

Final Report

The Case for Voluntary Paint Stewardship

Prepared for Sustainability Victoria and the Australian Paint Manufacturers' Federation

June 2013



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GlobalPSC.NET

Prepared by
Global Product Stewardship Council
PO Box 755 Turrumurra NSW 2074 Australia
Phone: (02) 9940 3571 Fax: (02) 9940 3491
admin@globalpsc.net
www.GlobalPSC.net
@GlobalPSC on Twitter
GlobalPSC on Facebook



GLOSSARY

A&D	Architectural and Decorative
ACA	American Coatings Association
Act	<i>Product Stewardship Act 2011</i>
ACCC	Australian Competition & Consumer Commission
APMF	Australian Paint Manufacturers' Federation Incorporated
ACT	Australian Capital Territory
CBA	cost-benefit analysis
COAG	Council of Australian Governments
DuluxGroup	DuluxGroup (Australia) Pty Ltd
DYH	Detox Your Home
EC	European Commission
Eco-Peinture	<i>Societe quebecoise de gestion ecologique de la Peinture</i>
EOL	end of life
EPR	extended producer responsibility
EU	European Union
EUR	Euros
GlobalPSC	Global Product Stewardship Council
Haymes Paint	Henry Haymes Pty Ltd
HHW	household hazardous waste
kg	Kilogram(s)
L	Litre(s)
LCA	life-cycle assessment
ml	Millilitre(s)
MOU	Memorandum of Understanding
MPA	Master Painters Australia
NSW	New South Wales
NZD	New Zealand Dollar
OH&S	occupational health and safety
PPG	PPG Industries Australia Pty Ltd
Product Care	Product Care Association
PSI	Product Stewardship Institute
SCEW	Standing Committee on Environment and Water
SEWPaC	Department of Sustainability, Environment, Water, Population and Communities
SO	Stewardship Ontario
SV	Sustainability Victoria
UK	United Kingdom
US	United States (of America)
USD	US dollar
WA	Western Australian



WALGA	Western Australia Local Government Association
Wattyl	Wattyl Australia Pty Ltd
WDO	Waste Diversion Ontario
WTP	willingness to pay
~	approximately



EXECUTIVE SUMMARY

Waste paint and paint containers can contain hazardous wastes and represent a significant and increasing cost for local household hazardous waste (HHW) management programs funded by state and local governments. Paint can also contaminate municipal solid waste processing streams and municipal water treatment facilities if not managed responsibly.

Paint as a proportion of HHW costs in Victoria has increased from approximately 67% in 2008 to 80% currently. Responsible paint management currently costs around \$800,000 each year in Victoria and \$1 million each year in New South Wales.

In April 2013, Australia's Environment Ministers added paint, along with handheld batteries, to the Standing Committee on Environment and Water (SCEW) product stewardship work plan.

In the US and Canada, industry support is strong amongst paint manufacturers and trade painters for product stewardship as a means of responsibly managing paint in a way that is less costly and more flexible than alternative options available. In Australia, paint manufacturers received regulatory approval to voluntarily impose a levy to fund a paint collection trial in Victoria. However, the levy was suspended indefinitely due to opposition from major retailers that felt they could not pass any fee increases along to consumers. Paint manufacturers also recently launched Australia's first trade waste paint collection trial, PaintCare.

For this report, the Global Product Stewardship Council (GlobalPSC) was engaged by Sustainability Victoria (SV) and the Australian Paint Manufacturers' Federation (APMF) to develop a business case for a levy-based voluntary paint product stewardship scheme in Australia, drawing upon international experience and stakeholder consultations.

Particular emphasis was placed on trying to engage retailers under a voluntary approach. International experience shows that retailer engagement is difficult, even under programs with a regulatory underpinning. Those retailers that participate voluntarily in paint recovery programs do so as a service to customers believing the service drives foot traffic through their stores and leads to purchases of other items.

All ten Canadian provinces have paint product stewardship or extended producer responsibility (EPR) legislation in some form, with eight relying upon EPR and the other two reliant upon less regulatory product stewardship. In seven of these provinces, paint collections are managed through the Product Care Association (Product Care). Product Care is funded through member fees. Only one large retailer, RONA, is a member of Product Care. In most cases, program fees are assessed at the first point of sale in the province and ultimately passed through to consumers in the price of new paint purchases, although the visibility of these fees can vary by province.

Six US states have recently adopted EPR legislation for industry-led paint collections based upon model legislation facilitated by the Product Stewardship Institute (PSI) and supported by the American Coatings Association (ACA), representing paint manufacturers. In each state, the programs are managed by the ACA-established PaintCare[®] program, which is funded by a fee schedule consistent across each state based on sales into the state and passed through to consumers.

In New Zealand, paint retailer Resene has established a voluntary paint collection program called Paintwise funded through a voluntary levy on Resene paint sold and from separate fees on non-Resene branded paint and trade waste paint returned. Resene still bears some of the program costs.



Australia's *Product Stewardship Act* (the Act) allows for Ministerial approval of voluntary, co-regulatory and mandatory approaches that satisfy the objects and criteria of the Act. This report finds that the objects and criteria of the Act could be met through a voluntary paint stewardship scheme that builds upon previous efforts and current efforts spearheaded by SV and the APMF to collect and manage leftover paint in a responsible way.

Designating paint as a priority product under the Act would benefit any such scheme by sending a clear policy signal, in particular to retailers, that if a voluntary industry approach is not sufficient to address paint, then jurisdictions are prepared to act.

The proposed scheme should allow for and encourage retailers to voluntarily serve as collection points given the views of various retailers internationally about the commercial benefits of doing so. However, collection bins, servicing and promotional materials should only be made available to those retailers that pass along to consumers a fee intended to help recover scheme costs. Little other leverage is available otherwise.

Whether the fee is simply incorporated into product prices or passed along as a visible fee can be left up to the supply chain. International experience shows that paint program fees initiated at the wholesale level are not marked up to any appreciable extent when they are passed along to consumers.

The APMF has previously secured approval from the Australian Competition & Consumer Commission (ACCC) for a voluntary levy of \$0.02 per litre to assist in conducting a Victorian collection trial. The ACCC did not receive any objections and noted how small the fee was. The APMF indicated that the levy was less than 1% of the cost of A&D paint. Initial analysis indicates that \$0.02 per litre would likely be insufficient to cover ongoing program costs, although detailed cost modelling is beyond the scope of this report and would be required for any revised ACCC approval.

PaintCare[®] program costs in Oregon, for which detailed data is available, equates to \$1.66 per litre as an industry-led scheme with some funding for government oversight. Two-thirds of Oregon retailers surveyed said that consumers had expressed some concern about the additional fee, but we note that the fees charged in Oregon and the other US states is significantly higher than what we've seen charged in Australia and New Zealand, so it is difficult to make a meaningful comparison.

Product Care's fees, which should roughly equate to program costs, vary by province and by the size of paint container sold. Product Care's fees equate to \$0.01-\$0.48 per litre for paint sales of less than 1L, \$0.19-\$1.06 per litre from 1-5L and \$0.07-\$0.29 per litre for sales between 5 and 23L.

To help fund collections, Resene Paintwise charges just under \$0.13 per litre for Resene paints sold at retail and charges ~\$0.20 per litre for non-Resene paints and trade wastes returned for collection. However, these figures do not cover the full costs of collection (Resene covers the balance of the costs) and are on a relatively small scale.

Paint satisfies the objects and criteria of the Act for designating products potentially subject to product stewardship. Key considerations include potential to significantly reduce impacts that the products have on the environment and presence of hazardous substances in the products. In addition, addressing paint is fundamentally consistent with the rationale for product stewardship and EPR of shifting the costs of managing items that are toxic, hazardous or expensive to manage to the producers and consumers of those products.



