



Paint Stewardship OVERCOMING REGULATORY BARRIERS

How can agencies determine if their state has regulations that may impede paint stewardship program implementation?

Hazardous waste programs should **establish early communication with staff at state agencies responsible for Extended Producer Responsibility (EPR) policies and programs** in their state to determine if any changes to regulations or policies will be necessary to successfully implement the paint stewardship program. Agencies should specifically evaluate regulations for retail and municipal sites that may affect their hazardous waste generator status.

How might state regulations affect implementation of the PaintCare program?

State regulations may impact paint stewardship implementation for all locations. These regulations may affect:

- ✓ **Retail sites** seeking to collect oil-based paint for recycling from households and/or businesses
- ✓ **Household hazardous waste (HHW) programs** seeking to collect oil-based paint for recycling from businesses
- ✓ **Transporters** seeking to transport paint between states to the processing facility

Prior to program implementation, it is important for state agencies to review and consider changing some regulations to allow for smoother implementation of paint stewardship programs

How can legislative or regulatory fixes contribute to smooth implementation of the paint stewardship program?

For the program to reach its full operational capacity, agencies should address any regulatory barriers that restrict retail stores or HHW programs from collecting oil-based paint. Through regulatory or legislative fixes, agencies in all states and jurisdictions where the PaintCare program is operating have achieved the following:

- ✓ **Management of oil-based paint** outside of hazardous waste regulations
- ✓ Retail stores are **allowed to collect oil-based paint**, can store paint inside or outside*, and can store paint for six months or longer
- ✓ Paint is **not counted against** collection sites' **waste generation volume**
- ✓ Retail paint stores **do not have to pay a permit or hazardous material storage fees** for participation in the program
- ✓ **Documentation of paint transportation** on non-hazardous waste manifests
- ✓ **Waste reporting** for paint collected conducted through PaintCare

*as long as paint is in a secure location and protected from climate extremes

What should agencies consider when addressing regulatory issues related to oil-based paint management?

Best options for addressing regulatory barriers will vary among states. Agencies should take into account their state's regulations, regulations of nearby states, and their state's process for making regulatory, legislative, and policy changes when selecting a course of action.

Possible Actions to Address Regulatory Issues for Oil-Based Paint

<p>Regulation</p>	<p>Example: Amend state regulation to adopt rules for conditionally exempt small quantity generators (CESQGs), allowing CESQGs to use the program (implemented in Rhode Island) Pros: Once passed, provides the most flexibility to paint stewardship program collection sites, and does not impact interstate transportation Cons: Takes considerable time to make regulatory changes that must be approved by state agencies, and may need to undergo review by public and/or EPA.</p>
<p>Legislation</p>	<p>Example: Conform state laws for architectural paint to the federal Resource Conservation and Recovery Act (RCRA) (implemented in Maine), exempt latex and oil-based paint managed by the stewardship program from hazardous waste and hazardous materials designations and regulations (implemented in California), or designate paint as universal waste for purpose of the program (implemented in Vermont) Pros: Significantly easier to implement than regulatory changes; often can remove regulatory barriers to collection sites and transporters Cons: Designating paint as universal waste may create interstate transportation issues</p>
<p>Policy</p>	<p>Example: Use enforcement discretion or revise policy guidelines to facilitate oil-based paint management (implemented in Minnesota) Pros: Can be implemented without legislative or regulatory change Cons: State agencies may not have the authority to address regulatory issues using a policy approach and can often be more subjective from a compliance standpoint than legislative and regulatory changes.</p>



Additional Resources

- ✓ Amendments to Rhode Island hazardous waste regulations: www.dem.ri.gov/programs/benviron/waste/pdf/hwresp14.pdf
- ✓ Maine legislation on conforming state law to federal RCRA: http://www.mainelegislature.org/legis/bills/bills_127th/billtexts/SP037001.asp
- ✓ California legislation exempting paint collected by the stewardship program from hazardous waste regulations: http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0401-0450/ab_408_bill_20111008_chaptered.html
- ✓ Vermont universal waste designation for postconsumer paint: <http://law.justia.com/codes/vermont/2014/title-10/chapter-159/section-6680>

Learn More

Alison Keane, V.P. Government Affairs
 American Coatings Association
 (202) 462-6272 | akeane@paint.org

Scott Cassel, Chief Executive Officer/Founder
 Product Stewardship Institute
 (617) 236-4822 | scott@productstewardship.us