Oregon Department of Environmental Quality

Performance Audit of PaintCare and its Oregon Operations

April, 2018

PLAN B CONSULTANCY

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Mr. Pete Pasterz, Materials Management Specialist
Oregon Department of Environmental Quality
Lloyd 700 Building
700 NE Multnomah St Suite 600
Portland, OR 97232

Dear Mr. Pasterz,

We have completed our Performance Audit of PaintCare and its Oregon operations. Based on our assessment, we found:

- PaintCare is compliant with requirements of Oregon Statutes and the requirements of the Oregon Paint Stewardship Program Plan.
- Transactions impacting the Oregon Program are properly documented, supported, recorded, and reported based on our procedures.
- There exists no specific definition of Program "success" in achieving environmental benefits. There are metrics for measuring paint collection requirements.
- PaintCare's management of the Oregon Program may benefit from improvements in communications with DEQ, and in their projection methods for both revenues and expenditures.

Additional detail of factors and the respective impacts is provided in the following pages.

We wish to express our appreciation to DEQ and representatives of PaintCare we spoke with for their cooperation and assistance during this review.

Sincerely,

PlanB Assurance Services, LLP

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Oregon Department of Environmental Quality

Performance Audit of PaintCare and its Oregon Operations

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Executive Summary

Executive Summary

The Oregon Department of Environmental Quality (DEQ) engaged Plan B to conduct its first audit of PaintCare's performance. DEQ's primary objectives focused on the evaluation of the effectiveness and efficiency of PaintCare's operations and systems and the existence and effectiveness of its internal controls and governance. Additionally, the Program has seen a rapid depletion of reserves prompting PaintCare to request DEQ's approval to increase assessed fees. DEQ sought additional information on which to reach a decision regarding the requested increase.

The objectives of our engagement with DEQ were twofold; determine compliance and stewardship in the operation of the Oregon Program and provide information to assist DEQ in reaching a conclusion on a requested fee increase. Embedded within these two objectives were a number of questions addressing primary concerns of the DEQ, including:

- the frequency and content of financial reporting to DEQ by PaintCare,
- changes to PaintCare's accounting practices, staffing, software, and other issues to accommodate financial reporting,
- investment of Oregon reserves, and
- best practices for DEQ's program oversight.

In addressing these objectives, DEQ posed a number of questions in several key areas which are answered in the body of this report. Through answering these questions, we observed proper documentation and support for transactions affecting the Oregon Program and found PaintCare to be compliant with stated requirements in statute (ORS Chapter 459A.820-855) and in the Program Plan as follows:

Oregon Requirement	PaintCare Results (2016)
One permanent collection site exists for every 30,000 residents; 95% of the residents in this state are within 15 miles of a permanent collection site.	171 drop-off sites providing 96.3% of residents with a site within 15 miles of their home
For geographically underserved areas where the population is not within 15 miles of a permanent collection site, at least one but no more than two collection events are held per year in each geographically underserved area	72 total events held, representing five PaintCare sponsored events and 67 local government sponsored events.
Education and Outreach activities · Signage · Written materials · Templates for reproduction by retailers	Point-of-Sale materials available to retailers to distribute to customers including program brochure, mini card, in-store poster, fact sheet for painting contractors, and fact sheet about large volume pick-up service

Source: Oregon Paint Stewardship Program, Annual Report January 1, 2016 – December 31, 2016

At the beginning of the engagement and at various points during our discussions and work with DEQ and PaintCare, we identified a second, related question regarding PaintCare's performance under the requirements of statute and the Program Plan. That second question relates to the ways in which PaintCare meets the established requirements - more a qualitative assessment than a quantitative or "yes/no" consideration. With respect to qualitative aspects of compliance and stewardship, we found it difficult to assess given that there have been no specific performance metrics developed or provided around outcomes. Similarly, there appears to be no stated definition of "success" in measuring environmental benefits for the Program beyond simple compliance with statutes and the terms of the Program Plan. We did identify two specific areas of PaintCare's management of the Program that warrant attention by PaintCare and/or DEQ:

1. Communications
   There appear to be challenges in the communications between the two organizations. While PaintCare believes that questions have been asked and answered on previous occasions, DEQ believes that, in some cases, questions have not been answered to the level of specificity necessary to accommodate evaluation and oversight. Specific to our performance audit of PaintCare, DEQ has posed several questions as a means to provide objective validation of responses to previous questions. Our experience with PaintCare's answers to questions specific to Program finances was sometimes representative of the frustrations identified and stated by DEQ. We believe there is opportunity for both PaintCare and DEQ to work together to discuss wants and needs and set clear expectations on both sides in terms of future communications.
2. Data collection and projection methods
   PaintCare's projections of both revenues and costs are relatively simple in method largely based on historical information trended forward. It appears that if PaintCare were able to evaluate and analyze sales/assessment information and collections volumes and related costs on a real-time basis, management decisions could be made more quickly and may have served to mitigate the depletion of reserves. We believe that if PaintCare were receiving collections information more regularly, it would have been possible to foresee that increased collections were driving increased costs. Having that information could have resulted in forecast adjustments and modifications to accompanying expenditures to maintain reserves.

   We had limited contact with PaintCare's financial professionals with respect to analyzing revenue and cost trends in the context of historical information. In a phone conversation with PaintCare on February 14, 2018, PaintCare stated that calculations had primarily been the work of PaintCare's Regional Manager and General Counsel. PaintCare's CFO appeared to be unable to answer specific questions as to the basis for those calculations. Throughout our performance audit of PaintCare, financial information was presented through PaintCare's General Counsel as a single point of contact.

To assist DEQ's decision on whether to approve a requested fee increase, we evaluated not only the historical information and actions of PaintCare as mentioned above, but also the projections of future revenues and expenses provided by PaintCare. Based on our review, it appears that a fee increase is necessary to eliminate the current operating deficit and repay the advance from the American Coatings Association (ACA). Although we recommend that DEQ negotiate a fee increase with PaintCare to resolve the deficit and loan from the ACA, several conditions should be attached, including a specific term for the increase, a budget plan, and specific reporting of actual expenditures against that plan.

The remainder of this report addresses specific questions posed by DEQ, our findings in response to those questions, and recommendations for improvement as appropriate. Our findings are based on inquiries and discussions with both DEQ and PaintCare staff, review of relevant documents provided, and detail testing performed.

Introduction

Background

PaintCare Inc.[1] (PaintCare), a non-profit 501(c)(3), was established by the American Coatings Association (ACA), a paint manufacturing industry, membership-based trade association to plan and operate paint stewardship programs. The Oregon Legislature passed the first U.S. paint stewardship law in Oregon in 2009, resulting in a pilot program to manage postconsumer paint. In 2013, Oregon became the first state to permanently require architectural paint manufacturers to implement a program to reduce waste paint, increase reuse and recycling, and safely dispose of remaining unusable paint and other coatings. Subsequently, programs have been developed in California, Colorado, Connecticut, the District of Columbia, Maine, Minnesota, Rhode Island, and Vermont.

PaintCare operates the Oregon program in accordance with Oregon Statutes and with oversight by the Oregon Department of Environmental Quality (DEQ). The Oregon Paint Stewardship Law establishes specific goals for paint manufacturers:

1. establish an environmentally sound and cost-effective architectural paint stewardship program;
2. undertake responsibility for the development and implementation of strategies to reduce the generation of post-consumer architectural paint;
3. promote the reuse of post-consumer architectural paint; and
4. collect, transport, and process post-consumer architectural paint for end-of-product-life management.

Retailers collect a program fee from consumers for each container registered for sale in Oregon, which goes back to manufacturers. Manufacturers report sales activity and remit the collected assessments to PaintCare to manage collections and provide outreach and education on how to prevent waste, and reuse and recycle paint and other coatings. DEQ oversees PaintCare's compliance with its approved Plan.

Container Size	Fee
Half pint or smaller	$0.00
Larger than half pint and smaller than 1 gallon	$0.35
1 Gallon	$0.75
Larger than 1 gallon up to 5 gallons	$1.60

[1] PaintCare Oregon, LLC has been legally formed, but is not operational in terms of the Oregon program. (this appears in the body of the document later)

Objectives

This report is the result of DEQ's desire to conduct its first audit of PaintCare's performance. In addition to meeting its oversight responsibility, DEQ voiced concerns with the Oregon Program's rapid depletion of reserves to the point of operating in a deficit and PaintCare's request for an increase in the assessment rate. DEQ's primary objectives included:

1) The completion of a performance audit of PaintCare in its administration of the Oregon Paint Product Stewardship Program (Program) focusing on:
    - Administration
    - Governance
    - Manufacturer/Sales Data and Assessments
    - Paint Measurement Data
    - Outreach
    - Financial Operations
2) Obtain recommendations on:
    - The types of financial reports, level of detail, frequency and timing to enable DEQ to efficiently and effectively provide adequate oversight on the program's financial position in fulfilling DEQ's anti-trust oversight.
    - Changes to PaintCare accounting practices, staffing qualifications, software and other related issues to accommodate the recommended financial reporting.
    - Risk free investments for Oregon Program funds to optimize return beyond bank savings accounts.
    - Best practices for DEQ's program oversight and evaluation of Program performance.

Approach

Per the agreed upon scope of work for the performance audit, we conducted an assessment of PaintCare's administrative processes for effectiveness and efficiency, program governance, manufacturer measurement/sales data and related assessments, outreach, and financial operations relating to the Oregon Program. Our assessment was dual purposed in evaluating both PaintCare's performance and its request for a fee increase. We gathered information in support of our conclusions and recommendations through inquiry of PaintCare management, review of numerous documents obtained directly from PaintCare, and the application of a combination of analytical procedures and tests of detail transactions. Specific documents obtained and reviewed included:

- PaintCare policies and procedures
- Audited financial statements
- Detail of Oregon Program Revenue and Expenses

- Transactional detail
- Expense allocations
- By-laws
- Minutes
- Sales volume analysis

Information obtained was clarified through numerous conversations with PaintCare. As required by PaintCare during the onset of this project, all requests were communicated through General Counsel. This approach was intended to facilitate the gathering of detailed data and provide specific answers to various questions with the assumption that all financial information had been prepared or appropriately reviewed by PaintCare's professional financial staff.

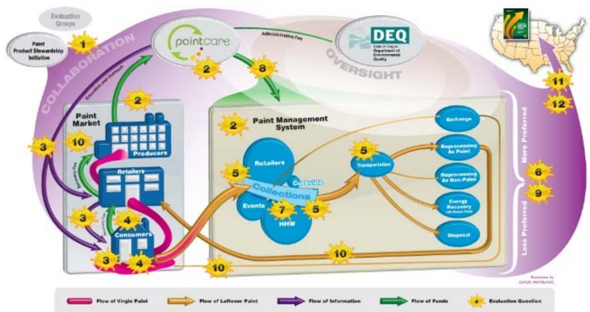
In the context of overall Program performance, we considered many factors including:

- requirements as established by the Oregon Architectural Paint Stewardship Program Plan 2015 – 2017,
- Oregon Revised Statutes (ORS 459A.820-855),
- annual reports submitted by PaintCare for 2014, 2015, and 2016;
- overviews of the Product Stewardship Institute, American Coatings Association, and PaintCare, Inc./PaintCare Oregon, LLC,
- DEQ's oversight of the Program, and
- best practices associated with program administration and performance expectations and measurements.

Additionally, we inquired of PaintCare management and DEQ representatives with respect to expectations of performance and any specific benchmarks or measures established.

It is important to note that no sensitive or confidential data identifiable to specific manufacturers or retailers was obtained as part of our engagement. Our procedures utilized aggregated data for assessments received to estimate sales volumes for comparison to reported amounts. We obtained detail expense information and transactions from PaintCare management which we tested for specific attributes including appropriate supporting documentation, appropriate internal management review and approval, account coding, and direct relationship/benefit to the Oregon Program.

We conducted this performance audit in accordance with generally accepted government auditing standards. These standards require that the audit be planned and performed to provide reasonable assurance that evidence is sufficient and appropriate to support our findings and conclusions. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.


Evaluation Groups
Paint Product Stewardship Initiative
COLLABORATION
paintcare
Administrative Fee
DEQ
State of Oregon Department of Environmental Quality
OVERSIGHT
Education and Outreach
Paint Market
Producers
Retailers
Consumers
Recovery Fee
Paint Management System
Retailers
Curbside
Collections
Events
HHW
Transportation
Exchange
Reprocessing As Paint
Reprocessing As Non-Paint
Energy Recovery
Disposal
More Preferred
Less Preferred
Flow of Virgin Paint
Flow of Leftover Paint
Flow of Information
Flow of Funds
Evaluation Question

Results

The performance audit of PaintCare's administration of the Oregon Paint Product Stewardship Program identified six primary areas for review:

- Administration
- Governance
- Manufacturer/Sales Data and Assessments
- Paint Measurement Data
- Outreach
- Financial Operations

For each area, specific questions were posed by DEQ. Below, we have identified those questions, the resulting answers to those questions, and detail our conclusions and procedures in reaching those conclusions.

Fee Increase

We were engaged in part to provide information supporting DEQ's decision on a requested fee increase. Central to the question of whether or not an increase in the assessment rates is warranted is the ability to project and relate paint sales, collection and processing of paint, and program expenditures with some level of confidence and accuracy. DEQ also requested that we give consideration to the reasonableness of general and administrative costs allocated to the Oregon Program in our evaluation of the requested fee increase.