Several factors support the likely success of a voluntary product stewardship approach for paint in Australia:

- Strong support from paint manufacturers via the APMF
- Strong support from trade painters via the Master Painters Association
- Prior ACCC approval for a national levy to fund Victorian trials
- Relevant trial experience

Retailer objections to passing any program fees along to consumers will likely remain the primary limitation, especially since any resulting program fees will likely need to be higher than the \$0.02 per litre previously approved by the ACCC. However, none of the international programs available have reported any decreased sales from fee implementation. In addition, various retailers report increased foot traffic and sales from implementing paint collections, even when consumers are made aware that they are paying fees for the programs.

The following recommendations to industry to run and manage a paint stewardship scheme are based on project research and stakeholder consultations:

- **Recommendation 1** - Be cautious about setting quantitative collection targets.
- **Recommendation 2** - Establish a non-profit incorporated organisation responsible for managing the program consistent with requirements for voluntary accredited arrangements under the Act.
- **Recommendation 3** - Develop a detailed stewardship plan based on stakeholder consultations and including detailed program planning.
- **Recommendation 4** - Define what are and are not 'program products' to be included, collected and processed, then only collect program products.
- **Recommendation 5** - Seek accreditation as an accredited voluntary product stewardship arrangement under the Act.
- **Recommendation 6** - Self-levy at the manufacturer / wholesale level so that fee assessment is effectively at the point of first importation or placement on the market.
- **Recommendation 7** - Ensure that paint recovery is convenient and accessible for consumers by actively incorporating existing local government HHW collections.
- **Recommendation 8** - Ensure verifiable public reporting of program results

The following recommendations for governments are based on project research and stakeholder consultations:

- **Recommendation 1** - Support including paint in the 'product priority list' for the *Product Stewardship Act* (Clause 108A).
- **Recommendation 2** - Support provisions for ensuring producer responsibility for program operation and financing.
- **Recommendation 3** - Support the development of an industry-led and industry-managed national product stewardship scheme for paint accredited as a voluntary arrangement and based on a voluntary levy assessed at the wholesale level (subject to ACCC approval) and passed through to consumers.
- **Recommendation 4** - Require verifiable public reporting of program results.

Australia has many of the same drivers for introducing product stewardship for paint as do Canada and the US, where the most comprehensive paint stewardship approaches are being implemented. The recommendations for industry and government contained in this report are intended to help Australia implement paint stewardship consistent with international best practice, while providing a nationally consistent approach tailored to Australia's circumstances and building upon the approaches available under the *Product Stewardship Act 2011*.

Designating paint as a priority item under the Act while providing industry the flexibility to submit for approval a detailed stewardship plan developed in conjunction with stakeholders should allow the APMF to build upon the previous regulatory approval provided by the ACCC and implement a comprehensive stewardship approach in a more cost-effective way than would otherwise be available.



INTRODUCTION

The need for paint product stewardship derives mainly from the presence of hazardous materials in some paints and the costs of collecting paint through household hazardous waste (HHW) programs funded by state and local governments.

Sustainability Victoria (SV) has commissioned the Global Product Stewardship Council (GlobalPSC)¹ to examine the business case for voluntary paint stewardship. This builds upon collaborations between SV and the Australian Paint Manufacturers' Federation (APMF) to develop, fund and implement trials for collecting Architectural & Decorative (A&D) waste paint from households and trade painters in Victoria.

All A&D paint can be classified as either latex (water-based) or oil-based coatings. The APMF has defined paint to be collected as being *“all decorative and architectural paints from trade and domestic sources including stains and decking oils and their respective containers. The definition of paint excludes, without limitations, aerosols, isocyanates and paint strippers and all industrial and marine coatings”*². For simplicity, the broad term ‘paint’ is used in this report unless otherwise specified.

Paint is sold primarily through retail stores that may be dedicated paint stores, hardware stores, home improvement stores or other retail sites.

There is a constant interplay between household and trade waste paint, which are essentially the same product. Trade waste is generally minimised and there are opportunities for reuse on other projects. Painters will often leave unused paint with the household, where it can be used for touch-ups and other general use. However, this paint may in turn require clearing out by the households, in which case it is eligible for local HHW collections. Master Painters Australia (MPA) say that the master painters will still periodically have the need to clean out unused paints³.

The APMF's 48 companies and members account for 90-95% of all paint manufactured in Australia. In its Strategic Objectives 2012-14, the APMF committed to work with the State Governments on initiatives to collect and treat waste domestic paint.

In 2011, the APMF received approval from the Australian Competition & Consumer Commission (ACCC) for a \$0.02 / litre levy on paint sold across Australia to run an industry-led pilot program in Victoria. Ultimately, the levy was suspended indefinitely due to concern from large retailers about passing the levy along to consumers. The APMF and SV have since been collaborating to fund pilot efforts while the case for product stewardship can be examined.

An objective of product stewardship and its most stringent form, extended producer responsibility (EPR), is to shift physical and financial responsibility to producers and product consumers for reducing environmental impacts and managing end of life (EOL) products that are toxic, hazardous or expensive to manage for local waste management programs.

International examples for paint stewardship are predominantly in Canada and the US. The US-based PaintCare program run by the American Coatings Association (ACA) and similar efforts run by the Product Care Association (Product Care) in Canada and the US are the primary examples for which data is available. The Paintwise program operated by paint manufacturer Resene has become an accredited product stewardship program in New Zealand.



No product stewardship or EPR programs for paint have been identified elsewhere. Certain labelling requirements apply within Canada, Mexico, and the European Union (EU)⁴, however collection and recycling requirements are not applicable in Mexico and the EU.

This examination of the business case for paint stewardship has drawn from experience with these international programs and discussions with stakeholders in Australia and New Zealand. The aim of this business case is to frame the argument for a levy-based, voluntary system supported by the complete paint supply chain, including the retailers and government by:

- making the case for waste paint to be listed as a priority product under the National Waste Policy; and
- assessing the viability for waste paint to be a successful voluntary stewardship scheme.

The need for paint stewardship

Paint may contain heavy metals, dyes, acids, alkalis and other contaminants. Australian paint manufacturers moved away from lead-based paints voluntarily over a decade ago, however some lead-based paints are still appearing in small quantities in collection programs⁵. Lead-based paint is now minimal in Western Australian (WA) collections⁶ and banned from landfill in Victoria⁷. Solvent-based paint is the primary concern from a hazard perspective.

Steel cans with residual paint can contaminate recycling streams, resulting in whole loads of recyclables potentially being rejected. Water authorities have concerns about liquid paint entering waterways. Melbourne Water, for example, supported the APMF application to the ACCC due to potential to reduce the illegal disposal of paint into the sewerage system and therefore the level of contaminants reaching water treatment plants⁸. Waste management authorities are concerned about liquid and solid paint contaminating waste streams.

There are benefits from recycling steel paint cans. Solvent-based paints are usable for energy recovery, offsetting other fuel sources. The shift to water-based paints currently being witnessed means that energy recovery may become more difficult. Most landfills cannot landfill liquids and must therefore congeal paints. Paint is 80% by weight (~800 tonnes) of Victoria's HHW collections; of this amount, paint packaging constitutes ~25%⁹. Paint is also the most significant item in WA and NSW HHW programs¹⁰.

In April 2013, Australian and New Zealand Environment Ministers, comprising the Standing Committee on Environment and Water (SCEW) added waste paint, along with handheld batteries, to the SCEW work plan¹¹, thus making action on paint product stewardship a higher priority.

Current efforts and impacts in Victoria

It is estimated that less than 15% of all waste paint and paint cans in Victoria are recovered for recycling with much of the rest landfilled. Only 51% of trade contractors have a disposal practice and, of that, 41% of waste paint goes directly to landfill.¹²

Results to date for paint in Victoria's Detox Your Home (DYH) program are provided in Table 1.



