collection.

ACA appreciates the opportunity to submit the following comments on the proposal and urges the removal of the two requirements that create significant barriers to the successful implementation of a paint stewardship program. ACA looks forward to working with the Illinois Pollution Control Board and the IEPA throughout the rulemaking process.

1. The 50 foot setback requirement for small quantity handlers.

Sections 733.113(f)(4) and 733.133(f)(4) state that containers "holding ignitable universal waste paint or paint-related waste [must be] located at least 50 feet from the facility property line, unless the ... handler obtains written approval from the authority having jurisdiction over the local fire code to allow ignitable universal waste paint or paint-related waste to be located within 50 feet of the facility property line." ACA is concerned that the 50 foot setback requirement will cause retail locations to hesitate or refuse to volunteer as a drop-off/collection site for the paint stewardship program.

PaintCare intends to recruit a substantial number of retail store locations across the entire state of Illinois to voluntarily serve as drop-off/collection sites for leftover consumer architectural paint products. These retail store locations will be located in a variety of settings, including rural areas where

stores may have a large footprint and very dense cities, such as Chicago, where stores likely have a much smaller footprint. PaintCare has over 17 years of experience in 11 other state programs recruiting retail locations for this purpose and believes that the 50 foot setback requirement will negatively impact the ability to recruit retail facilities to voluntarily serve as drop-off/collection sites in those densely populated areas due to retailers' limited physical space. Although there is a process identified for these retail locations to obtain an exemption from this requirement, this very process will be an impediment to those same retail locations. This "allowance process" places an unnecessary burden on both the retail store as well as the local municipal services. Furthermore, even if a location seeks an allowance, there is no guarantee that it will be granted.

ACA recommends removal of the 50 foot setback requirement for small quantity handlers of universal waste paint and paint-related waste, similar to the New York Universal Waste Rules, which do not contain a 50 foot setback requirement for small quantity handlers of universal waste paint. Note that even if the 50 foot setback requirement is removed for small quantity handlers, the universal waste rules still require a small quantity handler to take precautions to prevent accidental ignition of universal waste paint or paint-related waste, including but not limited to protecting the paint from sources of ignition. Furthermore, the Illinois paint stewardship act (P.A. 103-372) requires PaintCare to submit a program plan that establishes the Paint Stewardship Program to the Illinois Environmental Protection Agency for approval. The program plan will include operational guidelines for sites, which contain provisions to further ensure safety at participating drop-off/collection sites. For example, PaintCare operational guidelines require sites to place collection bins away from ignition sources, collection bins must be placed in areas with adequate ventilation, and the sites must be equipped with appropriate emergency response equipment including fire extinguishers. In addition, site staff receive training on identifying program products and collection bins are only accessible to site staff. Therefore, ACA recommends removal of the 50 foot setback requirement for small quantity handlers of universal waste paint and paint-related waste.

In the alternative, ACA recommends an exemption from the 50 foot setback rules for small quantity handlers of universal waste paint and paint-related waste for retail locations participating as voluntary drop-off/collection sites pursuant to an approved paint stewardship program plan for the same reasons outlined in the paragraphs above.

2. The retailer notification requirement.

Sections 733.118(g), 733.138(g), and 733.161(c) require a handler or destination facility that "receives a shipment containing hazardous waste that is not a universal waste to ... immediately notify the Agency ... of the illegal shipment, and provide the name, address, and phone number of the originating shipper." ACA is concerned about the requirement to notify the agency when a site receives hazardous non-universal waste. This notification requirement will deter potential drop-off/collection sites from voluntarily participating in the program.

It will be impossible for retail locations to comply with the notification requirement if hazardous non-universal waste is brought to a collection location. Retail locations will not be able to provide the name, address, and phone number of the individual that dropped off the hazardous non-universal waste. The inability to comply with this requirement introduces uncertainty and risk for any potential

retail location. This uncertainty, potential risk, and the added burden on retail locations that may want to volunteer as a drop-off/collection site would cause these retail locations to hesitate and resist volunteering.

ACA proposes the following alternative regarding the handling of hazardous non-universal waste. In all other PaintCare programs, PaintCare's transporters and downstream processors are required to track and manage any incidental nonprogram products that they receive in accordance with applicable law. They are instructed to notify PaintCare of incidents and identify the specific drop-off site from where the nonprogram products originated and the quantity and type that were found. Depending on the number of non-program products, PaintCare may do one or more of the following: (1) contact the site to let them know about the incident, (2) provide additional/refreshers training on identification of program and nonprogram products, or (3) in extreme cases, remove the site from the paint stewardship program. This alternative still provides proper disposition of the hazardous non-universal waste, while not placing the burden on the retail sites that volunteered as drop-off/collection sites.

Conclusion

ACA appreciates the opportunity to provide these comments and welcomes any opportunity to discuss them further. Our concerns outlined above are designed to allow our industry to develop a successful paint stewardship program with robust voluntary retail participation. The PaintCare program, while focused on leftover paint collection and management, does not ignore health and safety requirements and takes prudent steps to ensure that the retailers' collection activities are operating in accordance with the law. Elimination of these two requirements will enable the development of a robust paint stewardship program in Illinois without compromising environmental health or safety. ACA looks forward to working with the Illinois Pollution Control Board and the Illinois Environmental Protection Agency throughout the rulemaking process.

If you have questions regarding ACA's comments or would like to discuss any of these comments in further detail, please do not hesitate to contact us.

Sincerely,
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Submitted via email to the Illinois Pollution Control Board, to the Clerk of the Board Don Brown at Don.Brown@illinois.gov