



Maryland

Department of the Environment

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

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

February 8, 2022

The Honorable Paul G. Pinsky, Chair
Education, Health, and Environmental Affairs Committee
Miller Senate Office Building, Suite 2W
Annapolis, Maryland 21401

Re: Senate Bill 143 - Maryland Paint Stewardship

Dear Chair Pinsky and Members of the Committee:

The Maryland Department of the Environment (Department or MDE) has reviewed SB 143 entitled *Maryland Paint Stewardship* and would like to provide the committee with some information regarding this bill.

SB 143 would establish a new Paint Stewardship Program (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, 2023, 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, 2023 or 6 months after plan approval, whichever is later, 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. A retailer authorized to act as a postconsumer collection site would be prohibited from accepting fees for "the disposal of paint offered for disposal." Note, if paint is collected 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). Beginning April 1, 2024, 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 MDE's costs for reviewing a proposed plan, annual reports, and costs associated with Program compliance oversight, as determined by MDE. Fee revenue would be deposited into the State Recycling Trust Fund. Due to the proposed legislation requiring 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.

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 and oil-based paint can be reused or used for energy recovery.

In the District of Columbia and the 10 states (California, Colorado, Connecticut, Maine, Minnesota, New York, Oregon, Rhode Island, Vermont, and Washington) 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 costs to the representative organization to operate a stewardship program, per gallon collected, range from approximately \$5 to \$13.

As drafted, the bill may inadvertently delay the date in which the prohibition against selling paint brands not covered under an approved Program becomes effective. The bill provides that paint producers may not sell or offer for sale a brand of paint unless the producer is implementing an approved stewardship plan “beginning October 1, 2023, or 6 months after plan approval by the Department, *whichever is later*” (page 9, lines 4-8). If MDE has not approved a plan by October 1, 2023, then the prohibition on the sale of paint from a non-Program participant would not become effective by that date. If paint producers submit a plan that is not approvable, Program implementation would be delayed unless and until an acceptable plan is submitted. The bill also contains no provisions describing MDE’s authorities in the event that it finds the submitted plan to be unapprovable, nor does it include enforcement provisions. MDE is working with the bill’s sponsor and proponents to address these issues.

Thank you for your consideration. We will continue to monitor SB 143 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: Kaley Laleker, Director, Land and Materials Administration