Table 1: Detox Your Home Paint Collections to Date

	2009-10	2010-11	2011-12	2012-13 (to date)
Mobile collections (kg)	157,058	158,929	284,744	136,420
Permanent sites (kg)	536,689	620,915	645,594	490,911
Total	693,747	779,844	930,338	627,331
				3,031,260

Note:

permanent sites dropped from 13 to 12 in 2011 due to Casey transfer station closing

mobile collections range between 30 to 33 dependent on the annual collection calendar

Paint recovered through the collection system continues to increase even though the sales market has remained steady over the last 5 years and the collection system has not changed dramatically. In 2008, paint was ~67% of Victorian HHW collections; this has now grown to about 80%. Permanent stations in Victoria that accept paint have seen a 6-7% per annum growth in paint collections from 2007 to 2012. Volumes of recovered paint continued to increase despite the 8% drop in permanent site access with closure of the Casey transfer station in 2011.¹³

Although water-based paints represent ~90% of paint sales, they represented only 75% of recovered paint in 2012, which indicates a time lag to disposal. This view, along with the increased collections cited above, is supported by various stakeholders - collections may be highly variable in nature over time, especially given household stockpiles.

Based on the industry estimate of 18,000 tonnes of waste paint arising per annum, in 2011-12 the DYH program collected and processed 5% of the national volume and 20% of the Victorian volume (based on the assumption that Victoria having 25% population therefore has 25% of paint sales).

The industry-led pilot program PaintCare commenced on 1 March 2013 to run for 3 months for trade waste paint. Six Victorian transfer stations located in Geelong, Bendigo, Melton, Monash, Shepparton and Mornington are supporting the PaintCare trial and as of June 2013 had already collected over 60 tonnes of waste paint. The trial has been extended until 31 August 2013 and is funded by the APMF in partnership with SV, DuluxGroup, Valspar, PPG and Haymes Paints.

A key program objective is to gather data to evaluate volumes, economies and associated behaviours to inform the development of a national product stewardship program for the safe disposal of waste A&D paint.

Current estimates are that the Victorian government pays ~\$800,000 for state-based programs to manage domestic paint¹⁴.

Impacts elsewhere in Australia

The New South Wales (NSW) government previously indicated that paint represents ~59% of NSW HHW collections, at a cost to the state government and community of \$544,418 in 2009-10. Current estimates are that NSW pays ~\$1 million for state-based programs to manage domestic paint.¹⁵

The Western Australia Local Government Association (WALGA) reports that for the October-December 2012 quarter, disposal costs for water-based paint and solvent-based paint represented 55% and 16%, respectively, of spending on HHW collections. In one quarter over \$140,000 was spent on paint recycling/disposal.¹⁶



Levy and ACCC approval

On 12 October 2010, the APMF sought ACCC authorisation for paint manufacturers participating in the waste paint collection scheme trial to impose a \$0.05 per litre levy on the wholesale sale of A&D paint supplied (in Victoria only) into retail and trade channels. The industry-led pilot program in Victoria under the APMF proposal comprised two elements:

- the PaintCare program to collect and treat trade waste paint; and
- the DYH program, where the APMF would assume financial responsibility for the existing waste A&D paint portion of the Victorian waste chemical collection scheme currently operated by SV.

The aim of the PaintCare trial was to test the modelling prior to a national program to collect, treat and process trade and domestic waste paint.

The following paint manufacturers agreed to include the levy in the wholesale price of A&D paint, including wood coatings and enamel sold in containers between 1 litre and above up to and including 20 litres, but excluding aerosol containers, that they supply:

- DuluxGroup (Australia) Pty Ltd (DuluxGroup)
- Wattyl Australia Pty Ltd (Wattyl)
- PPG Industries Australia Pty Ltd (PPG)
- Henry Haymes Pty Ltd (Haymes Paint).

The ACCC conducted an initial round of consultations on this approach.

In order to respond to competition issues and to simplify collection from retailers, the APMF notified the ACCC on 17 December 2010 of its intention to instead implement a national levy of \$0.02 per litre on the sale of A&D paint in Australia to fund the trial. The ACCC then conducted a second round of consultations on the amended approach.

The ACCC was informed by the APMF that the levy would “*have a minimal impact on households and trade painters as the 2 cent levy represents around 0.1% of the price of A&D paint*”¹⁷. Despite the APMF’s proposal to raise ~\$2,750,000 for the 12 month PaintCare trial, no public objection was received by the ACCC.

The ACCC ultimately approved the application on 20 April 2011. The ACCC determined that “*the waste paint collection scheme is unlikely to produce significant public detriment*”, the levy “*is unlikely to significantly impact competition at either the wholesale or retail levels of the supply chain*” and “*notes that the size of the levy is small*”. In addition, the ACCC stated, “*the waste paint collection scheme is likely to produce environmental benefits by increasing the collection of waste A&D paint in Victoria. Further, by ensuring that many consumers pay closer to the full (opportunity) cost of the affected products to society, the levy also signals a more efficient allocation of resources throughout the economy*”. Potential public benefit through the collection of data to facilitate the development of a national product stewardship scheme for paint was also cited as a benefit by the ACCC.¹⁸

However, the levy failed to progress and was suspended indefinitely in November 2011, primarily due to the reluctance by major retailers to pass the voluntary levy on to the consumer.



METHODOLOGY

Inputs from the following sources have been used to inform the business case:

- PaintCare program
- ACCC application and determination
- PaintCare Australia - trade waste trial data to date
- Detox Your Home data to date
- National Waste Policy and the *Product Stewardship Act 2011* (the Act)
- international examples

Research activities that governed the outcome of this assessment include:

- assessing the ACCC final determination for the PaintCare program that failed to progress in 2011
- assessing the economics of the PaintCare program including the current domestic volumes and the results of the trade trial
- projection of the Victorian model nationwide with recommendations on mechanics and economics of the program
- evaluation of the supply chain and recommending the appropriate position for a levy and rationale behind the decision

Assessment included:

- international examples including cost to industry and consumers
- comparing voluntary stewardship costs over government intervention
- benefits to industry running and managing industry-owned schemes

The GlobalPSC consulted with a wide range of stakeholders (listed in Appendix A) representing industry associations, recovery organisations, retailers, local and state governments. These organisations were consulted via a combination of phone and email contact. The GlobalPSC provided insight from paint stewardship programs in Canada, the US and New Zealand (see the next section) and consulted with program representatives. The APMF and SV were consulted throughout the project. The support and insights of all those that provided information are greatly appreciated.

Objects and criteria under the *Product Stewardship Act 2011* have also been incorporated to more effectively examine potential accreditation as an accredited voluntary arrangement under the Act.

INTERNATIONAL EXAMPLES

An objective of this project was to learn from international examples of paint stewardship. Despite the significance of paint in HHW programs globally, examples of paint stewardship are surprisingly few in number. Where programs do exist, they are run and operated by an even smaller number of organisations.

Given the small number of paint product stewardship organisations and their concerns about price gouging as product stewardship and EPR programs are implemented in more locations, program managers did not provide detailed breakouts of program costs. Various fees charged essentially at the wholesale level are, however, available publicly or were provided to the GlobalPSC by program



managers. According to several stakeholders, there is little if any inflation of these fees as they are passed through to consumers, due to competitive pressures.

Resene Paintwise

At Resene's 66 locations across New Zealand, customers can bring back any brand of decorative paint and paint packaging for responsible management through the PaintWise program¹⁹. Resene branded products from households are collected for free, while charges of NZD1 (~\$0.80) per 4L can or smaller, NZD2.50 (~\$2.03) per 10L pail or larger apply to non-Resene branded product and trade returns to help offset the costs of the program²⁰.

Resene PaintWise finds alternative uses for these waste paint products, including donating paint to community group projects, using waste paint for EchoPaint, used to cover graffiti, replacing virgin material in 'PaintCrete' and 'GlassCrete', and recycling the paint packaging appropriately. Waste reduction education encouraging responsibly paint purchasing is also included.

