

Paint Stewardship Informal Regulatory Concepts Workshop

August 26, 2024

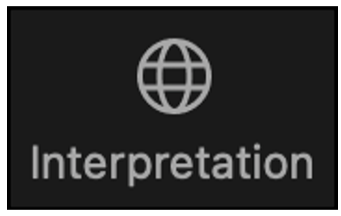
California Department of
Resources Recycling and Recovery



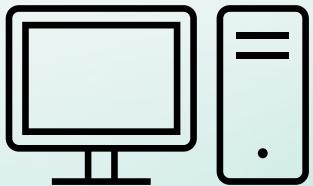
Interpretation Services | Servicios de Interpretación



In Person – Ask our team for a translation headset
En persona – Solicite asistencia si necesita audífonos de traducción



Zoom – Select your language on the Interpretation icon
Zoom - Seleccione su idioma en el icono Interpretación



Webcast - <https://video.calepa.ca.gov/#/>
Transmisión en línea - <https://video.calepa.ca.gov/#/>

Disclaimer

This communication is neither intended to, nor does it constitute definitive legal counseling, conclusions, or advice in any way. Instead, the contents of this communication and any analysis, guidance, or other information is intended to objectively address the questions presented based on the current existing, known facts and legal authority as described to and understood by the author and/or CalRecycle at the time of this communication. Please be advised that any relevant facts or legal authority or authorities that are undisclosed or unknown at the time of this communication may affect or alter any analysis, guidance, or other information herein. Please be further advised that any analysis, guidance, or other information herein may be subject to change and/or correction based on changed facts or legal authority, actual or understood, subsequent to the time of this communication. No analysis, guidance, or other information herein should be construed as a waiver of any rights or remedies available to CalRecycle. Recipients of this communication are encouraged to seek the assistance of legal counsel to comply with applicable state law based on current facts and circumstances.

Agenda

Introduction and Background

Cynthia Dunn, Environmental Program Manager, Product Stewardship Section

Emma Cervantes, Attorney, Regulations Unit

Laura Morgan, Environmental Scientist, EPR Unit

Part I: Proposed Regulation Concepts

Laura Morgan and Stephanie Fernandes, Environmental Scientists, EPR Unit

Trevor O'Shaughnessy, Environmental Program Manager, Jurisdiction, Product and Enforcement Section

Part II: Request for Data to Support Economic Analysis

Stephanie Fernandes, Environmental Scientist, EPR Unit

Public Feedback Regarding Workshop Contents

Closing Remarks

Discussion Document

- **Part I: Proposed Regulation Concepts**
 - **Topic 1: Definitions**
 - **Topic 2: Plan and Annual Report Submittals**
 - **Topic 3: Plan and Annual Report Requirements**
 - **Topic 4: Procedure for Imposing Administrative Civil Penalties**
 - **Topic 5: Other Regulation Concepts**
- **Part II: Request for Data to Support Economic Analysis**

**Follow along in the
Discussion Document**

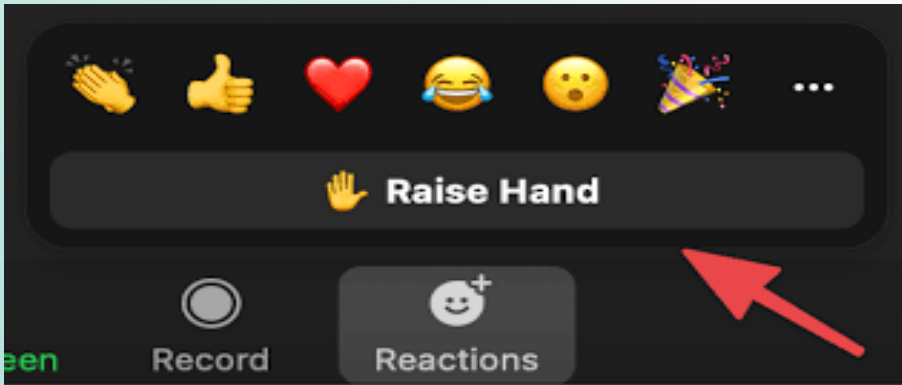


Submitting Questions and Feedback

- To make a comment in-person, please line up at the podium
- To make an oral comment via Zoom, please raise your hand and the host will unmute you

Submit written feedback or questions after today's presentation by **September 9, 2024:**

- via CalRecycle's public comment portal: [Paint Stewardship Informal Workshop Comment Period](#)
- via email to regulations@calrecycle.ca.gov with the subject line "August 2024 Paint Stewardship Workshop"



