

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	R 2025-022
STANDARDS FOR UNIVERSAL)	(Rulemaking – Land)
WASTE MANAGEMENT)	
(35 ILL. ADM. CODE PARTS 703, 720,)	
721, 724, 725, 728 and 733))	

NOTICE

TO: Don A. Brown, Clerk	Chloe Salk, Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
60 E. Van Buren Street	60 E. Van Buren Street
Suite 630	Suite 630
Chicago, Illinois 60605	Chicago, Illinois 60605
(VIA ELECTRONIC MAIL)	(VIA ELECTRONIC MAIL)

See attached Service List

- PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board AMERICAN COATINGS ASSOCIATION'S RESPONSES TO ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S PRE-FILED QUESTIONS FOR THE AMERICAN COATINGS ASSOCIATION, a copy of which is herewith served upon you along with this notice.

Respectfully submitted,

AMERICAN COATINGS
ASSOCIATION

By: /s/ Suzanne Chang
Counsel
Government Affairs

DATED: May 28, 2025

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STANDARDS FOR UNIVERSAL)	R 2025- 22
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**AMERICAN COATINGS ASSOCIATION’S RESPONSES TO ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY’S PRE-FILED QUESTIONS FOR THE
AMERICAN COATINGS ASSOCIATION**

American Coatings Association’s responses to Illinois Environmental Protection Agency’s (“IEPA” or “Agency”) Questions for the American Coatings Association (“ACA”) based upon American Coatings Association’s public comment filed on May 1, 2025 (PC 4) and American Coatings Association’s pre-filed testimony submitted on April 11, 2025 (PFT):

“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.” – PC 4 at 4; PFT at 2.

1. Is PaintCare planning to implement its Illinois Program in the same way as its other state programs? If not, what differences will it implement?

“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.” – PC 4 at 4.

“In all other PaintCare programs, the transporters and downstream processors are required to track and manage any incidental nonprogram products received...as well as contact PaintCare.” – PFT at 2.

Response: PaintCare is planning to implement its Illinois Program in the same way as its other state programs. PaintCare’s goal is to implement the same program across all jurisdictions in order to standardize the programs and operations. As noted, the Illinois program is unique in that oil-based paint will be managed under universal waste regulations.

2. Regarding nonprogram hazardous wastes that are improperly received at the relevant collection sites, how are these hazardous wastes manifested? Who is the generator of the hazardous waste and where is it considered to be generated?

“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.” – PC 4 at 4.

“This notification requirement will significantly deter potential drop-off/collection sites from voluntarily participating in the program.” – PFT at 2.

Response: When a PaintCare service provider identifies incidental non-program products (NPP) in a box of paint, the NPP items are logged by material type and source for reporting to PaintCare. Note: PaintCare staff uses the NPP information provided by the service provider to educate and retrain staff at the drop-off sites. NPP items are then sorted by hazardous class and packaged into shipping containers appropriate for the material. The service provider becomes the generator of all NPP, including the small amount that is hazardous. Shipments of NPP that are hazardous are made using a manifest identifying the service provider as the generator and the service provider’s processing facility as the point of generation.

3. How many drop-off sites across PaintCare’s collective programs have received non-program materials that were hazardous? What are the typical number of occurrences, and the total volume of non-program hazardous materials received at a typical drop-off site each year?

“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.” – PC 4 at 4.

“ACA proposes an alternative to this and is based on how all of the PaintCare programs currently operate.” – PFT at 2.

Response: Occasionally, sites inadvertently accept some non-program products. However, the total volume of NPP received within a year across all programs and all drop-off site types (retail, HHW, solid waste facilities, events, direct pick-ups) is less than 1% of the total collected volume. For example, 292 retailer drop-off sites participating in PaintCare’s program in New York collected 7.4 million pounds of paint in 2023, while NPP only amounted to 4,216 pounds. Of those 4,216 pounds, significantly less is likely to be hazardous waste.

For retail drop-off/collection sites, PaintCare service providers are required to provide a report of the NPP sorted from co-mingled latex and oil-based paint collection bins. NPP can be recyclables or trash (e.g., empty containers, joint compound, soaps & other surface cleaners, etc.), non-architectural universal waste paints (e.g., aerosol coatings, marine paint, chalkboard paint, etc.), or hazardous waste (e.g., paint strippers, paint thinners, spirits, etc.). While the reports PaintCare receives categorizes the NPP into 16 different item types, the reports do not distinguish hazardous from non-hazardous NPP.

4. To clarify, the “alternative” for the “proper disposition of the hazardous non-universal waste” is for PaintCare’s transporters and downstream processors “to track and manage any incidental nonprogram products that they receive in accordance with applicable law,” correct? If so, what proposed amendments to Sections 733.118(g), 733.138(g), and 733.161(c) does ACA suggest to reflect this?

Response: ACA is proposing amendments to Section 733.118(g), which addresses the notification requirements for a small quantity handler, and Section 733.161(c), which addresses the notification requirement for destination facilities. Strikethrough represents removal and *underline italics* represents new text.

Section 733.118(g)

If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must *either (1)* immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Agency will provide instructions for managing the hazardous waste-; *or (2) abide by the procedures set forth in an approved Paint Stewardship program plan.*

Section 733.161(c)

If the owner or operator of a destination facility receives a shipment containing hazardous waste that is not a universal waste, the owner or operator of the destination facility must *either (1)* immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the shipper. The Agency will provide instructions for managing the hazardous waste-; *or (2) abide by the procedures set forth in an approved Paint Stewardship program plan.*

5. Has the United States Environmental Protection Agency (USEPA) commented on PaintCare's procedures dealing with the receipt and handling of nonprogram materials that meet the definition of hazardous waste? If so, has USEPA expressed an opinion as to whether these procedures would affect federal approval of a state's RCRA hazardous waste program?

Response: USEPA is aware of the PaintCare program and was involved in development of the Program. USEPA would be better suited to respond to IEPA's specific questions above.

Respectfully submitted,

AMERICAN COATINGS
ASSOCIATION

By: /s/ Suzanne Chang
Suzanne Chang
Counsel
Government Affairs

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CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state the following:

I have electronically served the attached AMERICAN COATINGS ASSOCIATION'S RESPONSES TO ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S PRE-FILED QUESTIONS FOR THE AMERICAN COATINGS ASSOCIATION upon the following:

See attached Service List

I affirm that my e-mail address is schang@paint.org; the number of pages in the e-mail transmission is 6; and the e-mail transmission took place before 5:00 p.m. on May 28, 2025.

Respectfully submitted,

**AMERICAN COATINGS
ASSOCIATION**

By: /s/ Suzanne Chang
Suzanne Chang
Counsel
Government Affairs

DATED: May 28, 2025

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