Resene started the Paintwise program in 1999 after Resene had a number of customers ask what they could do with their empty metal cans, as they were unable to put the tins out in their kerbside recycling. Over the next 5 years, the program evolved from its focus on metal can recycling into being a program for recovering all paint/paint containers across all brands. Resene indicates that "any other option would end up meaning work for the customer sorting out what they could and couldn't return, which means many just wouldn't bother". Resene also intended to develop a product stewardship program best suited to their circumstances, rather than risk facing a legislated program that was less desirable from their perspective.²¹

Resene charges NZD 0.15 (less than \$0.13) on every litre of paint sold at retail, which does not fully fund the cost of the program (as the paint manufacturer, Resene felt that they should bear some of the program costs and therefore fund any program shortfall). Paint resellers are charged NZD 0.10 per litre in light of the fact that they will probably not recover the full NZD 0.15 per litre from every sale. Resene only charges the levy where the PaintWise collection service is available, and has kept the levy at the same level since 2005.²²

On 13 April 2011, the New Zealand Minister for Environment granted Resene Paintwise accreditation as an accredited product stewardship program, valid for a period of 7 years²³.

Resene views the PaintWise program and its accreditation as a demonstration of Resene's commitment to sustainability. Resene sought product stewardship accreditation through the Ministry for Environment as an endorsement of the program and its achievements in addition to giving customers an extra level of assurance and confidence in the program.

PaintCare®

Since December 2003, the US-based Product Stewardship Institute (PSI) has facilitated a national dialogue aimed at reducing the generation of leftover paint, while increasing reuse and recycling opportunities. A result was that in October 2007 a Memorandum of Understanding (MOU) was agreed among paint manufacturers, government agencies, paint recyclers, painting contractors, and other participants that called for the establishment of an industry-funded paint stewardship organisation to collect and manage leftover paint using a pass-through cost to consumers. The MOU also committed stakeholders to conducting a demonstration project in an initial state, with eventual roll-out to other states.²⁴

In 2009, the Oregon Legislature passed the nation’s first paint stewardship law. The Oregon law was based on model paint stewardship legislation facilitated by PSI and with industry support led by the ACA. Since Oregon’s adoption, five other US states have passed the model legislation, also with industry support²⁵:

- California in 2010 (with October 2012 implementation)
- Connecticut in 2011 (with 2013 implementation)
- Rhode Island in 2012 (with 2013 implementation)
- Vermont in 2013 (with 2014 implementation)
- Minnesota in 2013 (with 2014 implementation)

Under the Oregon law, A&D (referred to as ‘architectural’) paint manufacturers were required to finance and operate a system for retrieving, transporting, and processing post-consumer leftover paint. The law established the Oregon program as a four-year pilot program due to sunset in 2014, pending legislation to make the program permanent²⁶.

PaintCare[®] was established by the ACA in 2009 and launched in July 2010 as an industry-run nonprofit organisation to manage the Oregon Paint Stewardship Pilot Program²⁷. In addition to currently managing the Oregon and California programs, PaintCare[®] is progressing plans to manage the Connecticut, Minnesota, Rhode Island and Vermont programs²⁸.

To recover program costs, PaintCare[®] charges a PaintCare[®] Recovery Fee (known as an assessment fee) that is passed through the supply chain to consumers. Manufacturers add the assessment fee to cans of A&D paint sold via distributors and retailers and remit the fee to PaintCare[®] for cans of A&D paint sold in the preceding reporting period. The retailers or distributors then pass the assessment fee on to consumers by adding it to cans of A&D paint they sell in the given state in order to recoup the fee. Retailers generally have flexibility in whether to show the assessment fee on consumers’ receipts. One of the primary reasons that the ACA has supported model EPR legislation for paint is to allow the industry to set and assess the fee without running afoul of anti-trust legislation²⁹.

PaintCare[®] assessment fees (which are the same for California, Connecticut and Oregon) are provided in Table 2. As of report preparation, assessment fees for Rhode Island were not publicly available and the Minnesota and Vermont legislation had just passed, so fee levels for these programs were not available. However, the preference of PaintCare[®] is to ensure fee consistency so the fees in these two states are likely to be consistent with the others.³⁰ All financial figures for US programs have been reported in US dollars (USD). As of report preparation, the Australian dollar is on parity with USD.

Table 2: PaintCare[®] Assessment Fees for California, Connecticut and Oregon

	Assessment Fee (USD)
Half pint (236.6 ml) or less	\$ 0.00
More than half pint (236.6 ml) to less than 1 gallon (3.79 L)	\$ 0.35
1 gallon (3.79 L)	\$ 0.75
More than 1 gallon (3.79 L) to 5 gallons (18.93 L)	\$ 1.60

The current paint product stewardship programs in the US were all based on the same model legislation and are all being managed by PaintCare[®], so the extent of harmonisation will be high. However, the Oregon program is the only one for which detailed program information is available courtesy of a 2013 PSI study commissioned by the ACA³¹.

Managing Oregon’s PaintCare[®] program cost an average of \$7.03 per gallon (\$1.86 per L) during Year 1 and \$6.27 per gallon (\$1.66 per L) during Year 2. According to PSI, these costs include transportation

and processing, along with the local government’s collection costs as part of a wider contractual agreement. However, they do not include other collection costs or program start-up costs. Revenues and expenses for the Oregon PaintCare® program are provided in Table 3.

Table 3: Oregon PaintCare® program Revenues and Expenses³²

	Year 1	Year 2
Revenue from assessment fees	\$4,021,565	\$4,247,071
PaintCare® Program Expenses	\$3,301,977	\$3,822,562
Net Assets	\$ 719,588	\$ 424,509
Average cost/gallon	\$7.03	\$6.27
Average cost/litre	\$1.86	\$1.66

An interesting indicator is that the majority of respondents in each of PSI’s stakeholder groups believe that the Oregon PaintCare® program should be made permanent, rather than remain a trial. Oregon has experienced a 34% increase in the quantity of paint collected and processed since implementing the program. The majority of local governments surveyed by PSI said that they saved on paint collection, which was attributed to the PaintCare program. For Year 1 of the program, Metro Portland - the largest urban area in Oregon - reported a cost savings of over US\$1 million. Before the PaintCare® program launched, ~65% of all Oregon residents lived within 15 miles (~24 km) of a paint collection location. By the end of Year 2, that figure grew to over 94%.³³

Product Care Association

All ten Canadian provinces have paint product stewardship or EPR legislation in some form, with eight relying upon EPR. In seven of these provinces, paint collections are managed through the Product Care Association (Product Care). Product Care is funded through member fees. Product Care collects all trade waste and household paint, without differentiation.

In most cases, program fees are assessed at the first point of sale in the province and ultimately passed through to consumers in the price of new paint purchases. Product Care fees are passed along the line, as a visible fee in some programs such as British Columbia, while in other places the fee is hidden. The brand owner or first importer has to have an approved program.

One provision that was instrumental to gaining retailer engagement in passing along the Product Care fees was the agreement that retailer fee collection and reporting would be based on the time the paint was sold to consumers. This provision was key to getting greater support, especially from retailers.³⁴

Product Care works with local government programs and some container return depots (such as those in British Columbia) to provide the collections. Product Care generally provides collection equipment and services without compensation to the local government program, although in limited instances some compensation has been negotiated to meet essential objectives. In British Columbia, Product Care pays collection depot operators handling fees consistent with EPR in the provinces.³⁵

In Ontario, the paint industry and Product Care are moving towards an Industry Stewardship Plan (ISP) in lieu of the current funding arrangements through Stewardship Ontario (see below), as paint manufacturers and brand owners have indicated that they'd prefer to run the program on their own.³⁶

With programs in different US states and Canadian provinces, Product Care tries to harmonise product definitions and provide a consistent collection roach where possible. While they cannot quantify the financial benefits of having consistent definitions, it does provide certainty for their customers.

Product Care does not have any of the large so-called 'big box' retailers participating in the program. RONA is the only fairly large retailer participating voluntarily for paint. Home Depot participated for a while, but then stopped participating as they have recently done across all of their product collections.³⁷

Product Care's fees, which should roughly equate to program costs, vary by province and by the size of paint container sold (Table 4).