PaintCare has identified some relationships for collection and processing volumes as a percentage of annual sales based on historical information. Budgets and projections appear to be based on simple trending of past performance into the future, as forecasting from typical indicators (housing starts, etc.) has not proven reliable in the past. From 2012 through 2014 PaintCare attempted to forecast national and state-level paint sales and resultant assessment revenues using a research firm and a number of identified indicators including home sales, construction put in place, housing starts, state-level employment rate, and commercial vacancy rates. Actual sales in some of the states later demonstrated that the model used did not produce reliable forecast results, and PaintCare discontinued reliance on the model.

Additionally, PaintCare indicates that manufacturer information on anticipated production and sales is not made available through their relationship with ACA[2]. PaintCare uses a combination of average per-capita sales in existing programs and information about past sales provided voluntarily by some major paint manufacturers when launching new state programs, but not for existing programs. For current, existing programs like Oregon, PaintCare uses past assessment revenue data from prior years to forecast revenue for the respective program. This information has lead PaintCare to forecast flat sales and flat assessment revenues into the foreseeable future. PaintCare's revenue projections have been updated from previous information

[2] Industry information is made available to the public for a fee from ACA (ACA Industry market Analysis, 9th Edition 2014-2019)

Draft

provided to DEQ (February, 2017) based on latest data and actual results. Given our understanding of the timing and reliability of information available, we believe that PaintCare's practices for projecting revenues would be strengthened by applying the methods used in launching new programs for existing programs as well.

Our consideration of general and administrative charges to the Oregon Program included allocations to the Program relative to other participating states and gross expenses of PaintCare as a basis for those allocations. Per audited financial statements, PaintCare pays the ACA an annual administrative fee to cover allocation of time incurred by its officers, allocation of other direct labor, and allocation of occupancy and infrastructure costs. Administrative fees paid by PaintCare for the three years considered were:

2014	2015	2016
$735,208	$1,382,782	$1,765,154

The addition of participating state programs required expansion of PaintCare staff and space resources to accommodate operations and resulted in the increases in administrative payments to the ACA as noted. These amounts appear reasonable based on our understanding of the administrative staffing and space requirements of PaintCare.

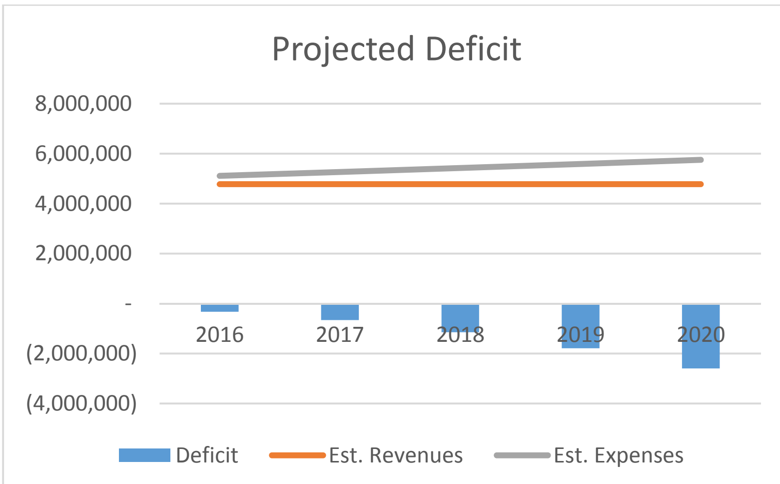
As part of our analysis, we considered certain trends in the information provided to us through published financial reports and supplemented by additional information received directly from PaintCare staff. In reviewing increases noted in operating costs, a direct relationship to changes in collections volumes was expected given our understanding of the structure of contracts for collection, transportation, and processing of paint. As it was determined that growth in operating costs exceeded growth in collections volumes, PaintCare was requested to clarify the components resulting in the additional costs. PaintCare was able to substantiate and support less than half of the overall difference in costs identified[3].

Our work in this area also included detail testing of transactions supporting reported amounts and comparison across periods and to other data such as collection volumes. We evaluated changes in outreach costs year over year with changes in collections volumes as an indicator of processing activities and found there to be no consistent correlations. Our testing and analysis indicates that while changes in collection and processing activities drive the majority of changes in operating costs for the Program, there is no clear connection of communication and outreach costs with collections and processing activities. While it may be reasonable to assume a correlation between outreach expenses and collections volume, PaintCare identified resultant outcomes in line with requirements per statute and those of the Program Plan. Those outcomes focus on building Program awareness and participation, but incorporate no metrics for determination of success.

[3] Question 45 (page 45) provides a detailed discussion and analysis of this issue

Conclusion

Given this information, our consideration of PaintCare's requested increase in assessment rates becomes a function of projecting revenues and expenses with some reasonable level of confidence and consideration of the reasonableness of overall costs charged and/or allocated to the Program. PaintCare's projections assume a relatively flat level of paint sales and resultant assessment revenues and an approximately 3% per year inflationary factor on Program costs. That delta contributes to the existing and projected deficit as illustrated in the chart below.



Our evaluation of costs incurred by PaintCare, both overall and as charged or allocated to the Oregon Program, appear generally reasonable.

DEQ should negotiate a fee increase with PaintCare to resolve the deficit and loan from the ACA but should include several conditions. Those conditions include, but are not limited to:

- An initial term of one year, after which the financial position of the Program should be re-evaluated and the increase either continue or potentially sunset, based on the Program's financial position and performance.
- submission of a detailed budget plan by PaintCare for how estimated additional dollars generated by the fee increase would be spent,
- anticipated outcomes such as a timeline for payback on the ACA loan and resolution of the deficit, and
- specific, monthly reporting and communication with respect to actual expenditure of additional dollars generated against the budget plan.

Additionally, PaintCare should report monthly on actual receipts generated by the increase and specific expenditures of those dollars against budgeted line items specified at the outset of the fee increase. DEQ may wish to require specific approval of any deviation from budgeted expenditures with respect to amounts generated by the fee increase.

DEQ Oversight of PaintCare Program

Effective oversight of a program's performance requires clear objectives, expectations, and communications between the involved parties. The roles and responsibilities of DEQ and PaintCare are clearly established in enabling legislation and in the Program Plan. PaintCare is charged with the day-to-day operation and management of the Program in compliance with stated requirements while DEQ is charged with ensuring compliance and stewardship of the Program through oversight of PaintCare.

DEQ's oversight is best based in policy direction and monitoring for compliance. Effective monitoring requires timely, complete, and accurate information and communications to support review, approvals, and decision making. To date, it appears that PaintCare and DEQ have not reached consensus on communications and data necessary for DEQ's effective monitoring of the Program. Best practices dictate the development of measurable, realistic expectations for Program outcomes, the communications of those expectations, and agreement between DEQ and PaintCare as to a method for reporting against those expectations. Some examples include:

- established targets for volume collections by region,
- established cost/gallon targets on average and by collection site,
- minimum Program reserve balance,
- amortization/payoff schedule for loan with the ACA,
- established target results of surveys indicating level of awareness of Program existence and objectives as means to evaluating communications expenditures, and
- timely, complete and accurate reporting of all operating costs in order to evaluate changes and trends against budgets and expectations.

Clear expectations and performance measures should be established and communicated in order to provide for effective evaluation and dialogue regarding Program performance. Once established, these benchmarks provide a basis for meaningful monitoring and feedback to ensure not only compliance with requirements, but efficient and effective operation of the Program. Additionally, DEQ should ensure that project risks are recognized and managed; all pertinent issues are resolved in a timely manner; and lessons learned are identified and improvements implemented.

Recommendation #1
DEQ should apply best practices (as previously identified) indicating that oversight be maintained at an appropriate level to ensure Program effectiveness in line with statutory and Plan requirements, as well as operational and financial expectations.

PaintCare Reporting to DEQ

Questions arose as to the types of financial reports, level of detail, frequency, and timing of reporting by PaintCare that would enable DEQ to efficiently and effectively provide adequate monitoring of the Program's financial position in fulfilling DEQ's anti-trust oversight. Through discussion with both PaintCare management and DEQ, we determined that current reporting does not appear to meet the immediate needs of DEQ in terms of content nor timing. DEQ requires timely, complete, and accurate information on which to base their review and oversight. That information needs to be provided at a sufficient level of detail to allow transparency into the Program and oversight with respect to compliance requirements.

PaintCare's reporting to DEQ is dependent on the ability to obtain complete and accurate information from contractors (collection statistics), vendors (expenses), and manufacturers (sales and revenue data). There are inherent lags in PaintCare's current reporting to DEQ due to the timing of reporting by these third parties. Processors typically report collection statistics to PaintCare annually. Vendors submit invoices 30 or more days after goods or services have been provided. Similarly, manufacturers must obtain sales data from retailers and wholesalers in order to report to PaintCare and remit the resultant assessments – often 30-45 days after the end of the month. As a result, PaintCare's reporting to DEQ is often 60-90 days after the end of the month and the information is less relevant to make decisions or provide timely feedback to PaintCare.

Reporting should directly relate to established performance criteria and measures and clearly reflect DEQ's expectations for information. Such information may include, but not be limited to:

- assessments of revenue and high-level sales data reported by manufacturers versus budget,
- current and year-to-date expenses measured against budget
- highlights of all unique or non-routine expenses, and
- detail of expenses in certain categories or from specific revenue streams (i.e. additional dollars generated through proposed fee increase).

Any additional benchmarks or performance measures established between DEQ and PaintCare should be supported by timely reporting. For example, participation and collection volumes and related costs by site would provide insights into the efficiency and effectiveness of rural versus urban sites and per capita averages for collections by region. The level of detail information should be sufficient to meet DEQ's needs for oversight, but not be so detailed as to make reporting or review of the information onerous on either party.

Monthly reporting by PaintCare appears necessary in the short-term to establish accountability and credibility in the information and the process and to provide for the level of oversight required by DEQ. Longer term, it appears that quarterly reporting may be effective in meeting DEQ's informational requirements and dovetail with scheduled quarterly meetings between PaintCare and DEQ.

In order to support effective review, oversight, and feedback from DEQ, the information needs to be reported in a timely manner by PaintCare, within days of the end of the period rather than weeks. Understanding the timing of information necessary to support reporting to DEQ, PaintCare should work with third parties to explore opportunities to expedite the capture and reporting of information. Contractors can be required to report on a schedule corresponding to PaintCare's information needs through contractual obligations. Vendors can be encouraged to provide invoices on a shorter turn around so as to affect cash flows and information needs. Finally, manufacturers could be encouraged to expedite statistics and revenue to the extent possible. Beyond that, PaintCare may be able to estimate a portion of the information based on historical or projected trends in order to timely report information to DEQ. Estimates could be potentially "trued up" with the subsequent reports. This practice could potentially afford PaintCare the ability to provide quarterly reports to DEQ within 30 days of the end of the quarter, which appears to be a reasonable time frame and support timely, effective decision making.

In terms of changes to PaintCare's accounting practices, staffing qualifications, software and other related issues, we noted that PaintCare's financial and accounting staff do not appear to be actively involved in reporting or communicating financial information to DEQ. Rather, this information appears to flow from the Program's Regional Manager with little or no review or reconciliation by accounting professionals to audited financial information. Financial information, including revenues and expenses (both historical and projected), were expected to be vetted by PaintCare's accounting and finance staff. However, we found, in discussions with PaintCare's Controller late in the process, that this did not appear to occur.

We did not identify any specific limitations or obstacles beyond those identified above that would require resolution in order to support the recommended financial reporting.

Recommendation #2

- PaintCare and DEQ should agree on specific content to be provided in monthly/quarterly reports to DEQ including but not limited to:
    a. aggregated manufacturer sales statistics,
    b. assessments revenue (actual and budget),
    c. expenses (actual and budget),
    d. aggregated collection and processing volumes, and
    e. other information directly related to established performance measures.

- PaintCare should provide reports within 30 days of the end of the quarter (or as otherwise agreed upon) using estimated amounts as necessary and truing up those estimates in subsequent periods.
- All financial information reported to DEQ should be reviewed and approved as to content and presentation by PaintCare's accounting/financial staff to ensure completeness and accuracy with respect to financial records and audited financial statements.

Administration

1. Determine what is included in administrative/overhead expenses (including total amounts spent on memberships, sponsorships, advertising, travel, etc.) and if those expenses are appropriate to Oregon Program objectives.

For purposes of our analysis, we identified administrative/overhead expenses to consist of the following:

- corporate staff salary/benefits,
- administrative support fee paid to ACA (e.g., non-PaintCare dedicated staff time, rent, etc.),
- corporate professional fees (e.g., annual audit of PaintCare Inc.),
- corporate staff travel/meetings/supplies/printing/subscriptions/staff training expenses,
- depreciation,
- insurance,
- bank fees, and
- credit card processing fees.

PaintCare is staffed by employees of the ACA and operates out of space provided and leased to PaintCare by the Association.

Corporate travel costs reported by PaintCare totaled $93,507, $93,283, and $126,916 for calendar years 2014 through 2016, respectively. Of these totals, amounts were allocated to the Oregon Program based on relative population each year (approximately 6.9%, 6.6% and 6.5%, respectively).

Administrative costs as reported in PaintCare's Annual Reports for the Oregon Program (including DEQ administrative fees assessed) were as follows for calendar years 2014 through 2016:

2014	2015	2016
$516,652	$500,135	$485,033
	(3.3%)	(3.4%)

In the early years of the Program (prior to 2013), administrative costs were significantly lower ($200,000 to $250,000 per year range) consistent with the Program Plan's projections. At that time PaintCare was minimally staffed and additional employees and resources were added over time to meet the needs of the rapidly expanding program. That expansion included the hiring of additional human resources, legal, accounting, and other back office support as well as a buildout of office space to accommodate growth to support the addition of state programs. The jump in administrative costs of approximately 50% in 2013 and another increase in 2014 reflect this expansion. The increase in costs to the Oregon Program were consistent and proportionate with increases to other participating programs. Administrative costs have decreased slightly year over year for the last three years as shown above.

