



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

January 21, 2021

The Honorable Kumar P. Barve, Chair
House Environment and Transportation Committee
House Office Building, Room 251
Annapolis, MD 21401

Re: House Bill 127 – Maryland Paint Stewardship

Dear Chair Barve and Members of the Committee:

The Maryland Department of the Environment (MDE) has reviewed House Bill 127 entitled *Maryland Paint Stewardship* and would like to provide the Committee with some information regarding this bill.

House Bill 127 would establish a new Paint Stewardship Program (the “Program”) to address the collection and end-of-life management of postconsumer architectural paint. The Program would be planned and implemented by producers, or a representative organization acting on a producer’s behalf, of architectural paint. By January 1, 2022, producers or a representative organization would be required to submit to MDE for approval a plan for carrying out the Program. The plan must, among other things, minimize public sector participation in the management of postconsumer paint, and provide for the statewide collection of postconsumer paint in a manner at least as convenient as programs available to consumers prior to the Program. By October 1, 2022, or 6 months after plan approval, producers must implement an approved plan, and would be prohibited from selling or offering for sale a brand of architectural paint in Maryland unless they are implementing an approved Program. Beginning April 1, 2023, and annually thereafter, the producer or the representative organization would be required to submit to MDE for approval a report regarding the implementation of the Program.

The Program must be funded through a paint stewardship assessment set by producers and approved by MDE, which will be added to the sale price of architectural paint and remitted by a producer to the representative organization. The paint stewardship assessment must not exceed the costs of implementing the Program. A producer or the representative organization would be required to pay fees to MDE to cover the Department’s costs for reviewing a proposed plan and annual reports and costs associated with Program compliance oversight, as determined by the Department. Fee revenue would be deposited into the State Recycling Trust Fund.

MDE supports efforts to increase proper management and recycling of paint and recognizes the costs and challenges faced by local governments in managing leftover paint. Latex paint, while not hazardous, can be difficult to manage because it is liquid and must be dried prior to disposal in a landfill. Oil-based paint is often collected at local household hazardous waste sites or special events, which can be costly to local governments. Despite these challenges, postconsumer paint does have

useful applications; latex paint can be reused or recycled into new paint, while oil-based paint can be reused or used for energy recovery.

In the District of Columbia and the ten states with stewardship programs, the assessment is set between \$0.75 and \$0.99 for a 1-gallon container of paint, with higher or lower assessments for larger and smaller containers, respectively. (The ten states with existing programs are California, Colorado, Connecticut, Maine, Minnesota, New York, Oregon, Rhode Island, Vermont, and Washington.) The costs to the producer organization to operate a stewardship program, per gallon collected, range from approximately \$5 to \$10.

The proposed legislation authorizes retailers to act as postconsumer collection sites, but prohibits them from accepting fees for “the disposal of paint offered for disposal”. If paint is collected at a site for the purpose of disposal (as opposed to reuse or recycling), the collection site may be required to obtain a refuse disposal permit under §9-204 of the Environment Article or a controlled hazardous substance facility permit under §7-323 of the Environment Article (if the postconsumer paint meets the definition of a controlled hazardous substance).

To implement this bill, MDE would need to hire a temporary contractual Environmental Compliance Specialist to conduct initial compliance and enforcement activities at the outset of the Program. Because the proposed legislation requires producers to pay a fee to MDE to cover the costs of plan review, review of annual reports and conducting associated compliance oversight, the expenditures associated with this bill would be offset by fee revenue.

Thank you for your consideration. We will continue to monitor House Bill 127 during the Committee’s deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by e-mail at tyler.abbott@maryland.gov.

Sincerely,

Tyler Abbott

cc: The Honorable Regina T. Boyce
Ms. Kaley Laleker, Director, Land and Materials Administration