Table 4: Paint and Coatings Fee Rates for Existing PCA Programs - 2013

Paint Container Size	BC	SK	MB	NB	NS	PEI	NL
100 ml to 250 ml	\$0.20	\$0.10	\$0.20	\$0.20	\$0.20	\$0.20	\$0.30
251 ml to 1 L	\$0.25	\$0.25	\$0.25	\$0.35	\$0.35	\$0.35	\$0.50
1.01 L to 5 L	\$0.60	\$0.60	\$0.60	\$0.70	\$0.70	\$0.70	\$1.10
5.01 L to 23 L	\$1.50	\$1.50	\$1.50	\$1.50	\$1.50	\$1.50	\$2.50
Aerosols	\$0.25	\$0.10	\$0.25	\$0.20	\$0.20	\$0.20	\$0.30

Using current exchange rates, Product Care's fees equate to \$0.01-\$0.48 per litre for paint sales of less than 1L, \$0.19-\$1.06 per litre from 1-5L and \$0.07-\$0.29 per litre for sales between 5 and 23L.

Stewardship Ontario

Ontario's Municipal Hazardous or Special Waste (MHSW) program covers a wide range of products used in and around the house that require special end-of-life management. Industry stewards (identified as product brand owners, franchisers, first importers or manufacturers who supply the target products into the marketplace) are obligated under the *Waste Diversion Act* (2002) to fund the cost of the program for the proper management or diversion of their products and their packaging.

Ontario's MHSW program was developed in response to the Ontario Minister of the Environment's request for such a program in 2006. Designated waste materials and the designated Industry Funding Organization (IFO) are identified in the *Municipal Hazardous or Special Waste regulation* (2006).

The MHSW program includes collection and recycling targets (of the amount collected). Stewardship Ontario (SO) is the IFO that develops, operates and implements the MHSW program and is responsible for collecting fees from industry stewards to pay for industry's program costs. SO compensates sites that operate a collection program for paints and coatings (aerosol and non-aerosol), solvents, antifreeze, fertilizers and pressurized containers.

Waste Diversion Ontario (WDO) monitors the performance of the program and reports to the Ontario Ministry of the Environment.

Consumers can return any of the materials included in the program at drop off locations free of charge.

Under the program, paint and coatings have a target of 77% collection by 2015. In 2010, the program collected 11,165 tonnes of paint and coatings for a 96% collection rate. Of this amount, 8,265 tonnes of paint and coatings were recycled.³⁸

On several fronts, Ontario is limited by their primary focus on funding, especially with the focus being on paying 50-100% of local government costs, depending on the material collected. Debate over fee visibility has become highly political and initial education was critical. For example, when the MHSW program was expanded to include solvents, consumers could understand paying EPR fees on larger,



less frequently purchased items such as large electronics and tyres, but not on bottles of laundry detergent that were technically classified as solvents. Substantial efforts are underway in 2013 to reform the Ontario approach. Early indications are that Ontario will likely end up more consistent with other Canadian programs.

Eco-Peinture

In the Canadian province of Quebec, the paint industry took on the voluntary collection of paint residue in 1998 with an initial contribution of CAD1.2 million (~\$1.15 million). On 1 January 2001, the Quebec government adopted the *Regulation respecting the recovery and reclamation of discarded paint and paint containers established by the Environmental Quality Act*, which obligated all businesses marketing A&D paint (referred to as 'architectural' paint) to recover, or have recovered on their behalf, waste paint. In response, paint producers and brand owners selling paint in Quebec established the *Societe quebecoise de gestion ecologique de la Peinture* (Eco-peinture) to manage stewards' responsibilities and fund the efforts through a fee collected on each container of paint sold in Quebec. The program has now grown to over 550 retailers and 760 municipalities.³⁹

Detailed information on Eco-Peinture's program fees and costs is not available at this time.

PUBLIC POLICY CASE FOR PAINT STEWARDSHIP

There is strong public policy case for product stewardship of paint. This is based on a range of benefits that will be achieved by expanding collections:

- paint can contain substances that can be hazardous if released into the environment;
- reduced environmental impacts from current landfill and disposal practices;
- potential to reduce contamination to municipal waste streams and wastewater treatment facilities;
- strong industry support from manufacturers and trade painters for seeing paint managed and recycled responsibly.

Objects and criteria under the National Waste Policy and Product Stewardship Act 2011

In Australia, the National Waste Policy and the Act (in particular the Act's objects and criteria) provide an appropriate framework for considering whether a compelling public policy case can be made for regulatory intervention with batteries.

The National Waste Policy has been endorsed by all Australian governments, through both the Environment Protection and Heritage Council (November 2009) and COAG (August 2010). Developing nationally consistent product stewardship schemes was a primary driver for the policy. The policy's emphasis is on providing a national framework to support voluntary, co-regulatory and regulatory product stewardship and EPR schemes.

The Act, which took effect August 2011, provides the framework envisioned under the National Waste Policy.

Section 4 of the Act states that,

“(1) It is an object of this Act to reduce the impact:

(a) that products have on the environment, throughout their lives; and



(b) that substances contained in products have on the environment, and on the health and safety of human beings, throughout the lives of those products.

(2) It is Parliament's intention that this object be achieved by encouraging or requiring manufacturers, importers, distributors and other persons to take responsibility for those products, including by taking action that relates to the following:

(a) avoiding generating waste from products;

(b) reducing or eliminating the amount of waste from products to be disposed of;

(c) reducing or eliminating hazardous substances in products and in waste from products;

(d) managing waste from products as a resource;

(e) ensuring that products and waste from products are reused, recycled, recovered, treated and disposed of in a safe, scientific and environmentally sound way.

Other objects

(3) The following are also objects of this Act:

(a) to contribute to Australia meeting its international obligations concerning the impacts referred to in subsection (1);

(b) to contribute to reducing the amount of greenhouse gases emitted, energy used and water consumed in connection with products and waste from products."

Section 5 of the Act contains product stewardship criteria that are satisfied in relation to a class of products if:

- the products are in a national market
- at least one of the following applies in relation to the products in the class:
 - the products contain hazardous substances;
 - there is the potential to significantly increase the conservation of materials used in the products, or the recovery of resources (including materials and energy) from waste from the products;
 - there is the potential to significantly reduce the impact that the products have on the environment, or that substances in the products have on the environment, or on the health or safety of human beings.

Paint stewardship satisfies most of the product stewardship criteria and other additional public policy considerations, as described in the following sections. As the objects of the Act are encompassed in the criteria and discussed throughout this report, they are not elaborated separately.

The products are in a national market

Paint is clearly in a national market within Australia.

The products contain hazardous substances

Heavy metals, dyes, acids, alkalis and other contaminants may be contained in paint. Despite Australian paint manufacturers eliminating lead-based paints voluntarily over a decade ago, some lead-based paints still appear in small quantities in collection programs⁴⁰. Lead-based paint is now minimal in WA collections⁴¹ and banned in Victoria⁴². The primary concern from a hazard perspective is solvent-based paint.

There is the potential to significantly increase the conservation of materials used in the products, or the recovery of resources (including materials and energy) from waste from the products

There are environmental benefits from recycling steel paint cans, including energy savings. Solvent-based paints are usable for energy recovery, offsetting other fuel sources. The shift to water-based paints currently being witnessed means that energy recovery may become more difficult. Most landfills cannot landfill liquids and must therefore congeal paints. Paint is 80% by weight (~800 tonnes) of



Victoria's HHW collections; of this amount, paint packaging constitutes ~25%⁴³. Paint is the most significant item in WA's HHW programs⁴⁴.

There is the potential to significantly reduce the impact that the products have on the environment, or that substances in the products have on the environment, or on the health or safety of human beings

Of all paint manufactured in Australia, A&D paint accounts for ~52%; industrial paints and coatings are the other main product. Australian manufacturers produce ~95% of all A&D paint purchased in Australia. Approximately 15 million litres (~11% of sales) require disposal each year. Recycling options are limited. Steel and plastic cans with residual paint can contaminate recycling streams. Paint stewardship creates the potential to reduce the illegal disposal of paint into the sewerage system and therefore the level of contaminants reaching water treatment plants.