Rulemaking Overview

**Department of Resources Recycling and Recovery,
Regulations Unit**

Emma Cervantes

Attorney

Rulemaking Process

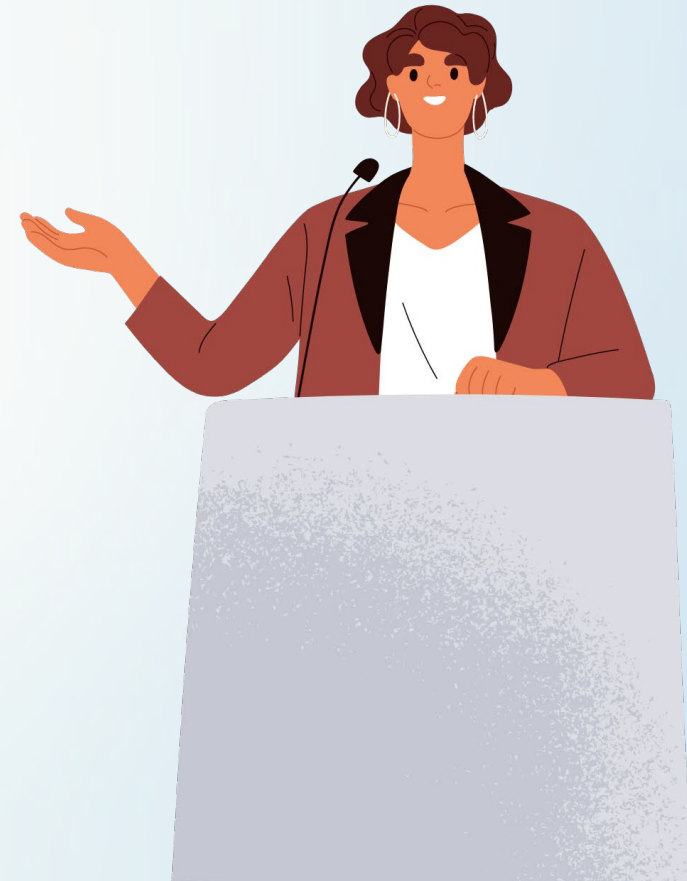
From Broad Strokes to Detailed Rules



Regulations are rules, orders, and standards that implement, interpret, and clarify a law.

CalRecycle Welcomes Input on AB 1526

- CalRecycle welcomes questions and feedback
- CalRecycle staff reads every comment
- CalRecycle wants to hear how potential regulations impact industry
- Public comments influence regulations



Rulemaking Process at CalRecycle

1

Concept Development

- Develop regulatory concepts
- Hold informal workshops
- Public outreach

2

Informal Rulemaking

- Develop rulemaking documents
- Hold informal workshops
- Public outreach
- Initial Economic Impact analysis
- Department and Agency approval

3

Formal Rulemaking

- Publication in the Notice Register
- Send notice package to interested parties
- Post on Department webpage
- Begin 45-Day Public Comment period

4

45-Day Public Comment Period

- Opportunity to provide written comments
- Public hearing
- Review public comments and revise regulations

Process continue to the next slide ➡

Rulemaking Process at CalRecycle

5

Additional Comment Period(s)

- Propose changes to regulatory language
- Review public comments and revise regulations

6

Final Approvals and Adoption

- Department of Finance approval of Fiscal and Economic Impact Assessments
- Department adoption of regulation text

7

Submit Final Rulemaking Package to Office of Administrative Law (OAL)

- Must be within one year of the Notice publication date
- OAL 30 working day Review Period

8

Regulations Become Effective

Architectural Paint Stewardship Program Overview

**Department of Resources Recycling and Recovery
Product Stewardship Section, EPR Unit**

Laura Morgan
Environmental Scientist

Architectural Paint Stewardship Law

- California's Architectural Paint Stewardship Program:
 - Run by PaintCare, the nonprofit stewardship organization created by paint manufacturers
 - Overseen and enforced by CalRecycle
- Assembly Bill 1343 passed in 2010
- PaintCare began implementation in October 2012



Architectural Paint Stewardship Program Summary

- **Original scope of products:** interior and exterior architectural coatings (latex and oil-based paint)
- **Funding:** Assessment applied to purchase price of paint based on container size
- **Collection:** Drop-off sites primarily at retailers and household hazardous waste (HHW) facilities; large volume pickup
- **Product management:**
 - Latex paint – reuse, paint-to-paint recycling, disposal
 - Oil-based paint – reuse, energy recovery, incineration

Architectural Paint Stewardship Program Roles

CalRecycle:

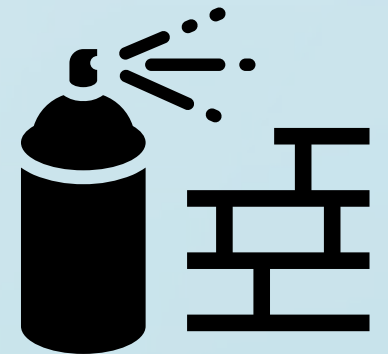
- Review and approve plans
- Review annual reports
- Oversee and enforce
- Post lists of registered manufacturers and brands