Conclusion
The amounts identified and included in administrative/overhead costs for PaintCare appear to be in the normal course of business and the allocations to Oregon are consistent with PaintCare's stated methodologies. We did not identify any costs or practices related to administrative/overhead charges that we believe to be inconsistent with support of the Oregon Program's operations.

2. Determine how administrative/overhead expenses are used to directly benefit the Oregon Program.

PaintCare staff code expenses and provide documentation/receipts/invoice and a description of the expense to substantiate any charge. The employee is responsible for completing expense coding and allocation as part of a monthly reconciliation process.

For administrative/overhead expenses charged to the program by external vendors, PaintCare's accounting team reviews documentation (receipts and invoices) and confirms the existence of a vendor account to substantiate the charge. Accounting assigns expense categories and routes through a pre-defined approval chain based on the expense. Review is dependent on the transaction type and typically requires multiple approvals. The West Coast Program Manager ultimately reviews all operational expenditures as does the Director of Operations. Each transaction is reviewed to consider benefit to the Oregon program and appropriateness. If a question exists regarding allocation, the supervisor raises it with accounting, the billing entity, or the staff member as appropriate. If a question exists regarding appropriateness or benefit, the supervisor reviews it with the staff member or the billing entity prior to approval.

Conclusion
The methodology used by PaintCare appears appropriate to determine whether specific administrative/overhead expenses allocated to the Oregon Program represent a direct relationship to the Program.

Our testing found expenditures consistent with collection, transportation, and processing of waste paint and with the administration and education related to those services. However, without specific measures or benchmarks in place to gauge effectiveness of the Oregon Program, we found it difficult to define, or subsequently determine benefit of PaintCare's expenditures, either directly or indirectly. In order to identify specific benchmarks to measure the Program's effectiveness, DEQ and PaintCare should clearly agree on a definition of Program success, such as identifying a minimum level of paint collections per capita by region, some measure of Program awareness (periodic survey results as recently proposed by PaintCare), or a target increase in participation rates at site events.

Recommendation #3
DEQ should specifically identify and communicate applicable performance measures/benchmarks to establish a basis for the determination of the direct and/or indirect benefits of specific administrative costs to the success of the Oregon program.

3. *Determine the total amount spent on sponsorships and memberships in other non-profit organizations.*

The following amounts were spent on sponsorships and memberships in other non-profit organizations, and charged directly to the Oregon Program.

2014 - $3,250 in sponsorships:
- $2,000 - NAHMMA for the Northwest Chapter Conference (Silver level sponsor)
- $1,250 - Habitat for Humanity of Oregon for the Fall 2014 Affiliate Conference Learning Track Sponsorship

2015 - $2,663 in sponsorships; $657 in memberships:
- $2,500 - Habitat for Humanity of Oregon for the Fall 2015 Affiliate Conference Restore Learning Track Sponsorship
- $163 - Product Stewardship Institute for the 15th Anniversary Sponsors Circle Sponsorship
- $327 - 2015 paint and Decorating Contractors of America (PDCA) membership
- $330 - PDCA national for 2016 Friend-Level membership

2016 - $327 in memberships:
- $327 - PDCA National for the 2017 Friend-Level membership

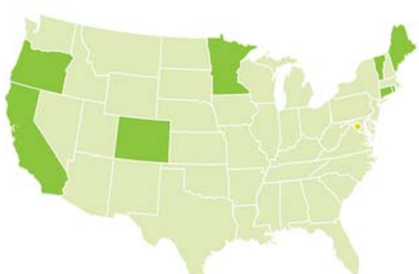
In addition to the direct charges above, PaintCare reported costs at the corporate level for sponsorships and memberships as follows for the three years 2014-2016. These amounts were allocated across programs as part of overall corporate costs deemed benefitting those programs. Oregon's share was allocated based on relative population at 6.9%, 6.6%, and 6.5% for calendar years 2014-2016, respectively:

2014 - $67,260
2015 - $50,343
2016 - $18,132

Conclusion
Amounts charged directly to the Oregon Program appear reasonable in relation to the Program's objectives. Amounts incurred by PaintCare and allocated to Oregon were not detailed as to specific payee and amounts. The dollar amount of charges allocated to Oregon are not significant to the overall Program budget.

4. Determine how administrative/overhead expenses are allocated among state programs.

Corporate costs are allocated to state programs based on relative population estimates per the 2010 census information. If an expense is deemed to benefit all programs, it is allocated across all programs. Similarly, if an expense is considered to benefit only specific state programs, it is allocated only to those states, again using relative population figures as the basis.



PaintCare programs are also currently active in eight additional states and Washington DC. Expenses are typically categorized as direct (paint processing, transportation, collections, and communications) and administrative/overhead (personnel, professional services, state administrative fees, and corporate activity). For 2015/2016, administrative/overhead expenses for each state were:

	2015	2016
Oregon	8.99%	9.49%
Colorado	15.84%	12.16%
California(1)(2)	8.84%	9.44%
Connecticut	12.73%	13.12%
Maine(3)		21.85%
Minnesota	13.61%	11.15%
Rhode Island(2)	14.44%	14.66%
Vermont(2)	16.19%	12.55%

(1) Includes Service Payments to CalRecycle
(2) Fiscal Year
(3) 9 months

Source: Compiled from annual PaintCare reports

Conclusion
The methodology used by PaintCare to allocate administrative/overhead expenses amongst state programs appears to be reasonable and consistent.

5. Determine how administrative/overhead expenses compare to other non-profit organizations.

While many factors impact an organizations' administrative and overhead costs, best practices focus on the minimization of those costs in favor of direct program expenditures. Recommended percentages include:

- Better Business Bureau - 35% of total expenses
- American Society of Association Executives' *2016 Association Operating Ratio Report*[4] - 21.9% of total expenses
- Charity Navigator[5] - most favorable rating of administrative expenses for a range from 0%-15%

PaintCare administrative/overhead expenses for the period 2014 - 2106[6] were reported as follows:

2014	2015	2016
12.69%	8.99%	9.49%

Conclusion
PaintCare's reported administrative/overhead expenses for the past three years appear to fall within recommended ranges[7].

6. Is the cost of PaintCare's bi-coastal administrative staff structure (considering travel, separate office equipment/expenses and other factors due to 3,000 mile separation) less or more cost efficient than being in a single location?

Although PaintCare is headquartered in Washington DC, its Executive Director is located in San Francisco, CA and program managers/coordinators are located in various regions. All currently work from their homes.

This structure allows individuals to work remotely through the use of current technology. Costs associated with travel for the last three years were:

2014	2015	2016
$6,452	$6,157	$8,250

[4] Average percentage of general and administrative expenses for a 501(c)(3) with revenues between $2-$5 million
[5] independent evaluator of U.S. charities
[6] Oregon Paint Stewardship Program Annual Reports (2015 – 2016)
[7] Note that comparison was to not-for-profit organizations with reliance on fundraising to support programs.

Any additional costs appear to be minimal (office supplies, Internet access, etc.).

Conclusion
PaintCare's current bi-coastal administrative staff structure appears to provide a cost-effective model. The reduction in space at its headquarters accompanied by less cost associated with peripheral supplies likely offsets some (or all) current travel costs.

Governance

7. Determine whether by-laws are consistent with the Program Plan and statute.

To determine whether PaintCare by-laws are consistent with the Program Plan and state statute, a review of by-laws occurred.

Conclusion
PaintCare's by-laws appear to be consistent with the Program Plan and statutes in terms of the structure and operations of PaintCare.

As the sole member of the corporation, ACA has significant power in the appointment and removal of Directors. The by-laws also expressly allow any Director to also hold a staff position within the corporation and be compensated therefor. These terms may result in a potential or perceived conflict of interest, depending on the specifics of a given situation or Board action (see below for consideration of conflict of interest.)

8. Determine the relationship between PaintCare and American Coatings Association (ACA), specifically who is on the PaintCare Board of Directors, what is their relationship to ACA, and does ACA provide oversight over PaintCare.

The current makeup of PaintCare's Board of Directors includes:

- Steve DeVoe, Kelly-Moore Paint Company, Inc. (Chairman)
- Steve Dearborn, Miller Paint (Vice-Chairman and Treasurer)
- Barry Chadwick, Benjamin Moore and Co. (Immediate Past Chairman)
- George Young, Sherwin-Williams
- John McLaughlin, RPM
- John Vanderpool, True Value
- Meika Vogel, Vogel Paint
- John Gilbert, Behr
- Mike Weber, Hirshfield's Paint
- Tim Vogel, Cloverdale Paint, Inc.
- David Cole, PPG

The companies represented by each director are also members of ACA. Some members also serve on ACA's Board of Directors.

Conclusion

The relationship between PaintCare and ACA appears to be appropriate in terms of oversight. ACA, as the sole member of the corporation that is PaintCare, elects the Board of Directors and officers of PaintCare. ACA has the power to remove Directors and officers. ACA does not appear to otherwise have an oversight role over PaintCare.

9. Determine what roles are played by ACA's Vice President of Government Affairs and Industry Programs in the Administration of the Oregon Program.

ACA's Vice President of Government Affairs and Industry Programs (the corresponding ACA division is now called "Government Affairs") has no role in PaintCare's governance. PaintCare Inc.'s original General Counsel & Corporate Secretary also served as ACA's Vice President of Government Affairs but involvement in PaintCare's governance was solely in the capacity as General Counsel and Corporate Secretary of PaintCare. ACA's current Vice President of Government Affairs has no role in PaintCare governance.

ACA has an interest in expanding paint stewardship laws to other states and to ensure that each jurisdiction in which a paint stewardship program exists has laws and regulations that are conducive to a successful program. Accordingly, ACA's Government Affairs staff and external lobbyists play a role in advocacy efforts to expand the PaintCare program and to support regulatory reform in some jurisdictions to help foster the success of the PaintCare program.

Conclusion

Aside from advocacy efforts undertaken by ACA that may also benefit PaintCare, ACA's Government Affairs staff has no dedicated role with respect to PaintCare. The costs of those advocacy efforts (ACA staff time, external lobbyist fees, etc.) appear to be borne entirely by ACA and are not reimbursed to ACA by PaintCare.

10. Determine whether PaintCare staff are ACA employees and whether this poses any potential or actual conflict of interest concerns.

Technically, PaintCare Inc. has no employees. All staff currently performing work for PaintCare Inc. are actually employees of ACA. Some ACA employees are dedicated entirely to the PaintCare program and the salary and benefits of those individuals are paid for by PaintCare Inc. through compensation to ACA.

Some ACA employees have a dedicated role with PaintCare but also spend time performing work for ACA that is not related to the PaintCare program. In those instances, the proportion of time an individual spends specific to PaintCare is estimated. The head of each division of ACA is primarily responsible for maintaining an appropriate allocation of time for all staff within his/her division. This is accomplished through coordination between the division head and the individual staff who splits his/her time.

ACA is compensated by PaintCare based on the prorated amount of the individual's salary/benefits based on the proportion of the individual's time that is spent performing work for PaintCare. Such allocations between ACA and PaintCare are reviewed by PaintCare's Controller and President/CEO (and updated, when warranted) on a quarterly basis.

Conclusion
Although no actual conflict of interest resulting from the situation as described was identified, the current structure lends itself to a potential conflict of interest (or the perception thereof). ACA is the only member and has full authority to remove directors, if PaintCare favored the position of a Board Member's firm in enforcing policies or if there were transactions between ACA and PaintCare that were not perceived as arms-length in nature or terms. The only way to fully eliminate the perception of a conflict is to effectively separate PaintCare from ACA's governance.

Recommendation #4
PaintCare should review all policies to ensure that there is clear separation in all dealings involving PaintCare and members of its Board and with ACA.

11. Determine how ACA loan is used to fund the Oregon Program.

In 2015, ACA provided a loan to the PaintCare Oregon program in the amount of $300,000 to fund operations. Although no formal loan document between the parties was created, terms were agreed to for repayment at an agreed upon interest rate consistent with the interest rate that ACA earns on the funds it loaned to PaintCare. The LOC has no defined repayment deadline as PaintCare and ACA intend to establish a reasonable repayment schedule anticipating approval of the requested fee increase.

Conclusion
Although no formal document was signed by both parties, PaintCare Board of Directors meeting minutes indicated the authorization of the LOC at the interest rate previously mentioned.

Recommendation #5
PaintCare and ACA should formalize the terms of the LOC in a written agreement to substantiate the arms-length nature of the transaction.

12. Determine the extent to which (if any) manufacturers participate in any board decisions that may directly benefit or have a negative impact on their company(ies).

As noted above, manufacturers are represented on the PaintCare Board of Directors. As such manufacturers could potentially be involved in decisions directly or indirectly affecting their respective organizations.

Conclusion
Our limited review of minutes indicated no situations of Board Members participating in decisions directly or indirectly affecting their respective organizations. We also noted that PaintCare maintains a written conflict of interest policy governing relationships with other entities.

13. Determine the advantages/disadvantages/risks/etc. of restructuring the Oregon Program as an LLC, including implications on transparency, financial disclosures, costs, management resource needs, etc.

Currently the LLC has been legally formed but is not operational in terms of the Oregon Program. PaintCare plans to request that DEQ approve the LLC as the stewardship organization in Oregon in place of PaintCare, Inc. If DEQ approves of this request, PaintCare plans to assign all contracts to the LLC and that entity will begin operating as the official stewardship entity in Oregon.