Other policy considerations

Consumer willingness to pay

An additional consideration that factors into the decision-making process is consumer willingness to pay (WTP).

As part of their surveys on the Oregon trial, PSI asked retailers if customers had expressed concerns about the fee. Roughly two-thirds of respondents reported that many or some of their customers had, in fact, expressed concern (27% said 'many expressed concern' and 40% said 'some expressed concern'). Of retailers responding, 12% stated that the question was not applicable to them because their store does not disclose the fee to the consumer.⁴⁵

Given the increased sales reported by retailers serving as collection centres (including manufacturer/retailers) in the Oregon program, consumer WTP did not appear to be a limiting factor in rolling out the program.

Specific data on WTP for paint product stewardship in Australia is not available at this time. However, the ACCC called for public submissions on the APMF's proposal to raise ~\$2,750,000 for the 12 month PaintCare trial and received no public objection. At the proposed levy, ACCC "considers that the waste paint collection scheme is unlikely to produce significant public detriment", the levy "is unlikely to significantly impact competition at either the wholesale or retail levels of the supply chain" and "notes that the size of the levy is small". The ACCC was informed by the APMF that the levy would "have a minimal impact on households and trade painters as the 2 cent levy represents around 0.1% of the price of A&D paint".

Additional data is required on the public's WTP for paint stewardship. Bunnings is prepared to test consumer WTP through a consumer questionnaire, developed in partnership with SV and issued to Bunnings customers to assess the issue and WTP models.

Savings to state and local governments

Shifting waste management and recycling costs back to the producers and consumers of particular products has long been a primary objective of EPR and product stewardship.

PSI has estimated total financial benefit of EPR for paint in the US as US\$515 million for 2010. These values represent current costs in the US to manage paint and would represent benefits to public budgets if paint were managed through producer responsibility. There are two figures PSI used in describing the financial problem:

- actual cost, which would be the direct financial savings to a local government of implementing an EPR program; and
- service benefits, which is the value of the added benefits a municipality would receive if EPR were to take hold.

These two figures are combined to be the potential financial benefits of EPR in the US for a given product. For paint, many local governments in the US dry and dispose of latex paint because it is a lower priority than other HHW products. If they had the funds, they would collect it. Therefore, to manage all leftover paint in the US 'responsibly' (e.g., collect and reuse, recycle, fuel blend, or dispose), it would cost local governments about US \$515 million per year.

Indicatively, applying the PSI per capita savings values of US\$1.67 to Australia's 2012 population of 21,727,158 provides indicative potential financial benefits in Australia of \$35.7 million at current exchange rates.

Benefits to governments under programs such as PaintCare[®] will vary depending on the types of used paint management services the governments currently offer. For local governments that already have strong programs in place to managed used paint, the law will result in direct cost savings as many of these current costs will be borne by the paint supply chain and paint consumers. For local governments currently not providing used paint management, they would be able to expand the services they can offer to consumers.

Current estimates are that the Victorian and NSW governments pay ~\$800,000 and ~\$1 million, respectively, for state-based programs to manage domestic paint⁴⁶. Paint has gone from representing ~67% of the cost of Victorian HHW collections in 2008 to ~80% currently. In WA, disposal costs for water-based paint and solvent-based paint represented 55% and 16%, respectively, of spending on HHW collections in the last quarter of 2012.

State government views

The Waste and Recycling in Australia report⁴⁷ gave a 'medium' priority rating for paint in recommending prioritising products for attention in product stewardship or other programs to increase lifespan, reuse and recovery. However, state governments have recently made it clear that paint product stewardship is a high priority.

Australia's Environment Ministers added paint, along with handheld batteries, to the SCEW work plan in April 2013 thereby devoting resources to developing paint product stewardship. This decision builds upon views expressed previously. For example, in November 2010, the NSW Minister proposed that paint be a national priority waste and called for EPR to be accelerated. Victoria supports A&D waste paint being listed as a priority product under the Act. Similarly, WA has indicated that paint is a priority for them and South Australia is fully supportive of a paint stewardship scheme⁴⁸.

BUSINESS CASE FOR PAINT STEWARDSHIP

In the business case for paint product stewardship, costs and benefits vary by the business's roles in the supply chain and engagement in the program. The following discussion has been derived primarily from international experience, especially Oregon's experience as it is one of the few programs for which cost data is available, in conjunction with consultations with Australian stakeholders.

Paint manufacturers

Producers have a vested interest in keeping their costs and the costs ultimately passed on to consumers to a minimum in order to preserve or potentially expand their market shares. Relative costs and benefits to producers of product stewardship depend upon the particular approach applied and how producers respond.

Producers that support voluntary product stewardship see it as a means of bolstering corporate reputation while potentially avoiding more onerous regulations. Developing and implementing an industry-led product stewardship approach also allows producers to maintain a greater level of control, which potentially allows them to minimise their ultimate costs. Drawing from North American examples for voluntary paint stewardship, this is a primary reason that Canadian paint producers developed their own stewardship programs. Similarly, the U.S. paint industry accepted that the status quo was not adequate and industry players teamed up to seek resolution in a way that afforded producers the opportunity to run and manage their own programs.⁴⁹

In evaluating the Oregon program, PSI conducted with four stakeholder groups: HHW and recycling program coordinators; architectural paint manufacturers selling paint in Oregon; retailers serving as collection points for unused paint; and painting contractors.

Of the paint manufacturers that responded to the survey (including manufacturers with their own retail locations), benefits of the Oregon trial that they reported are provided in Table 5.

Table 5: Reported Benefits to Paint Manufacturers During Oregon PaintCare® Trial⁵⁰

Response	% reporting as a benefit
Program increases consumer awareness of the issue of leftover paint	72%
Program is less costly than government programs	67%
Program brings customers to retail collection locations	56%
Program reduces burden on manufacturers	33%
Program saves manufacturers time	28%
Program saves manufacturers money	22%
Other	17%

Representative paint manufacturer comments reported to PSI include⁵¹:

“It is a cost-effective way to deal with the waste stream. Customers love it – and it isn’t too much burden on the manufacturers and/or reclaim centers.”

“The PaintCare program is an excellent example of industry stewardship and should be encouraged, Consistency from state to state is essential to build efficient and effective channels of post-consumer waste management.”

In Australia, the support of manufacturers is evidenced by the APMF making paint stewardship a priority, working with stakeholders to gain ACCC approval for the levy as a funding source, and continuing to fund trials in conjunction with SV even when key retailers refused to pass along the fee.

Retailers

Retailer engagement is key, however successful voluntary retailer engagement is quite limited in the international examples. Only one ‘big box’ retailer equivalent to those objecting to the Australian program, RONA in Canada, is engaged with the Product Care program; none are participating in the PaintCare program in the US.

Those retailers that do participate voluntarily are small- to-medium-sized retailers, such as Resene in New Zealand, that feel providing a paint collection program increased foot traffic through their stores and increases sales. However, none of the programs or retailers consulted for this project, including Resene, could quantify the sales benefits⁵².

In most programs, retailers pass along program fees due to regulatory or program requirements. In those programs where retailers offer paint collections, program resources are available to assist with the collections. Resene recovers most of their program costs, but end up subsidising the program because they feel it is appropriate from a corporate social responsibility perspective⁵³.

Of the retailers serving as collection points that responded to PSI’s survey about the Oregon trial, 60% reported an increase in sales during Year 2; only 5% reported decreased sales (Table 6).

Table 6: Reported Sales Impacts on Retailers During Oregon PaintCare® Trial⁵⁴

Response	Year 1	Year 2
Sales increased	37%	60%
Sales decreased	15%	5%
No change in sales	36%	25%
Unsure	12%	10%

Of the retailers that responded to the PSI survey, their motives for participating in the Oregon trial as a retail collection site are provided in Table 7.