Stewardship Organization:

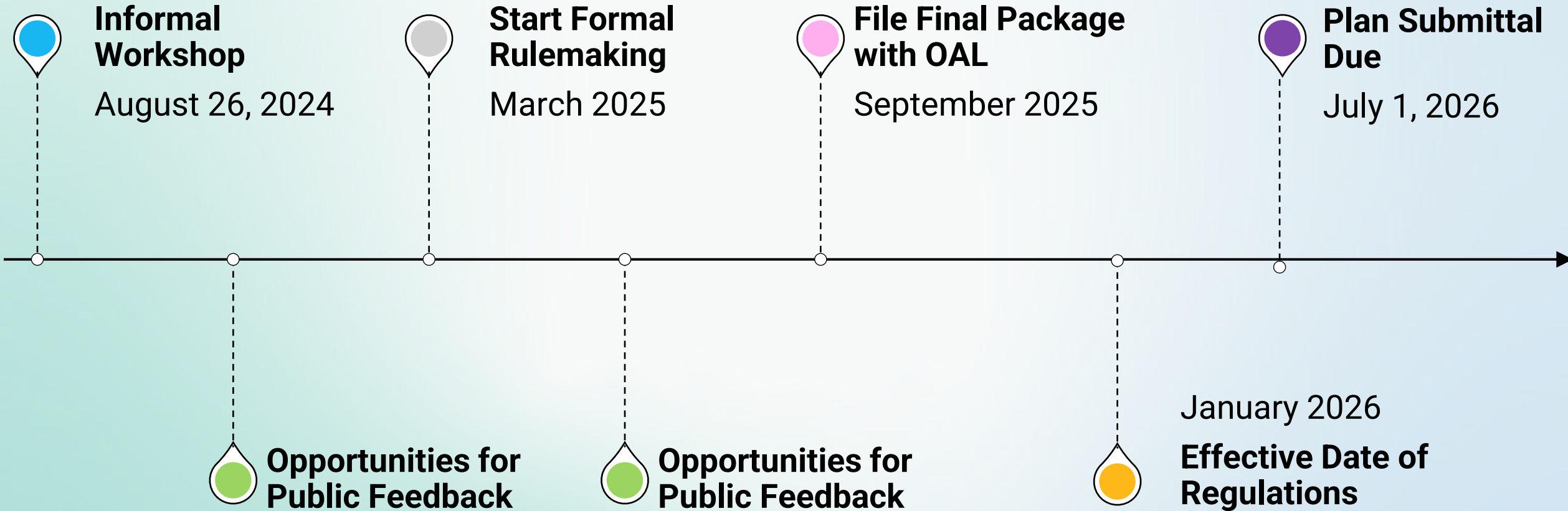
- Develop and implement a program to collect, transport, and process postconsumer paint
- Submit plans and annual reports

Amended by Assembly Bill 1526 in 2023

- Added aerosol coating products
- Changed reporting period from fiscal year (July to June) to calendar year (January to December)
- Changed annual report due date to May 15



AB 1526 Rulemaking Timeline



Part I: Proposed Regulation Concepts

**Department of Resources Recycling and Recovery
Product Stewardship Section, EPR Unit**

Stephanie Fernandes
Environmental Scientist

Part I: Proposed Regulation Concepts

Topic 1: Definitions

Topic 2: Plan and Annual Report Submittals

Topic 3: Plan and Annual Report Requirements

Topic 4: Procedure for Imposing Administrative Civil Penalties

Topic 5: Other Regulation Concepts

Part I: Proposed Regulation Concepts

Topic 1. Definitions

**Department of Resources Recycling and Recovery
Product Stewardship Section, EPR Unit**

Stephanie Fernandes
Environmental Scientist

Proposed Regulation Concepts

Topic 1. Definitions

CalRecycle proposes clarifying the following definitions (14 CCR section 18951):

- “Aerosol Coating Product” and related definitions, including graffiti remover, ground traffic or marking application, paint remover, paint thinner, pigment, propellant, and resin.
 - “Manufacturer”
 - “Nonprofit Organization”
 - “Significant or Material Change”
-

Topic 1. Definitions – “Aerosol Coating Product”

Statutory Overview

PRC section 48701. For purposes of this chapter, the following terms have the following meanings:

- (a) (1) “Aerosol coating product” means a pressurized coating product containing **pigments** or **resins** dispensed by means of a **propellant** and packaged and sold in a disposable aerosol container for handheld application, or for use in specialized equipment for **ground traffic or marking applications**.
- (2) “Aerosol coating product” does not include **paint thinner, paint remover, graffiti remover**, caulking compounds that contain no appreciable level of opaque fillers or pigments, products subject to Article 1 (commencing with Section 94500) or Article 2 (commencing with Section 94507) of Subchapter 8.5 of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations, or other nonaerosol coating products not regulated under Article 3 (commencing with Section 94520) of Subchapter 8.5 of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations.