Each state is looking at options and approaches to specific program structure. For example, pursuant to an ongoing corporate restructuring PaintCare has plans to form a separate, wholly-owned LLC related to the Vermont Program (PaintCare Vermont LLC) dedicated solely to operations in Vermont. Per that state's Program Plan, that subsidiary will share the 501(c)(3) non-profit status of its parent, PaintCare, Inc. That Program Plan states that the change in structure will bolster the financial and legal independence of the LLC relative to the other programs operating in other jurisdictions.

Assuming the Oregon Program is structured similarly to the Vermont LLC, the Program would be legally separate from PaintCare, Inc. for purposes of reporting. The legal separation from PaintCare would provide for separate accounting and reporting requirements, much the same as are currently provided. PaintCare has already formed a sole-member "disregarded" LLC entity intended to eventually transition to managing the Oregon Program. The designated manager for the LLC formed in Oregon is

PaintCare's current CFO. Transactions between the LLC (the Oregon Program) and PaintCare will be formalized as between two separate entities rather than intra-company transfers under the current structure. As such, transparency into the financial and operational transactions of the Program may be enhanced. As a wholly-owned subsidiary there would be little if any change in governance expected with respect to PaintCare, Inc. and their continuing relationship with the ACA. The DEQ would continue in the role of Program oversight as established under statute.

PaintCare indicated an intent to work directly with DEQ to address details of the Oregon Program's transition to the LLC structure.

Conclusion
The transition of the Oregon Program to a wholly-owned LLC must be evaluated and approved by DEQ. The transition to an LLC would provide legal separation from the operations of other participating programs and from PaintCare, Inc. in terms of financial records and reporting. Other current operations such as staffing, governance and the relationship with the ACA would likely be unaffected as the LLC is wholly-owned and thus managed by the parent PaintCare, Inc.

Manufacturer/Sales Data & Assessments

14. Determine the process used to ensure all applicable manufacturers register.

ORS 459A.825 states that "a producer or retailer may not sell or offer for sale architectural paint to any person in this state unless the producer is participating in an approved statewide architectural paint stewardship program organized by a stewardship organization". PaintCare has developed a process where all known manufacturers of paint being sold in Oregon are required to go through a pre-registration process whereby PaintCare staff work with them to identify all qualifying program products. Following this step, remitters (manufacturers/distributors/retailers) create an account on the PaintCare reporting portal website.

PaintCare currently contacts all known manufacturers that sell program-eligible products in Oregon. To date, the organization believes it has been successful in ensuring all such manufacturers are participating. 204 architectural paint manufacturers are registered with PaintCare across all programs with 135 registered in Oregon.

PaintCare does not conduct any specific monitoring to ensure that all paint manufacturers are included in the program but believes it is in a good position to learn about any unregistered manufacturers (whether by a notification from a competitor, a question from DEQ, or a product that field staff identify while visiting stores). Upon learning of an unregistered manufacturer selling program-eligible products in Oregon, PaintCare reaches out to that manufacturer to explain the program and attempt to gain the manufacturer's participation. There is no documentation of this process as it is handled on an ad-hoc basis as circumstances occur.

Conclusion
Although PaintCare has developed a process to ensure all applicable manufacturers register, that process is, in-part, passive with respect to its reliance on other parties to identify non-compliance (competitors and DEQ). While its field staff do visit stores, those resources are limited.

Recommendation #6
DEQ should work with PaintCare to strengthen current monitoring practices to further verify all applicable manufacturers are registered in Oregon. Monitoring should be established according to a regular, periodic schedule to better ensure compliance.

15. Determine the process used to ensure registered manufacturers are accurately reporting sales data for each registered brand and submitting appropriate fees.

In 2017 PaintCare launched a manufacturer reporting and remittance assessment program, for each registered brand, conducted by the independent Certified Public Accounting firm of Rogers & Company. Prior to the new program, PaintCare did not have a process in place to verify sales reports.

PaintCare has the contractual right to monitor all manufacturers who participate in the program and is relying on the reporting and remittance assessment program as its primary mechanism to ensure sales/fee reporting practices of manufactures are accurate. The program is being piloted this year with three companies currently undergoing assessments[8]. A primary component of the assessment is verification of sales reporting for completeness and accuracy. The initial phase of the assessment includes review of a company's process for identifying and keeping up to date on identification of program products and for communicating the information to internal staff and program partners (e.g., distributors, retailers, remitters).

If indicated as necessary based on the initial audit results, the second phase of the assessment will focus on completeness and accuracy of fee reporting and tests for variances. Detailed transaction testing (e.g.: validation of sales reports against values reported; verification of internal sales reports; review of period-over-period sales

[8] scheduled to be completed in the fall of 2017

reports; etc.) will be performed in this phase. There is no planned timetable for this second phase of the assessment as at the time of this report it is unknown if the second phase will be warranted. Similarly, the results of the pilot will determine if and how additional audits will be pursued.

PaintCare plans to respond to the findings of each of the reports provided individually, on a case-by-case basis. PaintCare intends to follow up with specific manufacturers as necessary to resolve any findings noted by the accounting firm. PaintCare will work directly with the manufacturers to resolve any issues identified in the manufacturer assessment, including maintenance of remitter agreements, underpayment or overpayment of assessments, updating listings of architectural coatings, etc.

Conclusion
Although PaintCare did not have a process in place to verify sales reports prior to 2017, its current process appears to be appropriately designed to verify that manufacturers are accurately reporting sales data and submitting appropriate fees. However, the effectiveness of the program can only be determined through the evaluation of the pending results.

Recommendation #7
If and when follow up protocols are developed by PaintCare in response to the results of the manufacturer's reporting and remittance assessments, communication with DEQ should be established to ensure an appropriate level of information is shared and any necessary adjustments to expectations, performance measures, or reporting are implemented.

16. How does PaintCare capture, track and report fees collected based on sales by size of container?

Manufacturer sales data is reported to PaintCare through the portal established for such reporting. Monthly, sales data (by size of container) is reported by or on behalf of registered manufacturers. Assessments collected at the time of paint sale, also based on the size of container, are remitted to PaintCare, and reconciled against reported data by PaintCare staff. Assessments are recorded in PaintCare's financial system and coded to the Oregon Program.

Conclusion
PaintCare's methods and procedures are primarily passive in that there is limited monitoring of manufacturer sales data initially provided as a basis for assessments paid to PaintCare. While PaintCare has initiated a program of auditing manufacturer data, the results of those audits are not yet available (see items 15 above and 22 below).

PaintCare has also not fully developed a methodology or approach to the results of those audits, pending their completion.

17. Determine the process used by PaintCare to ensure all assessments are remitted on all paint sold in Oregon.

On a monthly basis, or less frequently for very small companies, participants submit a fee report which details the quantities of paint sold, by container size, in Oregon for the given reporting period. PaintCare's accounting staff review sales reports and check for corresponding fee payments. If fees on reported quantities are not received, accounting staff contact the company and remind it to make its payment. In addition, staff monitor sales reporting for changes or other anomalies (e.g., if a company that has been reporting sales monthly stops reporting any sales) and follow up as needed to ensure proper reporting.

Conclusion
It appears that the process used by PaintCare to ensure all assessments are remitted on paint sold in Oregon is reasonable.

18. Determine the process used to remove a product no longer sold in Oregon.

PaintCare generally only delists a product when a manufacturer specifically requests a delisting or PaintCare determines that the product is ineligible for the program. PaintCare does not delist a program-eligible product simply because it was discontinued by a manufacturer.

Additionally, in extreme cases, PaintCare may unilaterally delist a product if a manufacturer refused to participate in the program with respect to that product. If a manufacturer requested a program-eligible product to be delisted, conversation would occur with the manufacturer as to why the product must be listed. If a disagreement with the manufacturer occurred, PaintCare would inform DEQ and request assistance.

In almost all situations, if a product is delisted, it's because it should not be in the program - either the company mistakenly registered the product and later realized that it did not need to or was informed by PaintCare that it should not have registered it.

PaintCare does not automatically remove brands from the registration lists but informs participating manufacturers:

- if a product is identified as being mistakenly registered or,
- if a clarification is made via a product notice that a category of products should not be registered.

The manufacturer initiates the removal and the PaintCare Registration Coordinator reviews and approves changes to registration lists prior to publication of the lists.

Conclusion
PaintCare's process used to remove a product no longer sold in Oregon appears reasonable.

19. Determine the process used by PaintCare to identify all manufacturers that sell in Oregon - regardless of methods.

PaintCare notifies all manufacturers that are known (or become known) that to sell program-eligible products in Oregon, that they may not sell or offer for sale architectural paint to any person in the state unless they participate in an approved statewide architectural paint stewardship program organized by a stewardship organization[9]. However, it is the position of PaintCare that current legislation does not give PaintCare the authority to require a manufacturer that sells program-eligible products in the state to participate.

Manufacturers who participate in the PaintCare program are required to register and activate an account on the PaintCare website/portal. As the representative organization, they contact PaintCare concerning questions about registering a new product either by phone or through the online system. The Registration Coordinator reviews all additions.

There is no automatic trigger in the retail process that monitors for potential sales of paint by an entity that is not or has not registered with PaintCare. However, other mechanisms have been developed. Retailers may notify PaintCare if they are aware of such an instance or a competing manufacturer might report that they have discovered an unregistered product being sold. Per PaintCare, when PaintCare field staff visit retail sites (primarily designated drop-off sites) and identify a brand or product that they have not seen before, they check to determine whether the product is listed and, if not, inform the Registration Coordinator. This process is currently not formally documented. Should PaintCare identify an unlisted product, there is a current requirement to notify DEQ for follow up and enforcement as necessary. Additionally, DEQ may contact PaintCare and ask about new products. In each of these instances, if appropriate, PaintCare contacts the manufacturer to inform of the need register its products.

Currently, beyond sporadic efforts to identify and communicate with on-line retailers, PaintCare does not have a specific process in place to ensure they comply with Program requirements.

[9] ORS 459A.825 (1)

Conclusion
PaintCare has developed a process to identify all manufacturers selling paint through brick and mortar stores in Oregon. However, as with its process to ensure all applicable manufacturers register in the State (See #14 above), the process is, in-part, passive in its reliance on other parties to identify non-compliance (competitors and DEQ). While field staff do visit stores, those resources are limited. On-line retailers are not currently tracked or monitored.

Recommendation #8
DEQ, in addition to strengthening its current monitoring practices (See Recommendation #7 above), should clearly communicate to PaintCare its expectations with regard to reporting of noncompliance in regard to previously unidentified brands or products noted in its interactions with retail sellers.

20. Determine the process used by PaintCare to determine when/if bad debts become uncollectable and remove manufacturers who fail to remit assessment funds from their list of participating manufacturers.

There were no amounts deemed uncollectible in the subject time period of 2014-2016. Staff indicated that if a manufacturer reports sales but does not remit fees in a timely manner, PaintCare communicates with the manufacturer to secure payment. If PaintCare determined that the manufacturer will not pay fees owed (e.g. company is out of business, non-responsive, expressly refuses to pay, etc.), PaintCare would then consider that amount to be uncollectible and would treat it as such in its accounting records.

If a manufacturer is neglecting or refusing to remit assessments pursuant to the stewardship law, PaintCare will work with that manufacturer to resolve the problem. If a resolution was unable to be reached, the company would be removed from list of participating manufacturers and the problem would be referred to DEQ.

Conclusion
The process to determine when/if bad debts become uncollectable and remove manufacturers who fail to remit assessment funds from the list of participating manufacturers appears to be appropriate.

Paint Measurement Data

21. With respect to postconsumer paint collection:

A. Determine what entities report data on postconsumer paint collection.

Current transporters (Stericycle, Clean Harbors, and Portland Metro) and all drop-off sites that engage in any on-site paint management (typically municipal programs) provide PaintCare with data on paint collection.

B. Determine how paint measurement data is tracked and reported to PaintCare.

Methods used to track and report paint measurement varies:

- Stericycle tracks collection data in a database located on a company server. Paint collection data, at the shipment level to PaintCare, is reported by exporting the data from the database into an Excel file at the end of the program year.
- Clean Harbors tracks this data in its custom designed waste tracking software, WinWeb, and reports the data to PaintCare by exporting the data from its software into an Excel file at the end of the program year.
- Metro tracks paint measurement data in an Excel spreadsheet and reports to PaintCare by providing a copy of the spreadsheet at the end of the program year.

Conclusion

While processes exist for paint measurement data to be reported directly to PaintCare, this information is reported annually. End-of-year reporting does not provide timely information to support effective management decision-making during the program year.

Recommendation #9

PaintCare should pursue interim processor reporting to accommodate timely management information and decision making.

C. Determine what measurements are used and their reasonableness.

Measurements used include:

- Stericycle reports paint collected by the count of bins and gross pounds of bins shipped. The count of bins is measured manually at the time of shipment and the gross poundage shipped are measured on a scale at their Washougal, WA facility.

- Clean Harbors also reports paint collected by the count of bins and gross poundage of bins shipped. The bin count is measured manually at the time of shipment and the gross poundage shipped is measured on scales at Clean Harbors' facility in Clackamas, OR.
- Metro reports paint collected by the count of bins which is manually measured at the time of shipment. All 5-gallon pails and 1-gallon/quart cans are containerized on pallets. Partial containers are rounded to the nearest fraction equivalent to one layer of pails/cans. Pails and cans are converted to gallon can equivalent (GCE).