Table 7: Retailer Motivations for Participating in the Oregon PaintCare® Trial⁵⁵

Response	% reporting as a motivation
Demonstrate commitment to social responsibility	65%
Improve store’s reputation	59%
Increase foot traffic	58%
Aligns with mission and values	52%
“Green” image	59%
Other	24%



In addition, 61% of the Oregon retailers surveyed indicated customers that dropped off used paint purchased other products⁵⁶.

In retailer submissions to the ACCC determination in Australia, Bunnings supported in principle, the proposal for an industry wide levy to fund the recycling of waste paint and stated that it is essential for the levy to apply to all paint manufacturers to ensure that there is no commercial disadvantage to certain paint brands. Mitre 10 submitted that it may be administratively easier to impose the levy on the manufacturer, rather than suppliers; which would be consistent with how the overseas programs operate.

SWOT ANALYSIS

Drawing from international experience and stakeholder consultations, this section provides a Strengths, Weaknesses, Opportunities and Threats (SWOT) assessment for voluntary paint stewardship in Australia.

Strengths

- Consistency with the approach used in Australia and New Zealand of preferring voluntary approaches and giving industry an opportunity to make product stewardship programs work before introducing co-regulatory or mandatory programs.
- Industry support is especially strong, particularly among paint manufacturers and trade painters.
- Government support for paint stewardship is strong; addressing paint through a voluntary paint stewardship approach would help to achieve a variety of government objectives.
- Consistency with the principles and objects of the Act.
- Where stakeholder views have been determined, as with the Oregon Paint Care program, stakeholders are supportive of product stewardship for paint before and after implementation.
- Accreditation as a voluntary stewardship approach should provide industry greater flexibility and ability to control costs compared to co-regulatory or mandatory approaches.

Weaknesses

- Relying upon a voluntary approach means that participating industry players will be passing along a fee without assurance that retailers will in turn pass along the fee in the absence of underpinning regulation. 'Free riders' could then prove problematic.
- Retailer engagement on serving as collection locations is one of the greatest uncertainties. Small- to medium-sized retailers in the overseas models examined seem to engage well voluntarily in product stewardship programs where they are provided equipment and resources for serving as collection centres.
- Overseas experience has shown that consumers returning paint for collection are also likely to return a variety of other HHW items that will need to be managed responsibly. While this situation can be handled by most local government collections, it could impose extra costs to manage responsibly for retailers compared to paint alone (retailers could be hesitant to reject a customer bringing other items along with paint due to concerns about losing the customers or concerns that the customer could simply dump the items outside the retail collection point).



Opportunities

- Effective paint industry stewardship on a voluntary basis can provide the paint industry with a greater level of program and cost control than would likely be available if such an approach was regulated.
- The ACCC approval process is now understood and supportive of assessing a levy at manufacturer level to fund paint collection.
- Consumers are used to returning paint to local government collections and initial results from Victoria's PaintCare trials are encouraging with return volumes, so existing HHW collections can form the foundations of an effective collection program while support can be built among retailers for in-store collections.

Threats

- There is currently limited data available on program costs in Australia and program cost data from overseas programs is limited.
- Overseas data indicates that a fee amount higher than the \$0.02 per litre levy approved by the ACCC for the Victorian trial may be necessary. Such an increase could erode support from key stakeholders.
- If action on voluntary stewardship is not taken within the foreseeable future, the currently strong stakeholder support could wane and be difficult to re-establish later.
- The significance of retailers, especially in passing along a fee initiated at the manufacturer / wholesale level, could be overstated and seen as too much of a barrier. In the overseas programs examined, fees are initiated at the manufacturer / wholesale level and retailers simply pass the fees through to consumers even though they are not legally obligated to.
- Paint collection need to be properly managed and supervised. Providing collection opportunities without appropriate oversight can result in spillage and associated clean-up costs, dangerous conditions and the return of non-program materials would cost to be managed properly. Collection centres will therefore need to be manned and staffed to an appropriate level to counter this threat.

RECOMMENDATIONS FOR ACTION FROM INDUSTRY AND GOVERNMENT

This section is intended to address the following:

- Recommendations to industry to run and manage a paint stewardship scheme
- Recommendations to government to list waste paint as a priority product on the National Waste Policy and work with industry to develop a model for consideration

Given project scope and strong support from stakeholders for a nationally consistent approach, the GlobalPSC's recommendations focus predominantly on a national approach for both industry and governments.



Recommendations to industry to run and manage a paint stewardship scheme

The following recommendations are intended to assist industry in the establishment and operation of a voluntary approach to paint stewardship.

Recommendation 1. Be cautious about setting quantitative collection targets

The California stewardship plan urges caution about setting quantitative collection targets for a variety of collections targets for the following reasons:

- Collection rate (the percentage of available unused paint that is collected) is determined by dividing the volume of paint collected by the volume assumed to be available (believed to be 10% of volume sold), which can vary greatly. In addition, the amount available for collection (say 10% of sales) is derived from a current and fixed value (e.g., 2012 sales). Therefore, there is a poor correlation between the variables used to calculate collection rate. It is also worth noting the 10% waste arising is only an assumption and work would be required to ascertain this figure for Australia.
- Economic conditions (whether positive or negative) can change the collection rate even if there is no actual change in collection volumes. For example, economic conditions can lead to lower paint sales, which affect the denominator against which recovery efforts are compared to determine the collection rate.
- Source reduction can have a dramatic effect on the volume available for collection. Successful consumer education efforts to optimise paint purchases or providing a range of sizes of paint for purchase, although desirable, could mean that smaller volumes of paint are available for collection and therefore affect collection rate calculations.

Recommendation 2. Establish a non-profit incorporated organisation responsible for managing the program consistent with requirements for voluntary accredited arrangements under the Act.

Virtually all model industry-led recovery programs are established as non-profit corporations with specific requirement to be discharged. In addition, the Act allows for accreditation of voluntary stewardship organisations and the Australian government has been preparing guidelines for accreditation of voluntary schemes, so guidance is available.

Recommendation 3. Develop a detailed stewardship plan based on stakeholder consultations and including detailed program planning.

The proposed arrangement should develop an industry-wide stewardship plan, developed in consultation with key stakeholders that details current understanding of waste paint generation, management and options; addresses the key stakeholders involved; spells out roles and responsibilities, including coordination with existing local government HHW collection programs; planned performance measures and reporting; and programs objectives such as those for reducing the generation of post-consumer paint, appropriate collection, transport and processing practices, and management strategies including those for reuse, recycling, energy recovery and ultimate disposal of residual material.



Recommendation 4. Define what are and are not 'program products' to be included, collected and processed, then only collect program products.

Defining the program products to be included, collected and processed is critical to scheme development, determining volumes to be collected and assessing appropriate fees to cover program costs. Program products included and preferably non-program products that will not be collected should be clearly stated in educational materials.

Clearly articulated program products, once determined and communicated effectively in promotional materials, should be the only items collected in a paint product stewardship scheme in order to help ensure consumer and employee safety, ensure appropriate material tracking and help control costs. Collection and processing contracts will revolve around the program materials, so these are the only items that should be collected.

Recommendation 5. Seek accreditation as an accredited voluntary product stewardship arrangement under the Act.

The Act allows for accreditation of voluntary stewardship organisations and the Australian government has been preparing guidelines for accreditation of voluntary schemes, so guidance is available. In addition to other administrative costs, the application for accreditation would require payment of \$26,600 (GST-excl.) under the current rate schedule.

Recommendation 6. Self-levy at the manufacturer / wholesale level so that fee assessment is effectively at the point of first importation or placement on the market.

The international models examined and most product stewardship models available across a range of products have program fees assessed at this level. Assessment at this level also assists in addressing concerns from retailers about point of fee placement.

Recommendation 7. Ensure that paint recovery is convenient and accessible for consumers by actively incorporating existing local government HHW collections.

