

IV. Draft of Annual Report Compliance Criteria

Note: This is a discussion outline providing guidance on department criteria for adopting a finding of compliance or non-compliance for the annual reports. The final proposed regulations will include other sections on: submittals, payments to the department, records retention, confidentiality, enforcement, and other topics. These sections will eventually be combined into one document.

I. Definitions

II. Submittals

III. Stewardship Plan Approval Criteria

IV. Annual Report Compliance Criteria

Department staff shall use the criteria below to review annual report contents and determine if they meet the requirements in statute. This section first describes the requirements (stated or inferred) in AB 1343 Architectural Paint Recovery Program, followed by a description of how the department will evaluate the requirements.

The report must contain the following:

1. **Contact information.** Identify the manufacturer or stewardship organization responsible for the annual report submittal.

How this criterion will be evaluated:

To evaluate this criterion, the department shall verify that the manufacturer or stewardship organization has registered with the department, according to directions provided by the department.

2. **Executive Summary.** Provide an evaluation of the effectiveness of the paint stewardship plan, and anticipated steps, if needed, to improve performance.

How this criterion will be evaluated:

The department shall review for completeness.

3. **Scope.** The program described in the plan accepts and manage all applicable postconsumer architectural paint products.

How this criterion will be evaluated:

To evaluate this criterion, the department must ensure that the manufacturer or stewardship organization documents one of the following in relation to the scope:

1. A reference to the same scope as described in the approved stewardship plan, if no changes have occurred during the reporting period, or
2. Changes in the program scope are clearly identified.

4. **Program Outline.** Describe the paint stewardship program, including information on the following topics:
- a. Methods of collection for both water-based and oil-based coatings, including the types of collection sites used.
 - b. Disposition of postconsumer paint collected, including facility name(s) and address(es) for each disposition method.
 - c. Description of best management practices to be followed by service providers, including any training that the manufacturer or stewardship organization intends to provide to or require of service providers to ensure proper collection and management of postconsumer paint.
 - d. Description of how each consumer of architectural paint will have an opportunity to properly manage their postconsumer paint.

How this criterion will be evaluated:

The department shall review for completeness.

5. **Description of Goals and Activities Based on the Stewardship Plan.** State the goals from the approved stewardship plan, the baseline from which goals were measured, and report on achievement during the reporting period. Describe any adjustments to goals stated in the approved stewardship plan for the upcoming reporting period and accompanying rationale for those changes. The annual report must include, but not be limited to, quantitative information and discussion on the following categories pursuant to PRC Section 48705(a) and PRC Section 48703(d) (see Table 1: Overview of Data Collection for optional reporting topics):
- a. The total volume of postconsumer architectural paint sold in the state during the preceding calendar year.
 - b. A description of the methods used to collect, transport, and process postconsumer architectural paint in this state.
 - c. The total cost of implementing the architectural paint stewardship program.
 - d. An evaluation of how the architectural paint stewardship program's funding mechanism operated.
 - e. Demonstrate continuous improvement toward achievement of goals.
 - f. Describe efforts to increase reuse of postconsumer paint.
 - g. Describe efforts to increase recyclability of postconsumer paint.
 - h. Describe efforts to track consumer awareness of the program.
 - i. Describe efforts to track job impacts resulting from the paint stewardship program.
 - j. Describe any adjustments to goals stated in the approved stewardship plan and accompanying rationale for those changes.

How this criterion will be evaluated:

- a. The department shall review for completeness and the following:

- i. Description of the measurement methodology, assumptions, conversion factors, and data sources.
- ii. Data are California-specific.
- iii. Report demonstrates continuous improvement toward achievement of goals.
- iv. Report covers progress toward achievement of all goals in the approved stewardship plan.

Table X: Overview of Potential Data Collection
<i>This table is presented for discussion purposes and will be removed from the proposed regulations.</i>
<i>Note: This table has some elements that are not required in AB 1343, but may assist in the overall evaluation of the program over the long term and may be considered as optional. Only items noted with an " * " must be included in annual reports. As a standard practice, document the methodology and assumptions used for measurement.</i>
Population (insert year)
Financing
* Assessment amount per container
* Total program cost (\$)
* Capital costs
Cost(\$)/capita
Cost (\$)/gallon collected
Education/Outreach (% of total program cost, with line items for reuse, recycling, fuel incineration, and landfilling)
* End-of-life materials management (% of total program cost)
* Program administration (% of total program cost, including annual administrative fee for service payments to the department)
* An evaluation of how the assessment operated
Governance (program oversight) (% of total program cost)
Environmental
Materials management
* Product sold (gallons)
* Product collected (gallons)
Product sold that is available for collection (describe methodology used)
Amount and percent collected (from available for collection)
Amount and percent reused
Amount and percent recycled
Amount and percent for fuel incineration
Amount and percent landfilled
GHG emissions (tons)
\$ invested in product design/R&D
Program effectiveness
Progress against goals

Regulatory non-compliances
Demonstrated improvements in product design
Public awareness
Public participation ¹
Jobs attributable to stewardship program (Direct/Indirect²)
Manufacturer or Stewardship Organization

6. **Market Development.** After four (4) years of program implementation, the manufacturer or stewardship organization shall include a description of possible market development activities to incentivize the market growth of secondary products made from postconsumer paint.