Conclusion
Based on procedures performed, it appears that, although slightly different approaches are being used by PaintCare transporters, each appears reasonable in identifying the volume of paint collected.

D. Determine the process used by PaintCare to ensure that all data reported on postconsumer paint recovered is accurate.

PaintCare relies on its manifesting system to ensure the accuracy of the count of bins. Representatives from multiple entities (collection sites, transporters, and receiving facilities or consolidation sites) each evidence the count of bins shipped to processing sites.

Representatives from PaintCare review bin counts on manifests during the invoice review process. However, while the gross weight shipped is also on the manifest, PaintCare does not have a means to ensure the accuracy of each entry. It does though, rely on transporters utilization of scales calibrated by a third party and compares the amount reported as collected to the amount reported as processed. PaintCare reviews for anomalies within each processed data set as well as discrepancies between data sets (collection and processing) to determine the data is reasonably accurate. PaintCare works with each reporting entity to understand and or resolve any observed anomaly prior to publishing the annual report.

Conclusion
Per procedures performed, the process used by PaintCare to ensure that all data reported on postconsumer paint recovered is accurate appears reasonable.

22. Determine whether any internal or external audits have occurred and, if they have, what the results/resolutions were.

No information from internal or external audits has been made available for consideration or action on the part of PaintCare.

Clean Harbors and Stericycle both provide PaintCare access to shipping documents for both the volume collected and the volume shipped for processing. PaintCare can follow the paint from the point of collection to the point of processing via shipping documents and required collection and processing reports. Multiple PaintCare employees review the data from the haulers to ensure reasonable accuracy.

PaintCare became aware of an error in Stericycle's reporting for calendar year 2015 resulting from mis-calibration of a scale which caused Stericycle to over-report waste paint collections. PaintCare identified the issue in the variance between reported collections and processed volumes and the comparison to other years.

23. Determine whether audits conducted by Clean Harbors and Stericycle/PSC have been reviewed and what the results/resolutions were.

The results of internal audits conducted by Clean Harbors and Stericycle/PSC have not been reviewed as this information is considered confidential and not available to PaintCare. PaintCare management indicated that these results are not a matter of public record and the audit details are between Clean Harbors and the processor and Stericycle/PSC and the processor.

PaintCare has stated that it has been assured by both transporters that each processor employed has passed an internal audit and is good standing. The hauling vendors used by PaintCare are also subject to vetting and approval by many local governments.

Recommendation #10
PaintCare should obtain written documentation of assurances (e.g. compliance with contractual requirements, completeness and accuracy of reported statistics) from transporters if audit reports are not made available.

24. With respect to postconsumer paint disposition:

A. Determine what entities report data on paint processed through each disposition method.

Processors (Stericycle, Clean Harbors, and Metro) and all drop-off sites that engage in any on-site paint management (municipal programs and reuse stores) report data on paint processed.

B. Determine what measurement units are used and their appropriateness.

Measurement units vary by processor:

- Stericycle reports oil-based paint processed in gallons. Gallons of paint processed are derived using gross weight of bins, subtracting estimated packaging weight (shipping container and inner packaging), and dividing by 10 to convert to gallons.
- Clean Harbors reports paint processed in gallons. Quantities are measured by converting gross pounds shipped/received to net gallons processed. Because processing facilities do not process each bin of paint independently, quarterly, or annual production results are consistently applied to each processed container.

  Clean Harbors employs various companies to process paint collected in Oregon:

  Latex
  Amazon Environmental, Sacramento, CA

  Oil-Based Paint
  Clean Harbors, Kimball NE
  Clean Harbors, Aragonite, UT
  Clean Harbors, Deer Park, TX

  These processors subtract the weight of shipping containers and pallets (average value) from the gross weight received to determine the weight of cans and paint. Based on experience in determining the percentage of weight of cans to weight of paint, the processor subtracts an average weight of cans from the net weight of cans and paint to arrive at the net weight of paint. That weight is divided by an estimated density of paint (ten lbs/gal) to arrive at the net gallons of paint processed. Each processor independently applies the percentages of each disposition methodology they employ to the net gallons of paint to report the net gallons processed by each method of disposition.

- Metro measures paint processed in gallons. The Agency reports the actual volume of liquid latex paint processed and made into recycled-content paint, the actual volume of liquid latex paint bulked for use in landfill biodegradation and the actual volume donated for reuse.
- Reuse stores report the volume of latex and oil-based paint sold or donated to the public. Although methods vary, each process is required to reasonably approximate actual volume. Some locations estimate fullness of each can while others weigh the volume of paint and use a standard conversion measure (i.e., 10 lbs. per gallon).
- Municipal programs report the actual volume of latex paint processed via reuse and or recycled-content paint. Marion County estimates the gallons of oil-based paint managed for energy recovery using gross weight of the collection bins, subtracting estimated packaging and non-program product weight and dividing by ten to convert to gallons.

Conclusion
Per procedures performed, it appears that, although somewhat different, the methodologies used by processors to calculate volume appear appropriate.

C. Determine what process is used to measure, track, and report data.

Processes used to measure, track, and report data, vary:

- Stericycle's gross weight data is tracked in an internal database, Salesforce, located on a company server. Gross pounds shipped are downloaded from the database to Excel and conversions are documented in an Excel spreadsheet. Gallons processed are reported on a quarterly basis and at the end of the reporting year.
- Clean Harbors tracks the gross pounds of paint shipped to each processor in their custom designed waste tracking software, WinWeb. On a quarterly basis and again at the end of the program year, Clean Harbors exports the gross pounds shipped to each processor from their system, converts the gross pounds to net gallons processed using the methodology described above and reports to PaintCare.
- Metro tracks processing data in an Excel spreadsheet and reports to PaintCare by providing a copy of the Excel spreadsheet at the end of the program year.

- No specific information was provided on the methods used by various drop-off sites and municipalities with respect to measuring, tracking, or reporting data. It is reasonable to assume that methods vary by site and organization.
- Marion County estimates actual volume of paint by using the gross weight of the collection bins and subtracting estimated packaging and non-program product weight.
- Lincoln and Tillamook Counties measure and report the actual volume of latex paint processed and made into recycled-content paint.
- Reuse stores report the volume of latex and oil-based paint sold or donated to the public.

Conclusion
Although PaintCare is currently measuring, tracking, and reporting data received from its transporters, the methodology used is inconsistent.

Recommendation #11
PaintCare should consider standardizing its process for measuring, tracking and reporting of postconsumer paint disposition data based on management's and DEQ's needs.

D. Determine what process is used to ensure that all postconsumer paint disposition data reported to PaintCare is accurate.

PaintCare looks for anomalies within each processed data set as well as discrepancies between data sets (collection and processing) to determine whether the information reported is reasonably accurate. PaintCare works with each reporting entity to understand and or resolve any observed anomaly prior to publishing the annual report.

Through its contractual clauses, the records of all haulers and their processors, as well as any drop-off site conducting on-site paint management activities can be audited. PaintCare can exercise its rights to investigate any discrepancies or anomalies that are not explained to its satisfaction through working with a drop-off site or hauler/ processor.

With respect to drop-off sites, PaintCare schedules visits and inspections of their operations and provide trainings. Staff aim to conduct such visits twice per year unless circumstances warrant more frequent visits.

Conclusion
Based on procedures performed, it appears that the process used by PaintCare to ensure all data reported is accurate, is reasonable.

E. Do the hauler contracts have fixed costs over a certain term, or do they vary? If so, what are the factors that cause prices to change and are the changes commensurate with the increases reported in "Operations" expenses in the annual financial report?

All primary hauler contracts in Oregon contain fixed pricing rates. Any changes to those rates must be negotiated between the parties and initiated through a contract amendment. PaintCare entered into its primary hauling contract with PSC Environmental Services in March 2014 (which has since been assigned to Stericycle). There have not been any significant price rate increases in that contract since its execution.

Costs to PaintCare under its Oregon hauling contracts are based on the number of bins transported and incorporate factors including the type of material transported, region of the state (distance to pick up location), and hauler labor expenses into flat rates per unit of volume by location. The illustration provided in Appendix A identifies the relationship between the increase in transport/processing prices with the increase in the overall volume of paint collected by the program. The costs illustrated in the appendix do not reflect any potential refunds or cost adjustments that may result from initial reporting errors or resultant billings.

As the following table identifies:

- There appears to be no clear correlation between operating costs net of communications expense and collections volumes with or without consideration to time lags.
- The increased expenses for communications in 2015 skew totals for operating costs, total expenses, and relative changes by year analyses. The reduction in communication costs in 2016 was driven by the reduction in reserves.
- The highest change by year percentage increase in collections was 2014 (vs. 2013). There is no clear explanation in the expenses for the increase that year or the declines in subsequent years.
- Administrative costs appear relatively constant after 2013. These costs appear to be independent of collections volume.
- The increases in total program expenses are not commensurate with increases in collection volumes. Increases in operating costs exceed increases in collection volumes year over year. Total program cost increases exceed collection volumes except for 2016, which saw a significant decrease in communications costs.

- The changes in operating/total costs per gallon are driven by the increase in administrative fees in 2014, the increase in communications costs in 2015, and the subsequent reduction in communications fees in 2016.

	2013	2014	2015	2016
Collections Volume	580,693	633,365	721,861	729,010
Change by Year		52,672	88,496	7,149
Percent Change		9%	14%	1%
Revenue				
Total	$ 4,055,200	$ 4,331,054	$ 4,716,181	$ 4,779,231
Change by Year		$ 275,854	$ 385,127	$ 63,050
Percent Change		7%	9%	1%
Expenses				
Operations	$ 3,400,322	$ 3,726,229	$ 4,449,057	$ 4,553,621
Change by Year		$ 325,907	$ 722,828	$ 104,564
Percent Change		10%	19%	2%
Communications	$ 275,340	$ 345,911	$ 614,258	$ 73,004
Change by Year		$ 396,478	$ 991,175	$ (436,690)
Percent Change		11%	24%	-9%
Administrative	$ 119,006	$ 516,652	$ 500,135	$ 485,033
Change by Year		$ 397,646	$ (16,517)	$ (15,102)
Percent Change		334%	-3%	-3%
Total Expenses	$ 3,794,668	$ 4,588,792	$ 5,563,450	$ 5,111,658
Change by Year		$ 794,124	$ 974,658	$ (451,792)
Percent Change		21%	21%	-8%
Operating costs/gallon collected	$ 6.33	$ 5.88	$ 6.16	$ 6.25
Total expenses/gallon collected	$ 6.53	$ 7.25	$ 7.71	$ 7.01

Note

2013 information was for the period July 2012-June 2013

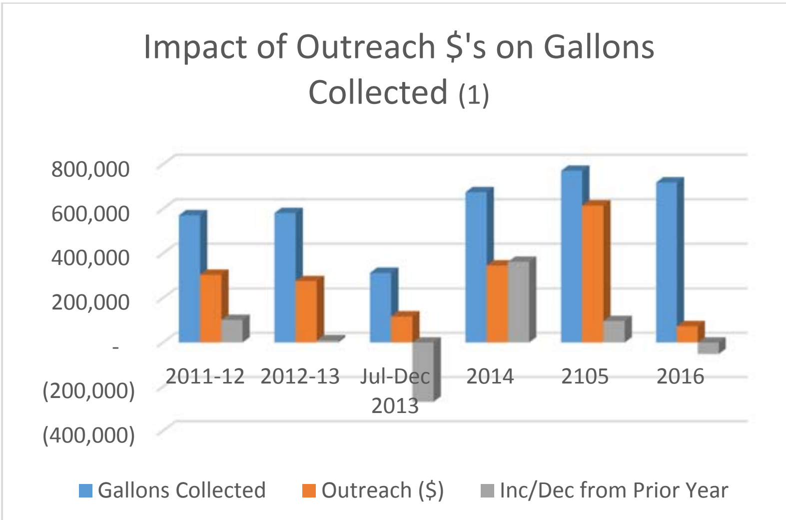
Volume processed information obtained from respective annual reports adjusted for errors in initial reporting

Outreach

25. Determine whether education and outreach expenses charged to the Oregon Program provided direct benefit.

"Direct benefit" is not clearly defined either in statute or in the Program Plan. ORS Chapter 459A.820-855 establishes broad goals for paint manufacturers. PaintCare, in conjunction with oversight from DEQ, has developed the Oregon Architectural Paint Stewardship Program Plan to provide a guide for implementation. Although the Plan currently provides specific requirements and responsibilities, it is primarily output based (paint volume (collected and processed), disposition, education and outreach, etc.). Some goals are specified (e.g. latex paint recycling) - however, very few other outcome based expectations have been developed.

As the following chart indicates, no clear correlation of the amount spent on education and outreach activities to actual gallons collected could be determined. Any potential relationship is further clouded by lags between the purchase, use, and recycling of leftover paints which may occur over a number of months or years. There appears to be no clear metrics or benchmarks for the measurement of leftover paint volumes or retention times.



(1) Assumption: Dollars spent in year x will impact collections in year x

Source: Compiled from PaintCare Annual Reports; Note that July-December 2013 data compiled from a transitional report in changing from calendar to a fiscal year basis.

Conclusion

Determining whether education and outreach expenses charged to the Oregon Program provided direct benefit is difficult. Without a clear definition of "benefit" or the establishment of specific benchmarks as a basis for comparison, it is difficult to determine benefit to the Program.

Recommendation #12

DEQ should consider establishing specific expectations/key performance metrics to ensure the intent of Oregon legislation can be quantified and the Program's success/benefit can be correlated with expenditures.

