

DEQ Comments on 2016 Oregon Paint Stewardship Program Annual Report

DEQ has reviewed the Annual Report submitted 4/1/17, and has comments organized by Report section. For clarity, comments below labeled as “**Suggested**” are optional items to aid in readability; those labeled “Correction” or “**Required**” are mandatory changes.

PaintCare responses submitted June 9, 2017, in purple.

Cover

Correction: **Please change “Solid Waste Policy and Program Development” to “Materials Management Program”, and street address to 700 NE Multnomah St., Suite 600, Portland, Oregon 97232**

This change has been made.

Executive Summary

Page 4, 2016 Highlights--

Suggested: In the first bullet point, specify the number of one-day drop off events.

This change has been made.

Consider adding a highlight point related to Habitat for Humanity (see comment regarding page 22). Consider adding to the highlights a page reference to more detailed discussions of the highlighted issue.

We are sensitive to the concerns expressed by Habitat for Humanity in stakeholder comments and we sincerely value and appreciate their dedication and partnership. We have followed up with H4H personally to reassure them that nothing has changed in our partnership, and to reiterate our commitment to reuse. Based on their favorable response, we believe we have directly addressed their concerns. We will highlight our partnership more prominently in the 2017 annual report.

Section 1

Page 6, Table 1—

Suggested: Add a column to show total tons by sector for current year.

The approximate distribution of volume by sector for 2016 is:

Retailers: 43.7%

HHW & Solid Waste Facilities: 40.4%

HHW/Municipal Sponsored Events: 3.6%

Reuse Stores: 10.3%

Large Volume Pickups: 1.7%

PaintCare-Sponsored Events: 0.3%

Pages 6-8, Convenience Level—

Suggested: for context, add in the first sentence that the 96.3% figure provided by PaintCare represents successfully meeting the 95% minimum requirement in the statute.

This change has been made.

Suggested: The maps on pages 7 & 8 have significant overlap, with no narrative link to either. We suggest removing the map on page 7, and showing all collection locations using the map on page 8, but placing it instead in the Appendices, as suggested in the Annual Report Checklist.

The content of the maps is described in the narrative on the page preceding the maps (page 6). To expand on this, the maps intend to first show the placement of the permanent sites and then the overall drop-off network, inclusive of event sites – as a complement to the the data in Table 1.

Page 9, Underserved Areas, paragraph 2—

Correction: **The text refers to “The appendix”, but does not identify it as Appendix D. Please cite the correct appendix.**

This change has been made.

Page 10, Transportation, paragraph 1—

Suggested: To aid the reader, when referring readings to a different document here and elsewhere, include the page numbers of the document (pages 21-22 of the Program Plan in this instance).

This change has been made.

Page 11, Reuse—

Required: Please provide details to help the reader understand the success of the reuse program, including the volume of paint sent to Metro and other locations for reuse, how the volume of paint sent for reuse in 2016 compares to prior years, and PaintCare strategy to expand reuse opportunities.

Since the beginning of the program, reuse has increased from 3% to 7% of total volume. The change over time is detailed on page 16. The strategy we employ to expand reuse opportunities is mentioned on in part on page 11, where we describe a “reuse before recycling” approach with large volume referrals. To expand on this, PaintCare continues its “reuse before recycling” approach in the field by encouraging all program partners and potential participants to keep reuse stores top of mind for referrals, and reminding that reuse stores accept paint donations that keep usable paint in the community, while also acting as a drop-off site.

Section 2

Page 12, Paint Volume—

Correction: **Please adjust the page reference for “Reconciling Volumes.” Report says page 16, actually on page 15 now (but may move after revisions).**

This change has been made.

Page 13, Deriving Processed Volume—

Required: Please provide the amounts provided by each entity.

Metro	390,703
SES	144,687
Reuse Stores	36,716

Marion County	17,915
Clean Harbors	8,654
Tillamook County	1,489
LCHA	880

Page 14, Deriving Collected Volume by Site/Event—

Correction: **Please site the Appendix at the end of the first sentence. Please adjust the numbering in the Stericycle section; the numbers skip from (4) to (6).**

This change has been made.

Discuss why over 52,000 fewer gallons were collected in 2016 when compared to 2015 (Table 5).