Proposed Regulation Concepts

Topic 1. Definitions - “Graffiti Remover”

CalRecycle proposes amending the California Code of Regulations, title 14 (14 CCR), section 18951 to clarify:

“Graffiti Remover” means a product labeled to remove spray paint, ink, marker, crayon, lipstick, nail polish, or shoe polish, from a variety of noncloth or nonfabric substrates.

Proposed Regulation Concepts

Topic 1. Definitions - “Ground Traffic or Marking Application”

CalRecycle proposes amending 14 CCR section 18951 to clarify:

“Ground traffic or marking application” means an “aerosol coating product” designed and labeled exclusively to be used in specialized equipment and applied to dirt, gravel, grass, concrete, asphalt, warehouse floors, or parking lots. Aerosol coatings products used for ground traffic or marking applications must be in a container equipped with a valve and spray head designed to direct the spray toward the surface when the can is held in an inverted vertical position.

Proposed Regulation Concepts

Topic 1. Definitions - “Paint Remover”

CalRecycle proposes amending 14 CCR section 18951 to clarify:

“Paint Remover” means any product designed to strip or remove paints or other related coatings, by chemical action, from a substrate without markedly affecting the substrate.

Proposed Regulation Concepts

Topic 1. Definitions - “Paint Thinner”

CalRecycle proposes amending 14 CCR section 18951 to clarify:

“Paint thinner” means any product that is designed or labeled to reduce the viscosity of coating compositions or components, or a product that prominently displays terms such as “Paint Thinner,” “Lacquer Thinner,” “Thinner,” or “Reducer” on the label.

Proposed Regulation Concepts

Topic 1. Definitions - “Pigment”

CalRecycle proposes amending 14 CCR section 18951 to clarify:

“Pigment” means any nonvolatile ingredient of either natural or synthetic insoluble material added to a coating to provide color, opacity, or corrosion inhibition to a coating film.

Proposed Regulation Concepts

Topic 1. Definitions - “Propellant”

CalRecycle proposes amending 14 CCR section 18951 to clarify:

“Propellant” means a liquefied or compressed gas that is used in whole or in part to expel a liquid or any other material from the same self-pressurized container or from a separate container.

Proposed Regulation Concepts

Topic 1. Definitions - “Resin”

CalRecycle proposes amending 14 CCR section 18951 to clarify:

“Resin” means any nonvolatile ingredient that comprises film-forming ingredients. Examples of resin ingredients include acrylic, alkyd, enamel, epoxy, lacquer, polyurethane, polyvinyl chloride, shellac, silicone, and polystyrene.

Proposed Regulation Concepts

Topic 1. Definitions - “Manufacturer”

PRC section 48701(f) “Manufacturer” means a manufacturer of architectural paint.

CalRecycle proposes to clarify “manufacturer” using a tiered definition:

1. Manufacturer
2. Importer
3. Retailer or Distributor

Proposed Regulation Concepts

Topic 1. Definitions - “Nonprofit Organization”

PRC section 48701(i) “Stewardship organization” means a nonprofit organization created by the manufacturers to implement the architectural paint stewardship program described in Section 48703.

CalRecycle proposes defining “nonprofit organization” as a 501(c)(3) organization.

Proposed Regulation Concepts

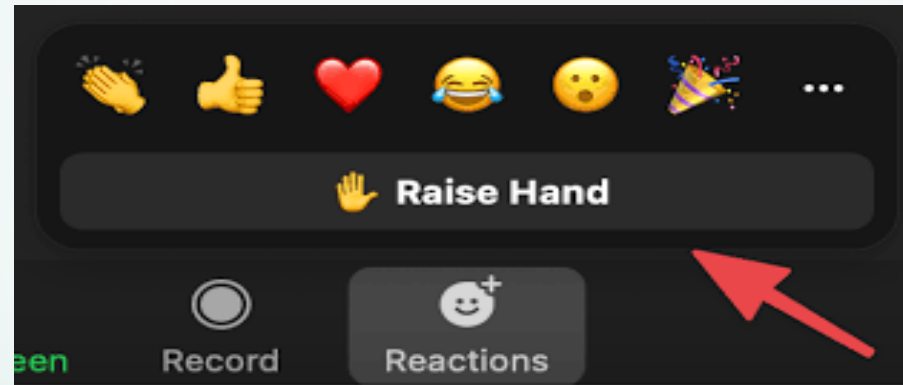
Topic 1. Definitions - “Significant or Material Change”

14 CCR section 18951(i) “Significant or material change” means any modification of the assessment previously approved by the department.

CalRecycle is considering whether other changes should require submittal of an updated plan, for example, changes to program goals.