26. Determine how education and outreach expenses are tracked and reported.

Our testing indicated that direct charges to the Oregon outreach budget for promotion and communications are designated only for Oregon activities. PaintCare's Communications Director, in conjunction with its marketing firm, choose advertising methods that would typically reach a broad Oregon audience. A variety of strategies are chosen specific to the location and pricing for media in that area with a goal to reach as many people as possible within budget.

During the invoice review/approval process, PaintCare accounting staff and communications staff identify and code invoices based on whether the outreach services were targeted to Oregon. If such services are targeted solely to Oregon, 100% of the invoice is charged to the Program. If such services are more broadly targeted to Oregon and other jurisdictions, the invoice at issue is allocated between the targeted jurisdictions based on relative population.

Conclusion

Our procedures indicated that generally, education and outreach expenses are tracked and reported appropriately. In one instance, the allocation was based on the relative amount of service provided to Oregon, rather than an allocation based on relative population. (The invoice from Survey Monkey to conduct online surveys in all PaintCare States at the same time was allocated based on the relative number of responses from each state instead of by population.)

27. Identify the process used to determine the number of point of sale program outreach materials distributed to each purchaser.

ORS Chapter 495A.825(20(b) states that "a retailer that sells or offers for sale architectural paint must provide the information described in paragraph (a) of this subsection to the consumer at the time of sale". DEQ has interpreted this to read that retailers must *actively* provide information to each consumer at time of sale.

PaintCare currently provides retailers with cost-free information about the program (program brochure, mini card, in-store poster, fact sheet for painting contractors, and fact sheet about large volume pick-up service). Brochure holders and a counter mat version of the store poster are also made available. Retailers or interested parties can order point of sale materials throughout the year through an online form, email, fax, regular mail, or phone. Orders are filled within 2-3 days of placement. These materials and others may also be downloaded from the Oregon section of www.paintcare.org.

There is no limit to the number of materials that a retailer can request. If the headquarters for a retail chain informs PaintCare that paper copies of point-of-sale materials are not necessary, electronic copies are sent to the headquarters for its own distribution.

Program materials are also delivered by the Oregon Program Manager to drop-off sites during site visits. In 2016, the Program Manager distributed 4,825 program brochures, 2,950 mini cards, 287 fact sheets, and three counter mats[10].

PaintCare does not track how internet sellers provide information to the public and do not believe the organization has an obligation to do so. Access to its educational materials are provided through its website for anyone to use and are also willing to work with Amazon and other online retailers to prepare customized materials if the materials that PaintCare already makes available are not optimal for their operations.

Conclusion

Our discussions with DEQ and with PaintCare management, as well as our review of the applicable statutes indicate that while PaintCare has established a voluntary methodology for distribution of outreach materials. Although PaintCare is providing retailers with outreach materials, the organization has no ability to require compliance. It is currently indeterminable as to how many program materials are downloaded, printed, and distributed by retailers. Materials physically provided by the Program Manager are a small percentage of the number of materials required for the sale of over 700,000 gallons of paint. DEQ should not expect to accurately gauge retailer compliance based on the numbers of items distributed to retailers by PaintCare. Sales data is also reported to PaintCare by manufacturers and volumes and quantities sold at the retail level are unknown. As a result, it does not appear to be feasible to determine the appropriate numbers of items distributed based on retail sales.

Recommendation #13

DEQ should establish clear expectations with PaintCare regarding information and data to be provided to DEQ in order to facilitate DEQ's enforcement of the statute.

[10] PaintCare Annual Report, January 1 – December 31, 2016

28. Identify the process used to track volume of retailer point-of-sale materials requested and fulfilled.

PaintCare currently tracks material orders through a database that keeps a history, by site, of the number of mailings, the type of material ordered, and the quantity of items shipped.

Prior to 2016, many materials were delivered in person by the Oregon program manager and were not tracked by recipient. They were, however, counted based on the number of materials shipped to staff and it was assumed that they were all distributed. Starting in 2016, hand-delivered materials were included in the database to track materials dropped off by PaintCare employees by site address.

Conclusion

Per discussions with PaintCare management and with DEQ, it appears that the process used to track the volume of retailer point-of-sale materials requested and fulfilled is appropriate. However, the provision of materials to retailers by PaintCare does not necessarily ensure compliance by those retailers with current statutes or interpretations thereof.

29. Determine the process used to ensure all Internet sellers understand the responsibility to provide statutorily required information.

Efforts have been made by PaintCare to identify online retailers and inform them of specific obligations under the various PaintCare state programs. Research conducted by PaintCare in 2013 determined that most online paint sellers also had a brick and mortar store (e.g., Home Depot, Walmart, Lowes, Benjamin Moore, etc.). PaintCare indicated that it has also contacted national sellers to ensure each was aware that their responsibilities for online sales were the same as those for in-store sales. Since then, all have received the same program updates and retail notifications as brick-and-mortar stores in Oregon. PaintCare has also identified online-only paint retail sites (e.g., www.thepaintstore.com and www.hardwareandtools.com) and notified each of the Program.

PaintCare stated that it has also attempted to communicate with Amazon to educate the company about the program's informational materials on its website. However, to date, Amazon has not elected to engage in a dialogue with PaintCare. PaintCare has also worked with other stewardship organizations to establish a more collaborative relationship with Amazon as they have also experienced similar difficulties. Again, we were provided no documentation of these contacts. PaintCare believes that continuous persistence will result in discussion.

Conclusion
PaintCare has stated that efforts are continuously taking place to identify and communicate to Internet sellers their obligations to comply with Program requirements (i.e. distribution of consumer information regarding the Program). However, beyond these efforts, PaintCare does not have the authority to evaluate or ensure compliance with those responsibilities. However, it is the position of DEQ that information could be shared by PaintCare that would assist in DEQ's enforcement of statutory requirements.

Recommendation #14
PaintCare should document interactions with resellers and retailers in support of compliance with all statutory and Plan requirements as a basis for monitoring by DEQ as appropriate. Documentation should be retained for a period sufficient to support monitoring and as required under relevant retention schedules.

Financial Information

30. Determine whether PaintCare has proper documentation to demonstrate how the collection and expenditure of Oregon assessment funds are kept separate from activities related to programs in other states.

Available documentation was obtained and reviewed for a sample of charges against the Oregon Program to ensure:

1. proper coding,
2. that the documentation supported a clear relationship to the Oregon Program,
3. that the documentation demonstrated that the expenditure directly benefited the Oregon Program, and
4. that the documentation evidenced proper review and approval by PaintCare management.

Conclusion
We noted no significant exceptions in our testing. PaintCare appears to maintain proper documentation to demonstrate how the collection and expenditure of Oregon assessment funds are kept separate from activities related to programs in other states.

31. Determine the process/methodology used to distribute costs shared with other state programs.

Corporate costs are shared across benefited states based on relative population statistics per the 2010 census. If only select states are benefited by certain costs, then those costs are allocated only to those states, again based on respective population figures.

We applied analytic procedures to test the accuracy of allocations of shared costs for calendar years 2014 through 2016 whereby we calculated the percentages of allocation to the Oregon Program based on relative population statistics. We applied those percentages by year to the amounts charged to the Oregon Program and backed into an estimate of total corporate charges. We compared our estimates of total corporate charges to corporate charges reported per PaintCare's audited financial statements and noted only insignificant differences.

Conclusion
Based on our procedures, it appears that PaintCare allocates shared corporate costs to benefited state programs based on relative population statistics per the 2010 census. The use of population statistics does not appear to be the most reasonable basis for allocating shared costs as there does not appear to be a direct, meaningful correlation between population and paint sales or disposal activity.

Recommendation #15
PaintCare should identify a potentially more meaningful basis for allocation of costs such as the average prior year(s) collection activity for each respective state as a percentage of the total. It is understood that a result of this basis may be higher costs to programs with higher collection activities (i.e. more successful programs).

32. Determine the consistency of how the process/methodology is applied to all expenditures.

We tested a broad range of detail expenditure transactions for attributes including consistency of process and methodologies for charging specific costs to the Oregon Program, or allocation of costs to multiple programs (including Oregon) as appropriate.

For costs allocated across multiple programs, we applied analytical procedures based on our understanding of the allocation percentages used by PaintCare to test specific allocations made.

Conclusion
Our review of supporting documentation and application of analytic procedures as described above over the period 2014 through 2016 found the methodology to be consistently applied to all applicable expenditures throughout the period.

33. Determine whether PaintCare has proper documentation to demonstrate how the collection and expenditure of Oregon assessment funds are kept separate from other corporate activities.

To determine how the collection and expenditure of Oregon assessment funds are kept separate from other corporate activities, we obtained and reviewed documentation for a sample of charges against the Oregon Program to ensure:

1. proper coding,
2. that the documentation supported a clear relationship to the Oregon Program,
3. that the documentation demonstrated that the expenditure directly benefited the Oregon Program, and
4. that the documentation evidenced proper review and approval by PaintCare management.

Conclusion
We noted no significant exceptions in our testing. PaintCare appears to maintain proper documentation to demonstrate how the collection and expenditure of Oregon assessment funds are kept separate from other corporate activities.

34. Determine the process/methodology used to ensure Oregon assessment funds are kept separate from other corporate activities.

As noted in Section 30 above, we obtained and tested documentation supporting the processes as described and reviewed to validate our discussions with staff.

PaintCare staff identified "PaintCare Reporting" as the database used to manage assessments remitted by manufacturers or others on their behalf. The database is built on the Salesforce.com platform. PaintCare's accounting software (Dynamics GP) uses a two-segment account structure to account for transactions and balances. The first segment (referred to as the "natural") identifies the type of account (i.e. revenue, expense, etc.) and the second segment is specific to the state program (i.e. Oregon). All assessments and expenses are coded using this structure to ensure proper coding of amounts to state programs and to maintain separation from PaintCare's corporate activities and expenses.

Conclusion
Based on our procedures, we were able to identify the process/methodology used to ensure Oregon assessment funds are kept separate from other PaintCare corporate activities. Further, that process/methodology appears to be designed effectively to meet the stated objective.

35. Determine whether any expenditures specific to other state programs have been subsidized by Oregon program assessment fees.

We tested expenditures charged to the Oregon Program for proper documentation indicating that the charge had a direct relationship to the Oregon Program and appeared to be properly coded and recorded to the Program. Our testing included samples of functional expenditures for communications, travel, and contract costs, as well as a random sample from all Program expenditures.

Conclusion
Our testing indicated that sufficient documentation exists to support the proper coding, recording and reporting of expenses to the Oregon Program, and maintain separate accounting of costs from those of other state programs.

Based on our procedures, we did not identify any subsidies to other state programs from Oregon Program assessment fees.

36. Determine the total amount spent in contracts to the Product Stewardship Institute (PSI).

Founded in 2000, the Product Stewardship Institute, Inc. (PSI) is a national nonprofit organization dedicated to reducing the health and environmental impacts of consumer products. PaintCare has entered into contractual relationships with PSI to assist with fulfilling its obligations to meet Oregon requirements by providing research, recommendations, multi-stakeholder process planning, and facilitation.

Amounts spent by PaintCare in contracts (2014-216) with PSI totaled $287,000 and the amounts attributable to the Oregon Program, totaled $77,776 for the following:

$69,025	Stakeholder Engagement/Facilitation - Working with OR local governments/DEQ/stakeholders to fulfill stewardship law requirements
$2,966	Consumer Awareness Project - Fulfills OR stewardship law requirement to set program goal for consumer awareness
$2,250	Report - Provided recommendations, areas for further evaluation of paint program and impact on local HHW programs (OR share of national expense)
$1,448	Source Reduction/Consumer Awareness Goal Projects - Fulfills stewardship law requirement to set program goals for source reduction and consumer awareness
$1,008	Webinars - Stakeholder engagement in support of OR stewardship law/program plan obligations
$584	Source Reduction Goal Project - Fulfills stewardship law requirement to set program goals for source reduction
$312	Report Harmonization - Provides working example for OR annual report structure (OR share of national expense)
$183	Enables PSI stakeholder engagement and state agency facilitation services in support of fulfilling OR stewardship law requirements (OR share of national expense)
$77,776	

With regards to the $69,025 regarding Stakeholder Engagement/Facilitation, this amount is comprised of a number of payments identified under the 2014 and 2015 service agreements, and relate to stakeholder and Stewardship Plan meetings held monthly for the periods September 2014 through March 2015.

37. Determine whether Oregon consumer assessment funds were provided to PSI to pay for services and activities of direct benefit to the Program

The total amount expended by PaintCare to PSI during the three-year period from 2014 through 2016 was approximately $287,000. Of that amount, approximately $78,000 (27%) was charged to the Oregon Program as costs of direct services supporting the Program.

Conclusion
Oregon consumer assessment funds expended to PSI to pay for services and activities were generally consistent with the operation of the Oregon Program other than the item noted. Of the approximately $78,000 charged to the Oregon Program, the $3,112 item identified above for report harmonization represents an activity that Oregon was disinvited from and did not participate in.

These charges should be reversed/reimbursed to the Program by PaintCare.

38. Determine whether Oregon funds have been removed from all risk-based positions of PaintCare's investment program.

PaintCare staff indicated that all Oregon Program reserves are being held as cash deposits. We noted that for 2014 and 2015, the notes to the financial statements indicated an allocation of Oregon Program reserves to investments and related activities. No such allocation was noted in our review of the 2016 financial statements and related notes.

Conclusion
Based on our procedures, it appears that all Oregon Program funds have been removed from all risk-based positions of PaintCare's investment program. Effective in 2016, all of the Oregon Program's reserves are held as bank cash deposits.