With other collection factors have remaining relatively static, PaintCare attributes the decline in gallons collected to two factors:

- 300 fewer bins collected in 2016
- 8% decrease in Stericycle bin weight, likely the result of scale recalibration by Stericycle in 2016

PaintCare has asked its service providers to review their measurement practices as part of an ongoing effort to reconcile volumes collected and processed. Stericycle reported that it weighed program bins using two scales attached to forklifts. At PaintCare’s request, Stericycle tested both scales and found that that there was a difference of approximately 10% between the weights reported by each scale. In March 2016, Stericycle replaced the forklift scales with a single calibrated floor scale.

Stericycle stated to PaintCare that it cannot quantify the impact of its previous measurement practices on data before the scale change. However, they do believe that the directional change in volume is directly linked to introduction of the new scale.

We are inclined to agree based on Stericycle’s observed bin weights before and after the change. Bins in the 14-month period from January 2015 to February 2016 averaged 750 pounds, while bins from March 2016 to December 2016 averaged 689 pounds, a difference of -8%.

PaintCare believes that 15,000 gallons of the decrease is attributable to 300 fewer bins collected and the scale recalibration is responsible for the remaining 37,000 gallons.

Page 16, Paint Disposition—

Correction: **Table 7 shows reuse at 7%, however paragraph three says reuse reached 6 percent. Please reconcile.**

Paragraph 3 refers to oil-based paint reuse, and matches the corresponding data in Table 7. There is no correction needed.

Page 17, Latex Paint Recycling Rate Goal—

Suggested: Cite the pages in the Program Plan on how the paint goal was determined, so there is meaning to the 67% stated goal.

This change has been made.

Required: Please discuss why the latex recycling rate dropped by 6% and steps anticipated to improve the recycling rate. Please include actions to improve latex paint recycling, if any, PaintCare is taking independent of Metro or in assisting Metro in its efforts.

The recycling rate reported by Metro was 63% in 2015 and 61% in 2016, a decrease of 2%. The recycling rate is dependent on Metro's ability to market its paint, which PaintCare does not control. PaintCare is currently participating in conversations between Metro and municipal partners in Oregon interested in providing paint in unmarketable tints to their community. PaintCare views this as a promising avenue to improve the latex paint recycling rate. We will keep DEQ and all interested stakeholders updated on progress of this initiative.

Page 17, Container Recycling—

Required: Please describe efforts PaintCare is taking with the industry to address improving markets or developing recyclable containers.

Oregon program containers are recycled to the extent feasible by Metro. Their ability to do so is subject to variables in container condition and broader recycling market conditions which go beyond PaintCare's scope of influence. PaintCare is not involved with container manufacturing or product development.

Section 3

Page 18, Revenue—

Required: Please specify the source of "other income" to the program. Does this consist of any other income besides payments from Metro?

Metro is the sole source of "other income" to the program.

Pages 20 – 21 Unallocated Reserve Fund Discussion/Evaluation of the Operation of the Program's Funding Mechanism—

Required: Provide context in this section on the imbalance between revenues and expenses that led PaintCare to request the assessment fee increase. Please provide specific examples in changes in program costs from 2015 to 2016 to better understand why the program ran a deficit of over \$300,000. Identify deviations from budget projections, particularly since PaintCare reports at page 21 that expenses were reduced by 8.1%.

At the end of 2013, there were 100 drop-off sites in the program. In late 2014, the Oregon program increased its convenience level as required by statute, adding 21% more sites. With these new sites, 96% of all Oregon residents were within 15 miles of a drop-off location. At the end of 2015, there were a total of 167 sites. This increase in sites has permanently increased the amount of paint collected. This fundamental shift changed the core cost of the program to such a degree that it has necessitated a request a fee schedule increase from DEQ to continue to meet the public's demand for the program.

In 2015, the program spent \$850,000 more than it took in. While operations expenses increased by \$100,000 (driven by paint reuse/recycling/disposition activities of the program and largely beyond its control), PaintCare made a sincere and considered effort to contain costs by paring back communication and administrative costs by more than \$500,000 compared to 2015. This enabled the program to come in \$280,000 under its original projections in the 2016 budget. However, because of variable costs

associated with persistently high paint collection volumes, the program still spent \$330,000 more than it received in revenue.