Questions and Comments

- To make a comment in-person, please line up at the podium
- To make an oral comment via Zoom, please raise your hand and the host will unmute you



Topic 1. Definitions

Request for Feedback

1. How might the proposed terms be more appropriately defined?
2. Are there any other terms that should be defined?
3. Are there any other specifications that should be considered for the “nonprofit organization” definition besides a 501(c)(3) requirement (e.g., where it is incorporated, etc.)?
4. What other changes, besides changes to program goals and modifications to the assessment, should be included in the definition of “significant or material change”?

Part I: Proposed Regulation Concepts

Topic 2. Plan and Annual Report Submittals

**Department of Resources Recycling and Recovery
Product Stewardship Section, EPR Unit**

Stephanie Fernandes
Environmental Scientist

Proposed Regulation Concepts

Topic 2. Plan and Annual Report Submittals

- Remove hard copy submittal requirement
 - Remove requirement to follow a specific outline
 - Remove completeness review requirement
 - Require submittals to be web accessible
 - Require cover letter for confidential information
-

Proposed Regulation Concepts

Topic 2. Plan and Annual Report Submittals

Remove Unnecessary Requirements

CalRecycle proposes amending 14 CCR section 18952 to remove the following:

- Requirement to submit hard copies of plans and annual reports (sections 18952(b) and 18952(c))
- Requirement to follow a specific outline for plans and annual reports (sections 18952(b)(1)) and 18952(c)(1))
- Requirement for CalRecycle to determine whether a plan or annual report is complete prior to reviewing for compliance (sections 18952(b)(2) and 18952(c)(2))

Proposed Regulation Concepts

Topic 2. Plan and Annual Report Submittals

Require Submittals to be Web Accessible

CalRecycle proposes amending 14 CCR section 18952 to add:

A requirement for manufacturers or stewardship organizations to submit web accessible plans (section 18952(b)) and annual reports (section 18952(c)).

Proposed Regulation Concepts

Topic 2. Plan and Annual Report Submittals

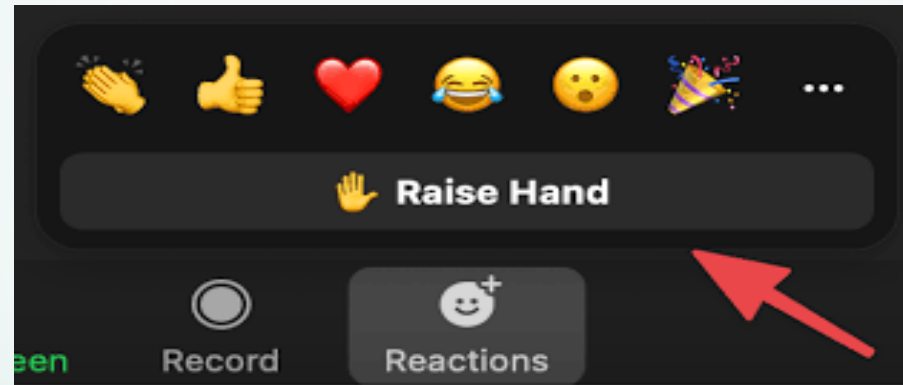
Require Cover Letter for Confidential Information

CalRecycle proposes amending 14 CCR section 18952 to add:

A requirement for manufacturers or stewardship organizations to include a cover letter with submittals that describes any confidential information. If no cover letter is provided, CalRecycle would consider all information provided to be public.

Questions and Comments

- To make a comment in-person, please line up at the podium
- To make an oral comment via Zoom, please raise your hand and the host will unmute you



Topic 2. Plan and Annual Report Submittals

Request for Feedback

1. Are the proposed concepts sufficient to implement statute?
2. Are there any other concepts that CalRecycle should interpret or clarify related to plan and annual report submittals?

Part I: Proposed Regulation Concepts

Topic 3. Plan and Annual Report Requirements

**Department of Resources Recycling and Recovery
Product Stewardship Section, EPR Unit**

Laura Morgan
Environmental Scientist

Proposed Regulation Concepts

Topic 3. Plan and Annual Report Requirements

- Amend goal methodology requirement
 - Clarify types of architectural paint described
 - Clarify reporting requirement for architectural paint recovery
 - Add disposition reporting requirement for containers
 - Amend terminology of HHW and retailer coordination requirement
-

Proposed Regulation Concepts

Topic 3. Plan and Annual Report Requirements

Amend Goal Methodology Requirement

CalRecycle proposes amending 14 CCR section 18953 to:

Replace existing requirement to estimate the amount of paint available for collection with a more applicable requirement to describe the methodology, including metrics used to establish architectural paint program goals that will be used to report annually pursuant to section 18954.

Topic 3. Plan and Annual Report Requirements

Clarify Types of Architectural Paint Described

Regulations require plans and annual reports to describe specific activities by “type” of architectural paint.