39. Determine the chronology of all purchases and sales of investments using Program funds.

Detail of specific investment positions for 2014 and 2015 are presented in the notes to PaintCare's annual audited financial statements, attached to respective annual reports for each of those years. Specific transactional purchases and sales information was requested but was not made available to us for those years.

Our review of investment holdings identified the following:

- 23% and 24% of holdings were in US government securities for 2014 and 2015, respectively.
- 13% and 13% of holdings were in a combination of industrials, consumer discretionary, and consumer staples equities for 2014 and 2015, respectively.
- 27% and 28% of holdings were in mutual funds for 2014 and 2015, respectively.
- Corporate bonds made up 15% and 15% of investments for 2014 and 2015, respectively.

We were unable to determine from information provided what specific companies may or may not have been included in the various investment holdings.

Conclusion

Based on our review of information, we believe that PaintCare's use of a third-party investment manager and their stated investment strategy provides reasonable safety for investments held on behalf of the state programs with reserves in the pool. While it is possible that investments in various mutual funds or industry-based equity holdings may include positions in manufacturers of architectural coverings, we believe that any such individual positions would be immaterial to the performance of the investment pool as a whole. As such, we conclude that there is no evidence of any actual or potential, significant conflict of interest.

40. Determine the calculation of Oregon's net gain (loss).

Along with the annual reports for calendar years 2014-2016, PaintCare has provided the Oregon-specific gain/loss information associated with PaintCare's investment policy. The information was provided as part of the Supplementary Information included in PaintCare's audited financial statements, attached to the annual reports. That information provided a breakdown by investment type/sector in presenting fair value information. This information obtained directly from audited financial statements of PaintCare, Inc. indicates an investment loss of ($5,111) for 2014, and an investment gain of $8,522 for 2015, for a net investment gain to the Oregon program of $3,411. There was no investment gain/loss for 2016 as Oregon's reserves had been separated from the investment pool.

41. Determine the methodology used to invest states' reserve funds – pooling and state-specific.

PaintCare uses Merrill Lynch to manage its investment strategy and achieve its desired goal of cash preservation. Since 2014, that strategy has resulted in an asset mix that includes equities, mutual funds, corporate bonds, cash, and government securities. PaintCare indicated that it does not direct Merrill Lynch to invest in any particular equities, funds, etc. Oregon's reserves were held as part of these pooled investments under the management of Merrill Lynch until late 2015 when Oregon's balances were segregated, and are now held as bank cash deposits.

Conclusion
Reserves of state programs are pooled, with portions of the overall pool invested in a combination of equities, money market funds, fixed income securities, and mutual funds. As noted, the reserves of the Oregon Program are held as bank cash deposits.

42. Determine whether any companies that manufacture or sell paint have had PaintCare investments.

As discussed above, PaintCare's investments were managed in total by Merrill Lynch and invested in a combination of established equities, mutual funds, corporate bonds, cash, and government securities. Based on available information we were unable to determine whether any of those pooled investments included specific holdings in companies that manufacture or sell paint.

43. Determine whether any mutual fund holdings include companies that manufacture or sell paint.

As discussed above, PaintCare's investments were managed in total by Merrill Lynch, and invested in a combination of established equities, mutual funds, corporate bonds, cash, and government securities. Beyond the information provided in respective years' annual reports, we were not provided additional detail as to the specific investments that make up those mutual funds. As such, we were unable to determine whether any of those pooled investments included specific holdings in companies that manufacture or sell paint.

44. Identify risk-free investments for Oregon program funds to optimize return beyond bank savings accounts.

Oregon Revised Statutes (ORS) Chapter 294 identifies suitable investment opportunities for municipal governments in Oregon. These guidelines provide a framework supporting investment of funds with a priority to protection of principal.

While no investment is truly risk-free, the investment parameters identified for Oregon local governments provide for lower-risk opportunities to invest reserves in a way that manages principal and returns in the context of stewardship.

Recommendation #16
Working with PaintCare, DEQ should establish investment policies based on statutory provisions for Oregon local governments toward meeting its objectives for low-risk investment of Program reserves.

45. Determine why Program reserves are currently being depleted.

Through discussions with PaintCare's General Counsel, its West Coast Program Manager, and our evaluation of reported expenses, it was noted that Program reserves were significantly reduced in 2015. That reduction appears to have primarily resulted from the combination of increased outlays for communications and a spike in increased activity and variable costs associated with collection, transportation, and processing. PaintCare explained that the spend down of Oregon Program reserves in 2015 was the direct result of PaintCare management decisions to expend available monies on increased communications beyond approved budget levels in an attempt to enhance media recognition and awareness. The additional spending appears to have been informally authorized through conversation between PaintCare's Communications Manager and Executive Director. There was no formal approval of the additional spending by DEQ.

Operations costs are primarily a function of rate and volume of collections. The table below reflects the relationship of volume (corrected for Stericycle reporting errors) to costs for the years 2014 through 2016.

	2014	2015	2016
Volume (in gallons)	633,365	721,861	729,010
Operating costs	$3,726,229	$4,449,057	$4,553,621
Operating costs/gallon	$5.88	$6.16	$6.26

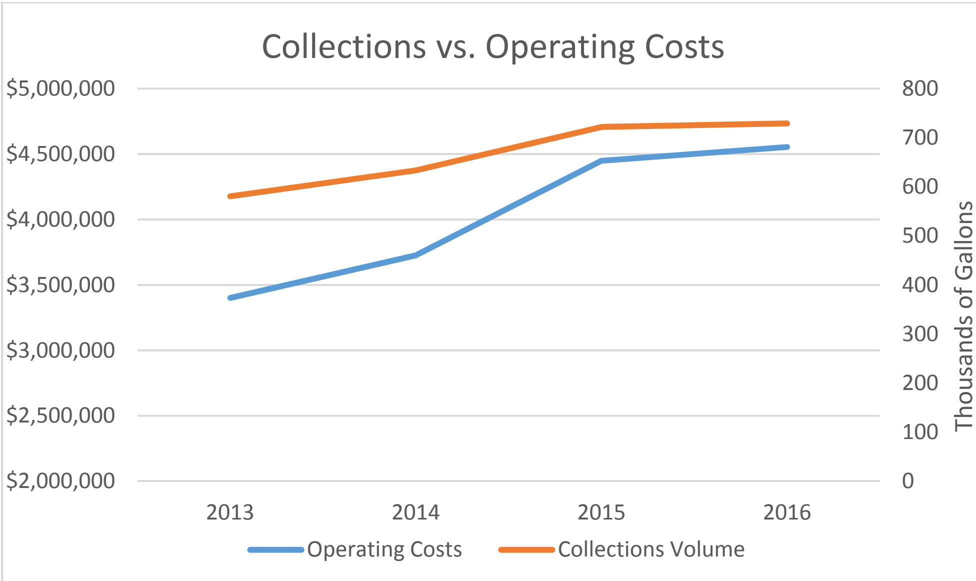
In evaluating volumes vs. operating costs - and considering the error in Stericycle's reporting in 2015, increased volume accounts for the majority of the increase in costs for collection, transportation, and processing. In 2014, these costs were $3.7 million for a reported volume of 633 thousand gallons. In 2016, costs were reported as $4.5 million on a reported volume of 729 thousand gallons. For the two-year period, volume increased approximately 15% while costs increased 22%. To determine why the 7% delta between increases in volume and operating costs from PaintCare occurred, we requested additional information and detail of the costs. In response, PaintCare provided the following information:

- Beginning in May, 2015 Marion County began shipping a significant portion of paint that previously have been processed on-site at a lower cost to PaintCare. Marion County suspended all on-site processing in August, 2016. The additional costs to the Program as a result of the change in practice for Marion County are estimated at $157,208.
- In mid-2014, a new service region was introduced to provide adequate bin pick-up timeframes and meet demand in Southern Oregon. The additional costs to the Program as a result were estimated at $23,577.
- A Metro price increase in 2016 resulted in an estimated additional cost to the Program of $32,146.
- During 2016 PaintCare began offering a per gallon/container reuse incentive to encourage Habitat for Humanity ReStores to offer paint for reuse to the public. PaintCare identified an increase in direct costs of $62,296 for incentives paid to Habitat for Humanity. Prior to paying the incentives, PaintCare had incurred no costs relative to the collection, transportation, or processing of waste paint through Habitat for Humanity.

The information above is summarized in the following table.

Description	Impact on Costs
Direct costs of change in Marion County processing	$157,208
Introduction of new service region in Southern Oregon	23,577
Incentive paid to Habitat for Humanity for reuse	62,296
Metro price increase	32,146
Total Identified Costs	**$275,227**

The identification of collections and processing volume as a primary driver of Program costs raises the question of should PaintCare have reasonably predicted the spike in costs during 2015, and thus the impact on reserves? Given a consistent relationship of collection volumes and Program operating costs, it would be reasonable to expect PaintCare to anticipate costs and any resultant change in reserves. As the chart below illustrates, the relationship of collection volume to Program operating costs reported was not consistent in 2015 or 2016. The chart is based on reported volumes and costs per the Oregon Program's Annual Reports published by PaintCare, corrected for measurement errors identified by Stericycle and Metro.



Conclusion
Based on the results of our discussions with PaintCare management and analysis of reported revenues, expenses and collection statistics, it appears the significant reduction in reserves of the Oregon Program is due to a combination of factors including PaintCare management's decision in 2015 to increase spending from "available" reserve amounts to fund additional communications efforts, a coinciding but unanticipated increase in collection, transportation, and processing activity that drove up related costs, a combination of price increases and increased service levels, and other unidentified factors affecting operating costs.

Considering the data, it remains reasonable that PaintCare should have anticipated an increase in costs based on current volume reporting, and thus anticipated the negative impact on reserves when making decisions to increase spending on communications and outreach.

46. Determine what the current program balance is.

Oregon's net assets deficit balance as of December 31, 2017, is $706,460.

47. Determine whether data exists to allow for the reporting of costs/gallon of paint collected in varying venues.

PaintCare staff indicated that costs are similar across sites, save for transportation that may vary by region. It is reasonable to assume that transportation costs would be greater on a per gallon basis for more rural venues, however PaintCare does not track transportation costs in such a way to facilitate an analysis across venues. Collection volumes by site, along with transportation costs are the primary factors in estimating or determining costs by site. It appears reasonable that transportation costs by site may be available from the contractors, allowing PaintCare to report information such that DEQ may evaluate cost/benefit of providing remote collection sites in the context of the broader Program objectives.

Conclusion

Based on our procedures, we determined that PaintCare does not capture or track data related to costs/gallon of paint collected by site or type of site.

Recommendation #17

PaintCare should capture and track collection and cost data by site in order to evaluate the relative efficiencies and effectiveness of various types of sites in meeting the Program's overall objectives.

48. If data exists, determine costs for:

- ***Non-recurring rural events***
- ***Rural retail store***
- ***Urban retail store***
- ***Rural HHW/Transfer Station***
- ***Urban HHW/Transfer Station***

Although no specific data related to costs/gallon of paint collected by site or type of site was available, we performed an analytic review, assuming a cost per gallon for collection, transportation, and processing could be derived and then computed by site based on volume of collections. The collection volumes by site are available from the annual reports.

We obtained total collection, transportation, and processing costs from the audited financial statements for each of the years 2014 through 2016 and divided each by the respective collections volume in gallons for those years to derive a cost per gallon. For each of the three years, we calculated the costs associated with each site category as reported in the annual reports, and calculated relative percentages by site type for comparison.

Conclusion

Due to a lack of specific tracking of costs by venue on the part of PaintCare, we were unable to determine costs by type of site. As an alternative, based on our procedures, we were able to estimate based on information received, an average operating cost/gallon of paint collected across all sites and venues. Those amounts for 2014, 2015, and 2016 were $5.88, $6.16, and $6.25, respectively. These amounts were calculated as operating expenses[11] divided by collections volumes[12] for each year. Across years, we found the distribution of collection volumes and therefore costs by site type, to be consistent.

49. Identify the cause of the $314,000 budget overrun in Communications expenditures in 2015, and other factors in the spend-down of Oregon Program reserves in 2015.

PaintCare staff explained that the spend down of Oregon Program reserves in 2015 was the direct result of PaintCare management decisions to expend available monies on increased communications beyond budgeted levels in an attempt to enhance media recognition and awareness. The additional spending appears to have been informally authorized through conversation between PaintCare's Communications Manager and Executive Director.

PaintCare staff indicated that the primary goal of communications and outreach expenditures is to raise public awareness of the Program, making the public aware of Program benefits, and getting people involved in the Program. To that end and as a measure of the effectiveness of outreach efforts, PaintCare has proposed to DEQ the evaluation of specific survey results. We are aware of no other proposed or established benchmarks for evaluation of communications or outreach expenditures. Prior to 2015, the Oregon Program had a significant reserve balance and PaintCare reported that stakeholders encouraged the use of reserves in support of Program objectives related to outreach.

In addition to the decision to increase communications spending, an increase in collections volume drove operating costs up during the same period. As discussed previously, this increase in activity and costs was not timely anticipated by PaintCare management and the combined impact of the increase in collections volume and communications spend depleted Program revenues (see information provided previously in this report detailing the increase in collections volume and related operating cost increases).

[11] Operating expenses as reported in respective Annual Reports for the Oregon Program

[12] Collection volumes as reported in respective Annual Reports, adjusted for reporting errors of Stericycle and Metro

We tested detail communications expenditures to ensure that amounts were properly coded to the Oregon Program and that supporting documentation evidenced a clear relationship to program objectives and direct benefit. Our testing indicated that costs charged to the Oregon Program appeared to be properly coded. Although invoices initially provided did not carry sufficient detail to determine benefit or relationship to program objectives, PaintCare subsequently provided additional documentation supporting the items tested. Based on this information, we determined that benefit and relationship were sufficiently established.