How this criterion will be evaluated:

The department shall review for completeness.

7. **Financing Mechanism.** The annual report shall include a description of the total cost of implementing the architectural paint stewardship program and an evaluation of the program's financing mechanism, including whether or not the funding was sufficient to recover, but not exceed, the full cost of the paint stewardship program (see §18954(a)(5), Table 1. Overview of Potential Data Collection). Any proposed change in the amount of the architectural paint stewardship assessment must be submitted to the department for re-approval (see Section 18952 Submittals). The annual report shall include, but not be limited to, the following, and include any necessary supporting documents:
- a. Assessment amount per container
 - b. Total program cost
 - c. Capital costs
 - d. Cost(\$)/capita
 - e. Cost (\$)/gallon collected
 - f. Education/Outreach (% of total program cost, with line items for reuse, recycling, fuel incineration, and landfilling)
 - g. End-of-life materials management (% of total program cost)
 - h. Program administration (% of total program cost, including annual administrative fee for service payments to the department)
 - i. An evaluation of how the assessment operated
 - j. Surplus funding, if any, and how it will be applied to reduce program costs
 - k. Governance (program oversight) (% of total program cost)

How this criterion will be evaluated:

¹ Via survey results or other reported data, such as Form 303
<http://www.calrecycle.ca.gov/HomeHazWaste/Reporting/>

² "Direct" refers to number of jobs directly attributable to the manufacturer or stewardship organization employees working on the program. "Indirect" refers to # of jobs estimated attributable to contracted service providers. May be expressed in units of full-time equivalents (FTEs).

To evaluate these criteria, the department shall review for completeness and data quality, that is, that data are from reliable sources; and the methodology, assumptions, conversion factors, and sources are clearly stated; and that data complement and support information provided in the independent financial audit.

8. Education and Outreach.

List educational outreach activities outlined in the plan. Provide a description of educational materials that were provided to retailers, consumers, and contractors, during the reporting period (provide electronic samples). Identify the method(s) used to determine the effectiveness of educational and outreach surveys (e.g., surveys, hits on specific web pages, number of participants at events, etc). These education and outreach materials may include, but are not limited to, any of the following per PRC Section 48703(b)(4)(e):

- a. Signage that is prominently displayed and easily visible to the consumer.
- b. Written materials and templates of materials for reproduction by retailers to be provided to contractors and consumers at the time of purchase or delivery or both.
- c. Promotional materials or activities, or both, that explains the purpose of paint stewardship and the means by which it is being carried out.
- d. Links to website(s) created and maintained by the organization.

How this criterion will be evaluated:

The results demonstrate positive effectiveness of education and outreach efforts.

9. Audits.

- a. Financial information. The annual report shall include an independent financial audit funded from the paint stewardship assessment. The audit shall be conducted in accordance with auditing standards generally accepted in the United States of America, and standards set forth in Government Auditing Standards issued by the Comptroller General of the United States.

How this criterion will be evaluated:

The department shall verify that independently audited financial statements are submitted with the annual report. The department may investigate further.

If the department decides to further review the findings of the independent auditor, the review will be conducted based on same information the individual manufacturer or stewardship organization provided to the independent auditor. The department may request supplemental information from the individual manufacturer or stewardship organization during the course of review of audit, if necessary. The department will inform the individual manufacturer or the stewardship organization within 60 days of the results of its review.

- b. Non-Financial Information (optional). The report may include an independent financial audit on the following information:
 - i. A description of how the postconsumer architectural paint was managed in accordance with the stewardship plan.
 - ii. The total amount of architectural paint sold and collected, and, if applicable, the recovery rate.

How this criterion will be evaluated:

The department shall check for completeness, if applicable. The department may use this information to substantiate data submitted elsewhere in the annual report.

- V. **Enforcement**
- VI. **Record Keeping Requirements**
- VII. **Proprietary, Confidential, or Trade Secret Information**
- VIII. **Service Payments to the Department of Resources Recycling and Recovery**