

**REQUEST FOR APPROVAL**

**To:** Scott Smithline  
Director

**From:** Clark Williams  
Branch Chief, Statewide Technical and Analytical Resources  
Branch

**Request Date:** September 17, 2019

**Decision Subject:** Approval of Annual CalRecycle Architectural Paint Stewardship Program Administrative Fee, July 1, 2018—June 30, 2019

**Action By:** September 30, 2019

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**Summary of Request:**

Staff request approval of the annual CalRecycle architectural paint stewardship program administrative fee for the period of July 1, 2018 through June 30, 2019, as directed by the Architectural Paint Recovery Law (Chapter 5, Statutes of 2010 [Huffman, AB 1343], Public Resources Code §§ 48700 - 48706) and § 18958 of Title 14 of the California Code of Regulations.

**Recommendation:**

Staff recommend approval of the annual CalRecycle architectural paint stewardship program administrative fee as meeting statutory and regulatory requirements.

**Action:**

On the basis of the information, analysis, and findings in this Request for Approval, I hereby approve the annual CalRecycle architectural paint stewardship program administrative fee of \$224,525.69 for the period of July 1, 2018 through June 30, 2019.

**Dated:** *September 26, 2019*

Signed by Ken DaRosa, Chief Deputy Director, on behalf of Scott Smithline, Director

**Scott Smithline**, Director

## **Background Information:**

Assembly Bill (AB) 1343 (Chapter 5, Statutes of 2010) established the second mandatory, industry-led architectural paint stewardship program in the country. Pursuant to AB 1343, it is the responsibility of the Department to approve or disapprove architectural paint stewardship plans submitted by architectural paint manufacturers or their designated stewardship organization, review annual reports and adopt a finding of compliance or non-compliance, and provide oversight and enforcement to ensure a level playing field among manufacturers. Paint manufacturers and/or stewardship organizations must pay CalRecycle an administrative fee to cover the Department's costs related to these responsibilities.

AB 1343 specified that an administrative fee was to be paid annually. Senate Bill 96 (Chapter 356, Statutes of 2013) subsequently modified this payment structure to require a stewardship organization to pay this fee to CalRecycle quarterly. However, § 18958(a) of Title 14 of the California Code of Regulations states that the Department Director, or his/her delegated authority, shall approve the annual administrative fee described in AB 1343 for the full administration and enforcement costs at a public meeting that will occur no later than September 30 of each year. In order to comply with the regulations requiring annual approval of the administrative fee at a public meeting, the Department has totaled the fee billed to PaintCare for quarters one through four of fiscal year 2018-19. Accordingly, the total fee reflects the Department's actual costs to administer and enforce the Architectural Paint Recovery Program for the period from July 1, 2018, through June 30, 2019. The Department's administrative fee includes the cost of staff salaries, overhead expenses applicable to staff, and other expenses incurred in administering or enforcing the program.

## **Analysis:**

### Administrative Fee Total

The total administrative fee for the period of July 1, 2018—June 30, 2019 is \$224,525.69

### Summary of CalRecycle Activities

CalRecycle tracked the hours each staff person spent on activities related to the implementation of the Department's responsibilities under the law. These activities include:

- Monitoring PaintCare program implementation, including review and analysis of PaintCare's Year 6 Annual Report.
- Drafting of staff's Request for Approval regarding Compliance of PaintCare's Year 6 Annual Report and presenting staff's findings at a monthly public meeting.
- Coordination with PaintCare to effectively implement the Architectural Paint Recovery Program, including regularly-scheduled coordination meetings and phone and e-mail communications.
- On-going maintenance of the Department's compliance and enforcement procedures to ensure the oversight of the Architectural Paint Recovery Law is fair and effective.

- Inspections of paint retailers and site visits to paint recyclers, transfer stations, and household hazardous waste facilities; development of inspection reports.
- Maintenance of paint stewardship program-related webpage content, including regular posting of registered paint manufacturer and brand lists.
- Communication with stakeholders via meetings, phone calls and e-mail inquiries, etc.
- Administration (e.g., tracking and documentation of staff hours).

CalRecycle costs are comprised of percentages of staff time from the Department's Materials Management and Local Assistance, Information Technology, Administration, Waste Evaluation and Enforcement, Audits, and Legal programs. CalRecycle staff reviewed the administrative fee per the requirements of the statute and regulations and found that it conforms to those requirements. Staff therefore recommend approval of the annual administrative fee summarized above.