Conclusion
Based on our procedures, the over-expenditure of DEQ approved budgeted amounts for communications in 2015 was determined to be the result of PaintCare management's decision to increase spending in this area.

50. Determine what the $57,000 in travel expenses in 2015 included:
- ***amount and make-up of in-state travel***
- ***amount and make-up of national staff travel***

PaintCare staff indicated that approximately 90% of travel expenses incurred in 2015 related to in-state visits and the other 10% were related to regional and national travel.

Additionally, we performed detail testing of travel transactions and costs to determine that supporting documentation existed, that costs were properly coded to the Oregon Program, and that there was a clear relationship of costs to program objectives and benefit to the Oregon Program. Based on our procedures, approximately 90% of travel expenses incurred in 2015 related to in-state visits and were comprised of mileage/ airfare, car rental, lodging, and meals. The remaining 10% related to travel associated with representing Oregon's interests at national and regional conferences and meetings.

Conclusion
Based on our testing, we determined that travel costs appear to be properly supported and evidence benefit to the Oregon Program as well as a relationship to program objectives.

51. Were the following expenses reasonable given PaintCare's organizational structure, particularly in light of the fact that ACA is paid for the use of its facility, office equipment, and furniture:
- ***$455,000 in Software***
- ***$70,000 for Equipment***
- ***$22,000 for Furniture***

The amounts identified by DEQ were balances for capital assets held as of December 31, 2015. The balances were comprised of:

- Software ($455,605)
  Costs related to the buildout of the PaintCare website and the construction of its new PaintCare reporting system. PaintCare's previous website and reporting system capabilities were inadequate to meet its current and future needs. Costs are capitalized and depreciated over the estimated life of the assets. A portion of the depreciation, based on Oregon's relative population, is allocated to the Oregon Program as corporate costs.
- Computer equipment ($70,000) and furnishings ($22,000):
  Comprised of laptop computers (39) purchased between 2012 and the end of 2015 and desks and office space buildout for the Outreach Team (including electrical, lighting, and floor installation). Depreciation is allocated to the Oregon Program annually as a corporate cost on the basis of the state's relative population.
- Total depreciation charges allocated to the Oregon Program:

  2015: $2,495
  2016: $3,743

The combination of the website and the reporting system allows manufacturers to report sales volumes and assessments directly to PaintCare through an established portal. As the system, over time, gains transaction history, data should be available to support statistical evaluation and trending of volumes, costs associated with those volumes, and other analyses.

Conclusion
The amounts allocated to the Oregon Program for depreciation of these assets appear reasonable and relatively minor in terms of overall impact to the Program. The reported balances appear reasonable based on our understanding of market costs for software and furnishings.

52. Identify the process and accounting software used to provide financial information.

PaintCare uses "Dynamics GP" to manage assessments and costs by individual state program. The system uses a two-segment account structure. The first segment (referred to as the "natural") identifies the type of account (i.e. revenue, expense, etc.) and the second segment is specific to the state program (i.e. Oregon). All assessments and expenses are coded using this structure to ensure proper separation of amounts between programs.

PaintCare indicated that in all months other than June and December, monthly financial statements are ready within 35-45 days after the close of the month-end. June and December's statements require additional time to prepare as they are year-end statements (some PaintCare programs operate July-June, some operate January-December) and expenses are accrued on the year-end statements.

In order for PaintCare to provide accurate and complete information for a given month, they must wait for manufacturers to calculate their monthly sales totals and report and remit assessments for that month. This typically takes approximately 30 days after month end to complete. Similarly, a significant portion of PaintCare's expenses relate to transport and processing of waste paint by outside parties. Those parties may take 30-60 days to invoice PaintCare of services after the close of the month in which those services were provided.

Conclusion
PaintCare's current ability to provided monthly financial statements appears to be largely dependent on the receipt of closing information from manufacturers (revenues to PaintCare) and vendors providing transportation and processing services (expenses to PaintCare). In order to accurately provide information for a given month, PaintCare's reporting cycle of 30-45 days following month end appears reasonable.

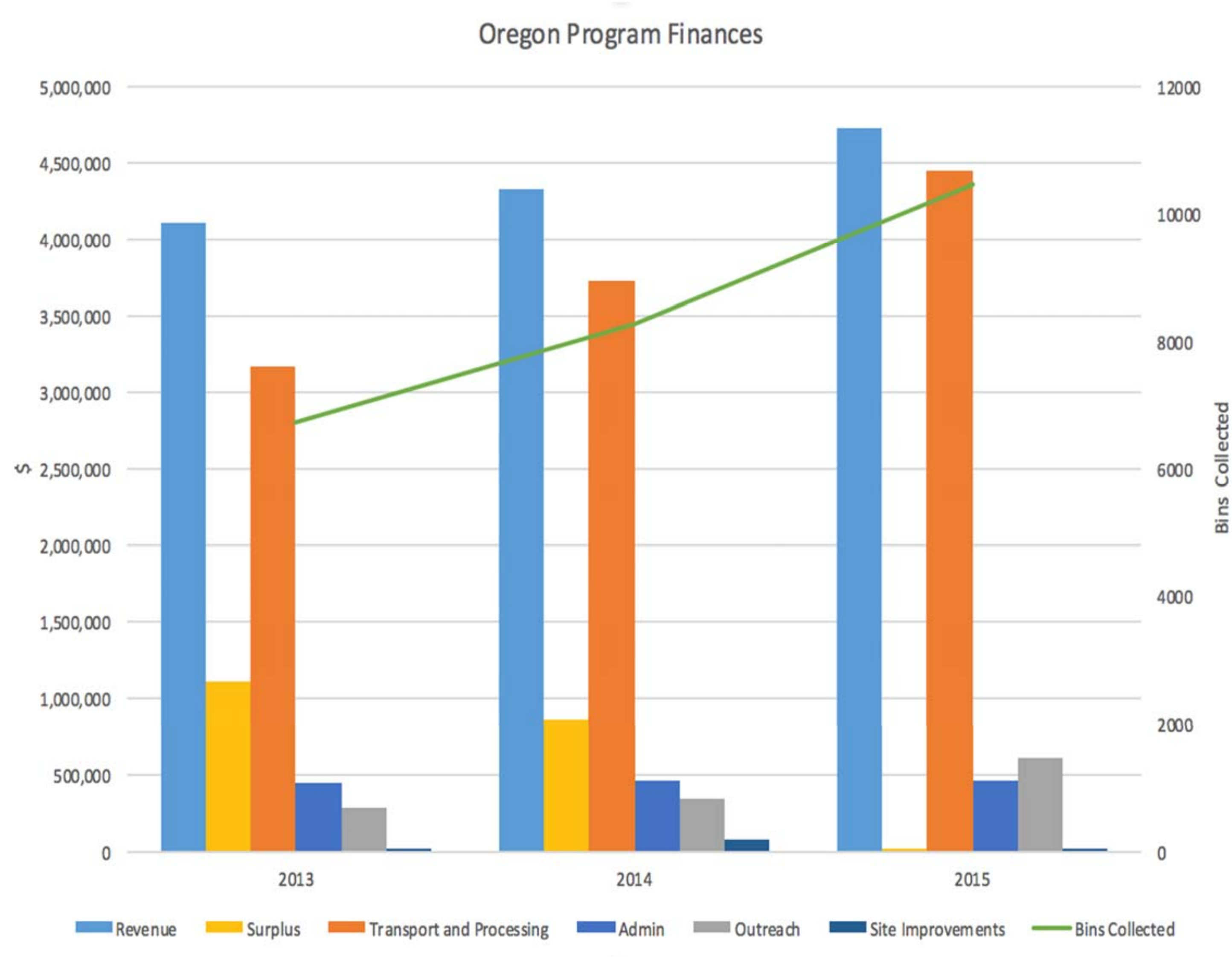
It is possible for PaintCare to produce monthly financial statements within 15 days of month-end. Although, due to the timeliness of manufacturer information required to complete reporting, those statement would be potentially incomplete.

Recommendation #18
To assist in providing meaningful information to DEQ, PaintCare should:

- assign responsibility and accountability to its Controller or CFO for the accuracy, timeliness, and completeness of financial reporting to DEQ
- work with manufacturers and vendors to obtain more timely information to accommodate reporting to DEQ, and
- use analytics to trend, estimate, etc. based on defined factors and compare to previous years or periods.

Appendix A - Oregon Program Finances

Draft



Oregon Program Finances
5,000,000
4,500,000
4,000,000
3,500,000
3,000,000
$ 2,500,000
2,000,000
1,500,000
1,000,000
500,000
0
12000
10000
8000
6000
4000
2000
0
Bins Collected
2013
2014
2015
Revenue
Surplus
Transport and Processing
Admin
Outreach
Site Improvements
Bins Collected

Appendix B - Summary of Recommendations

Throughout the report we have provided various recommendations related to specific questions raised, points made, and conclusions reached. These recommendations are intended to strengthen DEQ's oversight based on our conclusions regarding PaintCare's performance in operating the Oregon Program. The recommendations identified in the body of our report are restated here for convenience and reference.

Recommendation #1 (Page 7)
DEQ should apply best practices (as previously identified) indicating that oversight be maintained at an appropriate level to ensure Program effectiveness in line with statutory and Plan requirements, as well as operational and financial expectations.

Recommendation #2 (Page 9)

- PaintCare and DEQ should agree on specific content to be provided in monthly/quarterly reports to DEQ including but not limited to:
    f. aggregated manufacturer sales statistics,
    g. assessments revenue (actual and budget),
    h. expenses (actual and budget),
    i. aggregated collection and processing volumes, and
    j. other information directly related to established performance measures.
- PaintCare should provide reports within 30 days of the end of the quarter (or as otherwise agreed upon) using estimated amounts as necessary and truing up those estimates in subsequent periods.
- All financial information reported to DEQ should be reviewed and approved as to content and presentation by PaintCare's accounting/financial staff to ensure completeness and accuracy with respect to financial records and audited financial statements.

Recommendation #3 (Page 12)
DEQ should specifically identify and communicate applicable performance measures/benchmarks to establish a basis for the determination of the direct and/or indirect benefits of specific administrative costs to the success of the Oregon program.

Recommendation #4 (Page 18)
PaintCare should review all policies to ensure that there is clear separation in all dealings involving PaintCare and members of its Board and with ACA.

Recommendation #5 (Page 18)
PaintCare and ACA should formalize the terms of the LOC in a written agreement to substantiate the arms-length nature of the transaction.

Recommendation #6 (Page 20)
DEQ should work with PaintCare to strengthen current monitoring practices to further verify all applicable manufacturers are registered in Oregon. Monitoring should be established according to a regular, periodic schedule to better ensure compliance.

Recommendation #7 (Page 22)
If and when follow up protocols are developed by PaintCare in response to the results of the manufacturer's reporting and remittance assessments, communication with DEQ should be established to ensure an appropriate level of information is shared and any necessary adjustments to expectations, performance measures, or reporting are implemented.

Recommendation #8 (Page 24)
DEQ, in addition to strengthening its current monitoring practices (See Recommendation #7 above), should clearly communicate to PaintCare its expectations with regard to reporting of noncompliance in regard to previously unidentified brands or products noted in its interactions with retail sellers.

Recommendation #9 (Page 26)
PaintCare should pursue interim processor reporting to accommodate timely management information and decision making.

Recommendation #10 (Page 28)
PaintCare should obtain written documentation of assurances (e.g. compliance with contractual requirements, completeness and accuracy of reported statistics) from transporters if audit reports are not made available.

Recommendation #11 (Page 30)
PaintCare should consider standardizing its process for measuring, tracking and reporting of postconsumer paint disposition data based on management's and DEQ's needs.

Recommendation #12 (Page 33)
DEQ should consider establishing specific expectations/key performance metrics to ensure the intent of Oregon legislation can be quantified and the program's success/benefit can be correlated with expenditures.

Recommendation #13 (Page 35)
DEQ should establish clear expectations with PaintCare regarding information and data to be provided to DEQ in order to facilitate DEQ's enforcement of the statute.

Recommendation #14 (Page 37)
PaintCare should document interactions with resellers and retailers in support of compliance with all statutory and Plan requirements as a basis for monitoring by DEQ as appropriate. Documentation should be retained for a period sufficient to support monitoring and as required under relevant retention schedules.

Recommendation #15 (Page 38)
PaintCare should identify a potentially more meaningful basis for allocation of costs such as the average prior year(s) collection activity for each respective state as a percentage of the total. It is understood that a result of this basis may be higher costs to programs with higher collection activities (i.e. more successful programs).

Recommendation #16 (Page 44)
Working with PaintCare, DEQ should establish investment policies based on statutory provisions for Oregon local governments toward meeting its objectives for low-risk investment of Program reserves.

Recommendation #17 (Page 47)
PaintCare should capture and track collection and cost data by site in order to evaluate the relative efficiencies and effectiveness of various types of sites in meeting the Program's overall objectives.

Recommendation #18 (Page 51)
To assist in providing meaningful information to DEQ, PaintCare should:

- assign responsibility and accountability to its Controller or CFO for the accuracy, timeliness, and completeness of financial reporting to DEQ
- work with manufacturers and vendors to obtain more timely information to accommodate reporting to DEQ, and
- use analytics to trend, estimate, etc. based on defined factors and compare to previous years or periods.