PaintCare's 2016 budget projected revenues of \$4,791,068. The actual revenue for 2016 was \$4,779,231, accurate to within 0.25%. The Oregon program has correctly understood its revenue and expense picture for some time and has worked closely with its board and DEQ to take short-term measures to contain costs and to demonstrate a clear-eyed perception of its financial history and future.

Page 20, final line, please clarify that the PaintCare fee schedule request is for September 2017.

This change has been made, updated to Nov. 1.

Page 22, Program Cost-Effectiveness—

Suggested: Provide a more detailed discussion of the partnership with Habitat for Humanity. How is this partnership part of the cost effective implementation of the PaintCare program? Was recycled paint donated to Habitat? This partnership sounds like a positive outcome from the program that merits discussion in greater detail.

We are very proud of our partnership with Habitat for Humanity and will highlight this in next year's report.

Pages 20-23, Tables 9 and 12—

Suggested: A year to year comparison of 2016 expenses and the 2017 budget will be easier if the data in Table 9 is included alongside the data in Table 12.

We will consider this suggestion for inclusion in next year's report.

Required: Please explain the basis for the anticipated increases in Operations, Communications, and Administrative Costs from 2016 to 2017. Please discuss each of these three program areas independently and with specificity.

Operations: PaintCare has budgeted for an increase of roughly 6% increase on paint processing and transportation costs based on the anticipation of increased volumes of paint transported and processed by Stericycle and Metro.

Communications: There is presently no anticipated increase in communications costs in 2017.

Administrative: PaintCare is expected to pay an additional \$38,200 to compensate DEQ's contractor for its 2017 performance audit of the program. PaintCare has also budgeted for a \$33,000 increase in the administrative costs of implementing the program that are shared across all states, which is allocated proportionally to Oregon based on population.

Section 4

Page 25, Point of Sale Material Awareness Measurement—

Required: Discuss the plan to follow up with the 76% of retailers who did not confirm knowledge of their obligation to provide information about the paint stewardship program to consumers at the time of sale.

In tandem with site visits from summer 2017 forward, PaintCare plans to visit retailers across Oregon and receive confirmation from among the 76% who did not respond to our request to confirm knowledge of their obligation.

Page 25, Television and Online Video—

Suggested: Details on the PBS segment, i.e, what program, when did/will it air?

PaintCare was featured on *Next Home*, a PBS program that is currently offered to OPB stations for broadcast. We will advise if we hear of an upcoming air date.

Page 26, Post-Consumer Paint Reduction—

Required: What amount is budgeted to implement the study referenced in this section for 2017? In which expense category are research expenses included in the budget? Please provide details giving the reader a better understanding of what the consultant was tasked to do or cite the pages in the Program Plan Amendment.

The amount budgeted to implement the study referenced in this section is \$10,000 and is part of the Administrative expense category. Details on the project are contained on pages 4-5 of the program plan amendment “Reducing Post-Consumer Paint” (<https://www.oregon.gov/deq/FilterDocs/Paint-reducingpaint.pdf>).

Page 26, Public Awareness—

Correction: **To reduce confusion, either 1) remove the last paragraph regarding survey results that are not relevant to this goal being omitted, or 2) amend the sentence to indicate that the results from any current or previous non-probability based surveys that PaintCare conducts are not recognized by Oregon DEQ as valid metrics of Public Awareness and will no longer be reported in Annual Reports.**

This change has been made.

Appendices

Appendix B—

Required: The auditor’s report identifies the Oregon program as organized as a single-member limited liability company. In PaintCare’s response to the October, 2016 Warning Letter, as well as in subsequent discussions at the end of 2016, PaintCare stated that this corporate structure had not been implemented. What is the current status of the Oregon Program’s corporate structure? What are the plans for the LLC that was established?

The change to the program’s corporate structure has not been implemented. The plan for the LLC is to eventually become the stewardship entity of record, as previously discussed with DEQ. PaintCare plans to submit a request to be reviewed by DEQ, and no further steps will be taken until DEQ has an opportunity to review PaintCare’s request.