Ongoing retailer collections are seen by various stakeholders as being convenient and accessible, however they may be more expensive than alternative approaches and uptake by retailers, especially by large retailers, is uncertain. Local government HHW collections have the capacity and experience necessary to handle paint recovery as well as the other HHW materials that consumers would still seek to return to paint-only collection centres. In addition, impacts of paint on local HHW collections is a primary reason for introducing paint stewardship; working directly with HHW collection programs would help to reduce the impacts of a variety of problems at their source.



Recommendation 8. Ensure verifiable public reporting of program results.

Verifiable public reporting against agreed performance measures should be integral to a voluntary stewardship for paint. The performance measures should be agreed in advance between the arrangement and the government and detailed in the stewardship plan to support the arrangement's application for accreditation. As the performance measures may change over time, it is recommended that they be reviewed every five years or so in consultation with stakeholders to determine appropriateness.

Recommendations to governments

This section contains recommendations to governments in order to provide an appropriate policy framework in which a voluntary stewardship program for paint can be optimised.

Recommendation 1. Support including paint in the ‘product priority list’ for the *Product Stewardship Act* (Clause 108A).

Paint satisfies the objects and criteria of the Act and strong support exists for a nationally consistent approach to paint product stewardship if structured in an appropriate manner. Under the Act, the Minister must publish on the Department’s website ‘(a) a list of classes of products in relation to which the Minister is proposing to consider, during the next financial year, whether some form of accreditation or regulation under this Act might be appropriate; and (b) the reason (or reasons) why the Minister is proposing to give that consideration’. Designation of paint as an item potentially subject to product stewardship would send a clear signal that paint is being taken seriously by governments. In addition, designating paint as a priority product would provide a greater level of policy certainty across the industry.

Recommendation 2. Support provisions for ensuring producer responsibility for program operation and financing.

Producer responsibility is a fundamental premise of EPR and product stewardship. Flexibility can be allowed, however, for the means by which producer responsibilities are discharged. The forthcoming guidelines for accreditation of voluntary stewardship arrangements and development of a detailed stewardship plan for paint should ensure transparency and accountability while providing for clear roles and responsibilities of all principal stakeholders.



Recommendation 3. Support the development of an industry-led and industry-managed national product stewardship scheme for paint accredited as a voluntary arrangement and based on a voluntary levy assessed at the wholesale level (subject to ACCC approval) and passed through to consumers.

This approach would likely result in the best combination of program features to satisfy both government and industry objectives.

Recommendation 4. Ensure verifiable public reporting of program results.

Reporting requirements should focus on transparent and verifiable public reporting against key performance indicators that should be developed in conjunction with liable parties in addition to being detailed in the arrangements stewardship plan. Having such requirements, yet allowing liable parties flexibility in how the results are achieved, is key to ensuring program results in locations such as British Columbia.

Australia has many of the same drivers for introducing product stewardship for paint as do Canada and the US, where the most comprehensive paint stewardship approaches are being implemented. The recommendations for industry and government contained in this report are intended to help Australia implement paint stewardship consistent with international best practice, while providing a nationally consistent approach tailored to Australia's circumstances and building upon the approaches available under the *Product Stewardship Act 2011*.

Designating paint as a priority item under the Act while providing industry the flexibility to submit for approval a detailed stewardship plan developed in conjunction with stakeholders should allow the APMF to build upon the previous regulatory approval provided by the ACCC and implement a comprehensive stewardship approach in a more cost-effective way than would otherwise be available.

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PaintCare 2012c, California Paint Stewardship Program Assessment Fees, available at http://www.paintcare.org/docs/ca_retailer_factsheet2.pdf, accessed February 2013.

PSI 2013, Oregon Paint Stewardship Program Evaluation, report for the American Coatings Association and Metro Oregon by the Product Stewardship Institute.

APPENDIX A - ORGANISATIONS CONSULTED

Organisations consulted for this report include (in alphabetical order):

3R Group

Australian Paint Manufacturers' Federation Incorporated

Bunnings Group Limited

Master Painters Australia

Product Care Association

Resene Paintwise

Sustainability Victoria

Western Australia Local Government Association

¹ The Global Product Stewardship Council (GlobalPSC) is an independent, non profit association dedicated to understanding and advancing the principles of product stewardship. With offices or facilities in 11 countries, members include businesses, NGOs and governments at federal state and local levels. SV and the APMF are members. Details are available at www.globalpsc.net.

² From APMC proposal to ACCC, 2010

³ Personal communications with Mark Amos of MPA in April 2013

⁴ <http://www.paint.org/find-your-issue/product-stewardship.html>, accessed April 2013

⁵ Personal communication with Richard Phillips of APMF in February 2013

⁶ Personal communication with Rebecca Brown of WALGA in February 2013

⁷ Personal communication with John Polhill of SV in February 2013

⁸ ACCC 2011

⁹ Personal communication with John Polhill of SV in January 2013

¹⁰ Personal communication with Rebecca Brown of WALGA in February 2013

¹¹ <http://www.scew.gov.au/publications/communiques/pubs/scew-communicue-11april2013.pdf>, accessed April 2013

¹² ACCC 2011 and confirmed via personal communication with John Polhill of SV in January 2013

¹³ Personal communication with John Polhill of SV in February 2013 and April 2013, as well as DYH data

¹⁴ Personal communication with John Polhill of SV in February 2013

¹⁵ Personal communication with John Polhill of SV in February 2013

¹⁶ Personal communication with Rebecca Brown of WALGA in February 2013

¹⁷ ACCC 2011

¹⁸ ACCC 2011

¹⁹ <http://www.mfe.govt.nz/issues/waste/product-stewardship/accredited-schemes-in-nz.html>, accessed February 2013

²⁰ <http://www.resene.co.nz/paintwise.htm>, accessed April 2013

²¹ Personal communication with Karen Warman of Resene in May 2013

²² Personal communication with Karen Warman of Resene in May 2013

²³ <http://www.mfe.govt.nz/issues/waste/product-stewardship/accredited-schemes-in-nz.html>, accessed February 2013

²⁴ <http://www.productstewardship.us/displaycommon.cfm?an=1&subarticlenbr=117>, accessed February 2013

²⁵ Darling 2013 for all states except Vermont and Minnesota. The Vermont bill passed 14 May 2013 and the Minnesota bill passed 23 May 2013, according to PSI

²⁶ Legislation to make the program permanent was under consideration by the Oregon Legislature at the time this report was being written.

²⁷ PSI 2013

²⁸ Darling 2013, PSI 2013

²⁹ Personal communication with David Darling of ACA in June 2013

³⁰ Personal communication with David Darling of ACA in June 2013

³¹ PSI 2013

³² PSI 2013

³³ PSI 2013

³⁴ Personal communications with Mark Kurschner of Product Care in May 2013

³⁵ Personal communications with Mark Kurschner of Product Care in May 2013

³⁶ Personal communications with Mark Kurschner of Product Care in May 2013

³⁷ Personal communications with Mark Kurschner of Product Care in May 2013

³⁸ <http://www.ec.gc.ca/gdd-mw/default.asp?lang=En&n=618F3E03-1>, accessed May 2013

³⁹ <http://www.eco-peinture.com/home.html>, accessed May 2013

⁴⁰ Personal communication with Richard Phillips of APMF in February 2013

⁴¹ Personal communication with Rebecca Brown of WALGA in February 2013

⁴² Personal communication with John Polhill of SV in February 2013

⁴³ Personal communication with John Polhill of SV in February 2013

⁴⁴ Personal communication with Rebecca Brown of WALGA in February 2013

⁴⁵ PSI 2013

⁴⁶ Personal communication with John Polhill of SV in February 2013

⁴⁷ Hyder 2009

⁴⁸ ACCC 2011

⁴⁹ GlobalPSC 2010

⁵⁰ PSI 2013

⁵¹ PSI 2013

⁵² Personal communication with Alan Langdon, Retailer Council of Canada in May 2013

⁵³ Personal communication with Karen Warman of Resene in May 2013

⁵⁴ PSI 2013

⁵⁵ PSI 2013

⁵⁶ PSI 2013