PRODUCT STEWARDSHIP PRINCIPLES FOR EFFECTIVE POST-CONSUMER PAINT MANAGEMENT

Introduction

The development of effective, economical programs for the proper management of post-consumer paint is in the best interest of industry, government, and the public. The following post-consumer paint management policy document outlines many of the components and issues that associations may consider when contemplating how to address the issue of post-consumer paint. The document is meant to serve as guidance in the development of a policy that addresses how industry can step forward to implement and manage a post-consumer paint waste program.

Under Extended Producer Responsibility Programs (EPR), Canadian paint manufactures were responsible for the recovering of more than 25 million kilograms of paint in Canada in 2013.

Product Stewardship Principles

Product stewardship is an approach in which manufacturers, retailers, governments, consumers and others share responsibility for reducing the negative impacts to human health and the environment that result from the production, use and end of life management of a product. Product stewardship systems seek to apportion responsibility for providing programs information, logistics for end of life management of products, and funding. Key elements of such a program include:

- Participants in a product’s life cycle with responsibility for stewardship include the manufacturer, distributor, retailer, consumer, waste management company and local government;
• Product manufacturers should strive to ensure that their product and packaging create the least impact on human health and the environment while being functional and cost-effective for the consumer;

• The goal of effective market-based Product Stewardship program should be to reduce environmental impacts; through tools such as:
  o Source reduction;
  o Use of recycled content and packaging;
  o Use of easily recyclable materials;
  o Increased acceptance of products and packaging for recycling or proper disposal.

Product stewardship is NOT a principle for merely shifting the cost burden for product end-of-life management to producers. Producers establishing end-of-life management programs for their products should finance and operate their own privatized and market-based systems.

Instead of requiring local governments to fund collection and recovery programs for post-consumer paint waste, a paint stewardship program may incorporate the cost of disposal or recovery into the cost of the product. As a result, those costs are borne jointly by the producer and the consumer, not by local government and taxpayers. Additionally, product stewardship relies on a performance driven approach where the government’s role is primarily one of oversight and the programs are developed and implemented by manufacturers and the privately run stewardship organizations they employ to assure that performance goals are met. This is a “minimal government” approach, which can be efficiently accomplished with relatively few public resources.

*Canada leads the world in post-consumer paint recycling with a robust post-consumer paint recovery program in every Canadian province.*

**Consistency/Harmonization**

As with any new concept or process, it is essential that terms and their usage are universally understood by all the stakeholders. For example, stakeholders may know the general term “product stewardship” but may have a different perspective regarding its practical application. Governments may consider product stewardship in a waste management compliance sense, such as when producer responsibility laws require that the producer take back its products at their end of life. However, a producer may consider product stewardship in an engineering sense, such as when a producer strives to make their products less toxic. Both stakeholders are correct,
however the focus of their efforts may not be the same. As associations discuss post-consumer paint management, it is critical that the regulated community, which could include producers, retailers, recyclers and others, understands the terms used.

*Effective post-consumer paint management in Canada, while the responsibility of the producer or brand owner, has experienced great success because of the expertise of the many service providers in waste management, municipalities and effective recycling.*

**Legislative Considerations**

Legislation and accompanying regulations (or some form of government oversight) should be utilized in order to protect industry from anti-competitive implications, particularly with respect to the financing mechanism. Legislation should seek to create a level playing field among paint manufacturers. To ensure fairness and a level playing field, authorities need a way to verify information provided in producer reports and apply some type of penalty for producers who chose not to participate in a product stewardship program, when required by law. A common penalty is to restrict a product’s market access. For example, a producer loses the right to sell its product in a jurisdiction if it is in violation of the stewardship program. Another penalty is to issue a financial civil penalty. Legislation should also consider the cooperation between current government infrastructure and industry to share the cost and responsibility of managing post-consumer waste. If available, existing government collection and infrastructure should be utilized; and where non-existent, the program may need to subsidize new collection infrastructure.

**Stewardship Organization**

Stewardship organizations, which are also referred to as “third-party organizations,” are often non-profit organizations formed to implement producers’ responsibilities for designated products in a stewardship program. Stewardship organizations often carry out various functions extending beyond the collection and recycling to education and outreach efforts and reporting. It is critical to communicate to all stakeholders that such “intermediaries” or “collectives” facilitate program management in that it assures producers obtain economies of scale in delivering stewardship programs. This in turn leads to lower prices for the consumer, which is the ultimate objective of competition law.
Paint stewardship policy should encourage the formation of stewardship organizations, for example through the development of stewardship plans, but also recognize that other laws and regulations, such as those prohibiting anti-competitive conduct, may need to be amended to support joint activity.

**Stewardship Plans**

Industry-developed stewardship plans may serve as the vehicle for implementing a program. Stewardship plans submitted by industry-managed and -funded organizations or individual producers are featured in the U.S. PaintCare Program and Canadian stewardship programs in all 10 Canadian provinces.