CalRecycle proposes amending 14 CCR sections 18953 and 18954 to clarify that “type” includes the following:

- Latex paint
- Oil-based paint
- Aerosol coating products

Proposed Regulation Concepts

Topic 3. Plan and Annual Report Requirements

Clarify Reporting Requirement for Architectural Paint Recovery

CalRecycle proposes amending 14 CCR section 18954 to:

- Clarify that annual reports must report:
 - The total volume of latex paint and oil-based paint recovered
 - The amount of leftover aerosol coating product and leftover propellant recovered, if this information is available
- Clarify that annual reports must report on aerosol coating product recovery starting with the report submitted in 2028

Topic 3. Plan and Annual Report Requirements Include Disposition Reporting Requirement for Containers

CalRecycle proposes amending 14 CCR sections 18953 and 18954 to require:

- Plan: A description of how architectural paint containers will be managed, including recycling
- Annual report: The estimated number of containers collected, by type, and sent to each disposition method, such as recycling, landfill, and incineration

Proposed Regulation Concepts

Topic 3. Plan and Annual Report Requirements

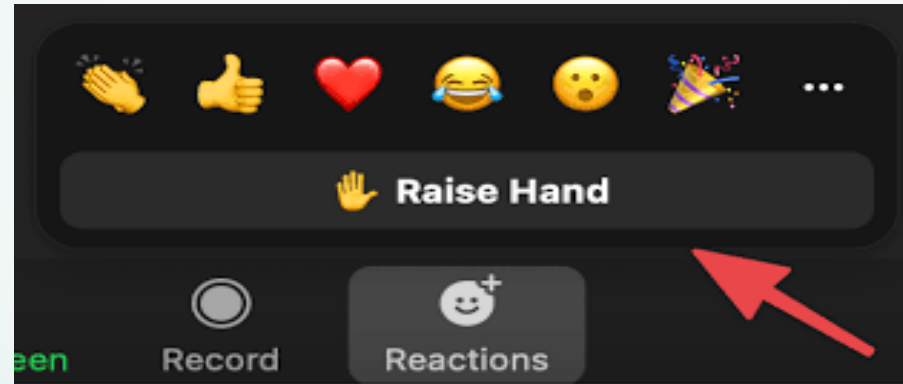
Amend Terminology of HHW and Retailer Coordination Requirement

CalRecycle proposes amending 14 CCR section 18954 to:

Require the annual report to include a **description, rather than a statement**, of how the manufacturer or stewardship organization coordinated with existing household hazardous waste collection programs and retailers.

Questions and Comments

- To make a comment in-person, please line up at the podium
- To make an oral comment via Zoom, please raise your hand and the host will unmute you



Topic 3. Plan and Annual Report Requirements

Request for Feedback

1. Are the proposed concepts sufficient to implement statute?
2. Are there any other concepts that CalRecycle should interpret or clarify related to plan and annual report requirements?
3. What is an appropriate metric for reporting aerosol coating product recovery (e.g., number of containers, volume, etc.)?
4. Are the listed disposition methods for containers appropriate (e.g., recycling, landfill, and incineration)? Should other container disposition methods be listed?

Part I: Proposed Regulation Concepts

Topic 4. Procedure for Imposing Administrative Civil Penalties

**Department of Resources Recycling and Recovery
Jurisdiction, Product and Enforcement Section**

Trevor O'Shaughnessy
Environmental Program Manager

Proposed Regulation Concepts

Topic 4. Procedure for Imposing Administrative Civil Penalties

Amend existing language to allow CalRecycle discretion to choose the process for imposing civil penalties.

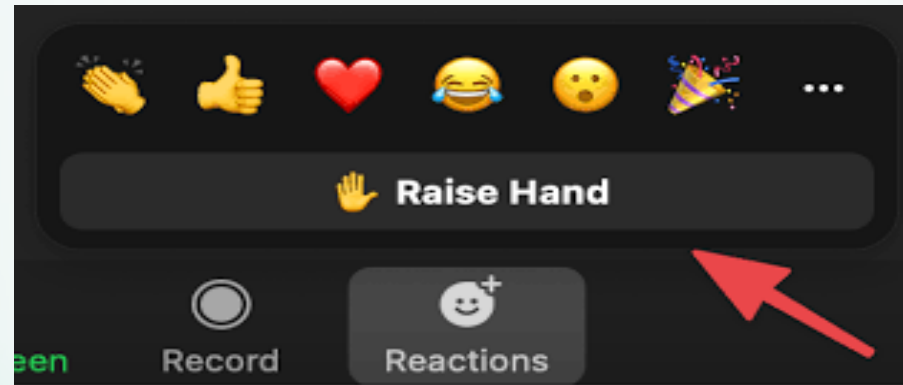
CalRecycle proposes amending 14 CCR section 18955.3 to clarify the process options CalRecycle will use for imposing Civil Penalties:

The two process options are:

1. Conducting administrative hearings using CalRecycle's administrative hearing process
2. Conducting administrative hearings using the Office of Administrative Hearings (OAH) and an assigned Administrative Law Judge (ALJ)

Questions and Comments

- To make a comment in-person, please line up at the podium
- To make an oral comment via Zoom, please raise your hand and the host will unmute you



Topic 4. Procedure for Imposing Administrative Civil Penalties

Request for Feedback

1. Are the proposed concepts sufficient to implement statute?
2. Are there any other concepts that CalRecycle should interpret or clarify?