- For stewardship plans for paint in British Columbia, Newfoundland, Nova Scotia, New Brunswick, PEI, Manitoba and Saskatchewan, please see: [www.productcare.org](http://www.productcare.org)

- For the Quebec stewardship program for paint please see: EcoPeinture: [www.eco-peinture.org](http://www.eco-peinture.org)

- For the Ontario stewardship plan for paint please see: [www.stewardshipontario.ca](http://www.stewardshipontario.ca)

While the plans are developed by the producers and brand owners of the designated products, it is expected that other entities along the product chain, such as retailers, local government and recyclers, will provide input on the plan. If appropriate, they will also make specific commitments to their role in the collection and recycling system. To ensure that the proposed paint stewardship program is consistent with the overall framework policy objectives, the designated agency or authority review of plans and approval may be warranted.

Stewardship plans may include:

- List of participating organizations;
- Definition and scope of products to be addressed, including legacy paint products;
- Roles and responsibilities for key players along the product chain;
- Collection system information;
- Processing/recycling information, including what steps will be taken to ensure environmentally-sound management;
- Anticipated resources and a financing mechanism to implement the plan;
• Proposed performance goals;
• Public outreach and communications plan;
• Reporting and evaluation procedures.

Performance Goals

Performance goals are essential for good program management, oversight and accountability. Producers and other stakeholders use performance goals to plan activities, track program implementation and verify accomplishments. Performance goals provide feedback to stakeholders so adjustments can be made to improve a program. It is critical that governments and stakeholders agree on the appropriate metrics and standards, where available, in assessing overall program performance. Standards must be based on reasonable best practices for all aspects of the supply chain for post-consumer paint recycling.

Important performance goals to consider include:

• Collection rates, which quantify the amount of the product collected or captured through the system for reuse or recycling by an established date;
• Reuse/recycling rates, which quantify the amount of the product that is reused and recycled. This goal may include but is not limited to such things as reuse, recycling rates and other measures;
• Convenience criteria, which may be reported based on geography or population to establish a baseline and chart the growth of paint take back locations.

Reporting

Reporting on progress towards meeting performance goals is fundamental to program oversight and evaluation and provides an opportunity for the harmonization of programs through the use of similar reporting metrics.

In addition to the performance goals identified above, other measures to be addressed during reporting include:

• Weight of paint recovered per capita;
• The savings to local government;
• The percent of paint placed on the market that is collected, reused, recycled, recovered for energy or disposed in landfills;
• The actions the producer or stewardship organization will take during the next reporting period, if the performance goals were not met;
• A description of the public outreach and education activities undertaken during the reporting period.

**Consumer Education**

Education of consumers is at the core of any effort to cost-effectively manage post-consumer paint. Producers or the stewardship organization should provide consumers with educational materials regarding the paint stewardship program. Such materials may include information regarding available end-of-life management options for architectural paint offered through the paint stewardship program and information that notifies consumers about any charges for the operation of such paint stewardship programs, which may be included in the purchase price of paint sold in that jurisdiction. In addition to information about the paint stewardship program, education should also include the following:

• Consumers should only buy the paint they need;
• Consumers can store paint properly so it lasts for years;
• Paint is not meant to be thrown away. Consumers should use up leftover paint;
• Leftover paint can be donated or exchanged.

**Financing Mechanisms**

Although there are many variations, the financing for extended producer responsibility systems generally fall into two categories – cost internalization and eco-fees. In both cases the responsibility rests with the producer to meet established targets and the associated costs of program delivery. In cost internalization systems, producers have primary responsibility for the design, implementation and management of a collection and recycling system. The costs of collecting and recycling the product are incorporated into the cost of the product just as all other costs associated with producing and selling the product. There is no visible fee to the consumer or retailer. This allows companies to make their own pricing decisions internally, and to distribute the costs according to their own business model and interests. It also gives producers the option of working independently or partnering with other producers.

Some jurisdictions may wish to introduce legislation that internalize costs, as they have done in several jurisdictions in Canada. These costs must not exceed the
actual costs to the program. The fundamental problem with this approach is that it increases the overall product costs as consumption taxes or VAT taxes are applied to the recycling cost and those can vary by jurisdiction within a country. It also causes product pricing challenges across the supply chain with a different price for products in different jurisdictions at the point of sale. This increases the associated costs for national brand owners in their marketing and promotion campaigns. Further, it does not provide an opportunity to educate the consumer about the need to recycle the product at the point of sale. All consumers prefer to be informed than remain in the dark on important environmental matters.

The other financing mechanism is an eco-fee. An eco-fee is a set amount for each item that is paid by the consumer and the funds go to a third party, which is often referred to as a stewardship organization. The stewardship organization then uses the funds to establish a collection and recycling program on behalf of the producers. The eco-fee may or may not be visible to the consumer. It may be paid by the producer or by the retailer to the stewardship organization. A set eco-fee ensures that a producer will be able to easily pass on the cost of managing the product and ensures that the per-item cost to consumers for similar products is the same regardless of brand. This has the advantage of greater certainty for the brand owner with respect to budgeting, attributing costs to recycling and educating the consumer. This is the preferred approach for brand owners and consumers who wish to remain informed. Recent polling in Canada and the United States shows overwhelming support for a visible eco-fee approach. The benefits of such a model must be clearly conveyed to legislators to ensure they understand its overall importance to the producer.