Part I: Proposed Regulation Concepts

Topic 5. Other Regulation Concepts

**Department of Resources Recycling and Recovery
Product Stewardship Section, EPR Unit**

Laura Morgan
Environmental Scientist

Proposed Regulation Concepts

Topic 5. Other Regulation Concepts

- Remove unnecessary billing language
 - Update plan and annual report section titles
 - Remove section symbol
 - Clean up spelling and grammar
-

Proposed Regulation Concepts

Topic 5. Other Regulation Concepts

Remove Unnecessary Billing Requirements

CalRecycle proposes amending 14 CCR section 18958 to remove requirements for CalRecycle to:

- Retroactively approve CalRecycle's annual administrative fee at a public meeting
- Prorate CalRecycle's fee when there is more than one stewardship plan

Proposed Regulation Concepts

Topic 5. Other Regulation Concepts

Update Section Titles

CalRecycle proposes updating the titles of 14 CCR sections 18953 and 18954 as follows:

- Update section 18953 from “Stewardship Plan Approval Criteria” to “Stewardship Plan”
- Update section 18954 from “Annual Report Compliance Criteria” to “Annual Report”

Proposed Regulation Concepts

Topic 5. Other Regulation Concepts

Remove Section Symbol

CalRecycle will amend 14 CCR sections 18950 to 18958 to:

Replace the section symbol (§) with the word “section” throughout to make the regulations more web accessible.

Topic 5. Other Regulation Concepts

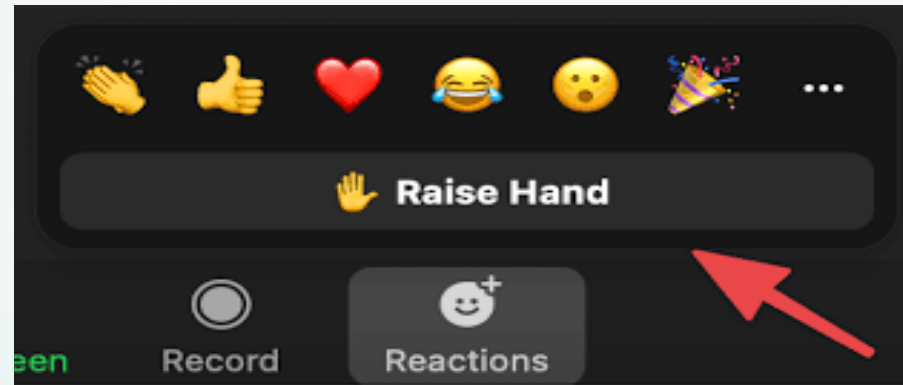
Spelling and Grammar Amendments

CalRecycle proposes amending 14 CCR sections 18950 to 18958 to:

- Clean up misspelled words, punctuation, or grammar errors
- Update terms, where needed, for consistency throughout regulations (e.g., architectural paint stewardship plan instead of plan, stewardship plan, paint stewardship plan)

Questions and Comments

- To make a comment in-person, please line up at the podium
- To make an oral comment via Zoom, please raise your hand and the host will unmute you



Topic 5. Other Regulation Concepts

Request for Feedback

1. Are the proposed concepts sufficient to implement statute?
2. Are there any other concepts that CalRecycle should interpret or clarify?

Part II: Economic Analysis and Data Request

**Department of Resources Recycling and Recovery
Product Stewardship Section, EPR Unit**

Stephanie Fernandes
Environmental Scientist

Economic Analysis for Rulemaking Overview

The economic analysis includes information on the estimated monetary cost of the proposed regulation on the private sector and government. Rules governing the Form STD. 399 can be found in the State Administrative Manual, sections 6601 through 6615.

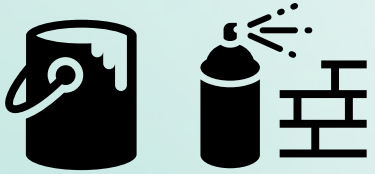
CalRecycle is responsible for understanding impacted parties and estimating costs and benefits.

Economic Analysis: Potentially Impacted Parties



- 1) Manufacturers
- 2) Retailers
- 3) Consumers
- 4) Stewardship Organizations
- 5) Collection sites
- 6) Local governments
- 7) State government
- 8) Waster haulers
- 9) Recyclers and Processors

Economic Analysis: Examples of Costs



Stewardship Organization:

Initial Cost: purchase and installation of aerosol collection bins

Ongoing Costs: collection, transportation, processing, and education and outreach costs. Annual reporting costs



Recycler or Processor:

Initial Cost: additional equipment

Ongoing Cost: additional staff and maintenance of equipment

Economic Analysis: Current Program Costs

Data from PaintCare's 2023 Annual Report

Total Program Cost: \$38,409,328

- Collection: \$3,637,199
- Transportation: \$4,108,780
- Processing: \$18,398,323
- Education and Outreach: \$4,624,855



Economic Analysis: Examples of Benefits



Quantitative:

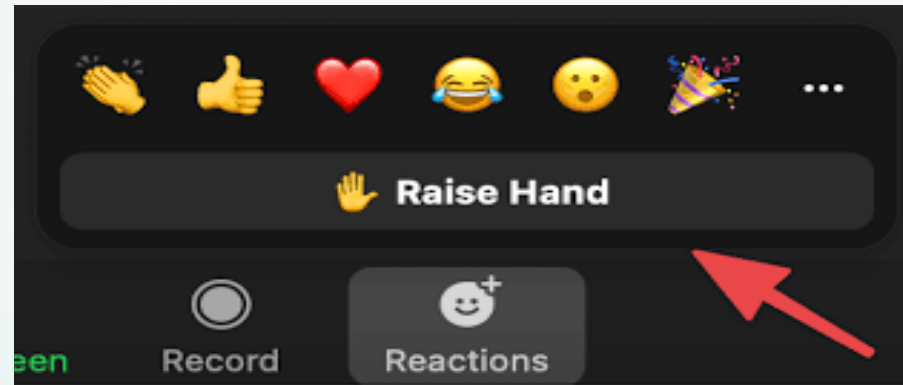
- Local government cost savings from aerosol coating product management

Qualitative:

- Improved air quality from proper management of aerosol coating products

Questions and Comments

- To make a comment in-person, please line up at the podium
- To make an oral comment via Zoom, please raise your hand and the host will unmute you



Request for Economic Data and Feedback

Impacted Parties

1. Are there any other impacted parties that should be included in the economic analysis?

Costs

1. How will costs increase compared to current program costs (e.g., a percent increase)?
2. What types of costs are incurred for each collection site, including initial and ongoing costs, and what specific expenses are included?
3. How do costs scale with increased processing volumes, considering both initial setup costs and ongoing operational costs?
4. What additional costs are incurred?

Benefits

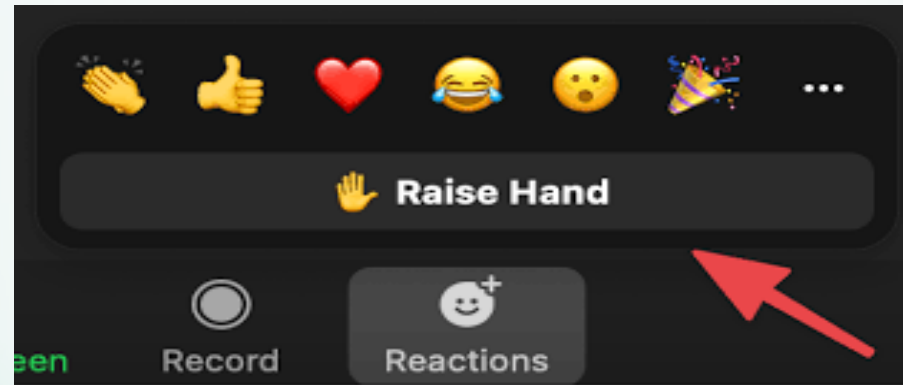
1. What other qualitative or quantitative benefits might be realized (e.g., by California residents, workers, or the environment)?

Public Feedback Regarding Informal Workshop Contents

Department of Resources Recycling and Recovery

Questions and Comments

- To make a comment in-person, please line up at the podium
- To make an oral comment via Zoom, please raise your hand and the host will unmute you



Opportunity for Written Feedback

Written feedback and questions may be submitted after the workshop, in one of the following ways:

- CalRecycle's public comment portal: [Paint Stewardship Informal Rulemaking Comment Period](#)
- Email regulations@CalRecycle.ca.gov with subject line "August 2024 Paint Stewardship Workshop"

We request all written feedback **by September 9, 2024.**



Ways to stay informed



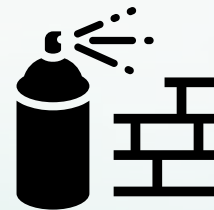
Sign-up for information related to regulations specific to the Paint Stewardship Program

[Paint Stewardship Listserv](#)



Regulations Unit Email for information about the rulemaking process:

Regulations@CalRecycle.ca.gov



Paint Stewardship Team Email for program questions or comments:

Paint@CalRecycle.ca.gov