



Vermont Department of Environmental Conservation

Waste Management & Prevention Division, Solid Waste Management Program

One National Life Drive, Davis 1 802-828-1138

Montpelier, VT 05620-3520 VTrecycles.com

October 11, 2023

Marjaneh Zarrehparvar
President
PaintCare, Inc.
1500 Rhode Island Avenue NW
Washington, DC 20005

RE: ANR Approval of PaintCare's July 26, 2023 Paint Stewardship Plan

Dear Ms. Zarrehparvar,

This letter approves PaintCare's revised Paint Stewardship Program Plan (the "Plan") dated July 26, 2023, and documents the Agency of Natural Resources' (ANR or the "Agency") basis for this approval. ANR is approving this plan **through December 31, 2026, approximately 3 years.**

COMPLETENESS & PUBLIC COMMENT: The Plan has been found to be both administratively and technically complete and was made available for two 30-day public comment periods. The first ended on May 30, 2023. The second public comment period ended September 25, 2023. Ten (10) public comments were received from municipal solid waste districts or town coordinators noting some concern with the increase in the paint stewardship assessment fee and requesting clarification on what costs the fee covered.

The Plan adequately addresses all requirements of the Paint Stewardship Program 10 V.S.A. §6673 including:

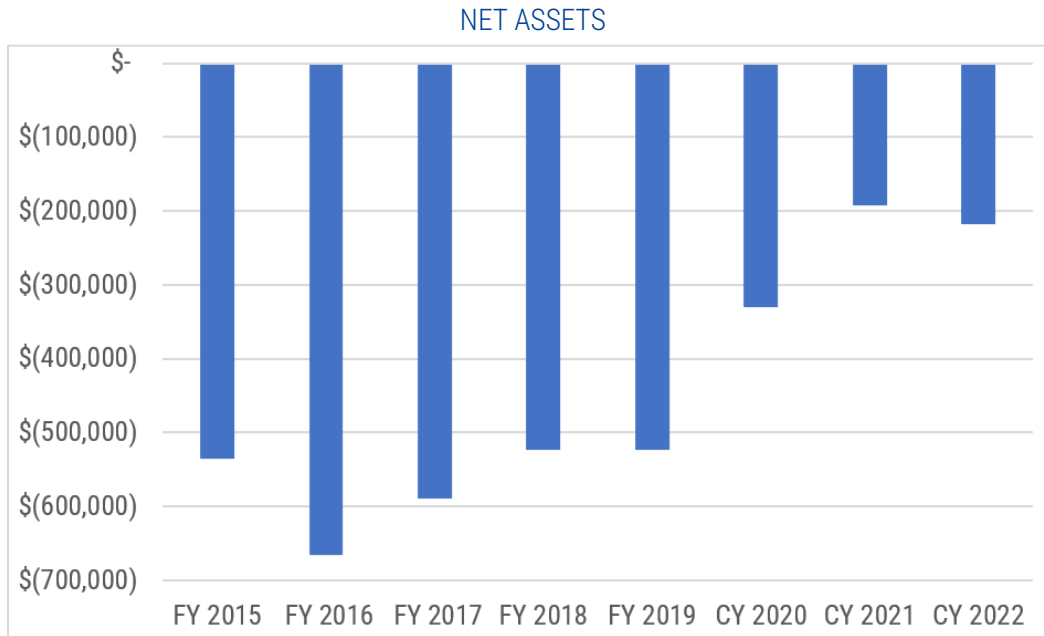
- Achieves convenient collection for consumers,
- Educates the public on proper paint management,
- Manages waste paint in a manner that is environmentally safe and promotes reuse and recycling,
- And has met the minimum requirements for demonstrating cost-effectiveness including the completion of a third-party audit.

VERMONT PAINT PROGRAM DEFICIT: Since 2014 paint manufacturers selling into Vermont must participate in the Vermont Paint Stewardship Program (under 10 V.S.A. §6671) that applies a "paint stewardship assessment" fee to architectural paint at point of purchase. Those funds are collected from Vermont consumers and used by the paint stewardship organization—PaintCare—to provide Vermonters with no-cost leftover paint drop-off collection and recycling at approximately 80 year-round collection sites.

The paint program has been successful in collecting large amounts of leftover paint but has held a deficit since the beginning of the program due to lower-than-expected sales of paint in Vermont and increasing contractor and administration costs to manage paint. As a result, the Vermont PaintCare Program's budget—as provided to ANR by PaintCare—has historically run an annual deficit, which has only recently begun to improve.

See PaintCare’s Net Assets Figure 1. below, submitted to ANR as part of their July 26, 2023 revised Plan.

FIGURE 1. (FY = Fiscal Year, CY = Calendar Year. The Program moved to Calendar Year in 2020)



Note: PaintCare requested an increase in the paint stewardship assessment fee in 2015 to help address the Program’s budget deficit. ANR approved this fee increase and after FY 2016, you can begin to see the resulting impact on the deficit as shown in Figure 1. above.

SUMMARY OF PLAN CHANGES: PaintCare’s July 26, 2023 revised Plan requested the Agency approve two main changes:

1. **Fee Increase:** PaintCare proposes to increase the paint stewardship assessment fees effective April 1, 2024, as outlined in Table 2. below. *Note: ANR calculated the estimated percentage increase in these fees.*

TABLE 2.

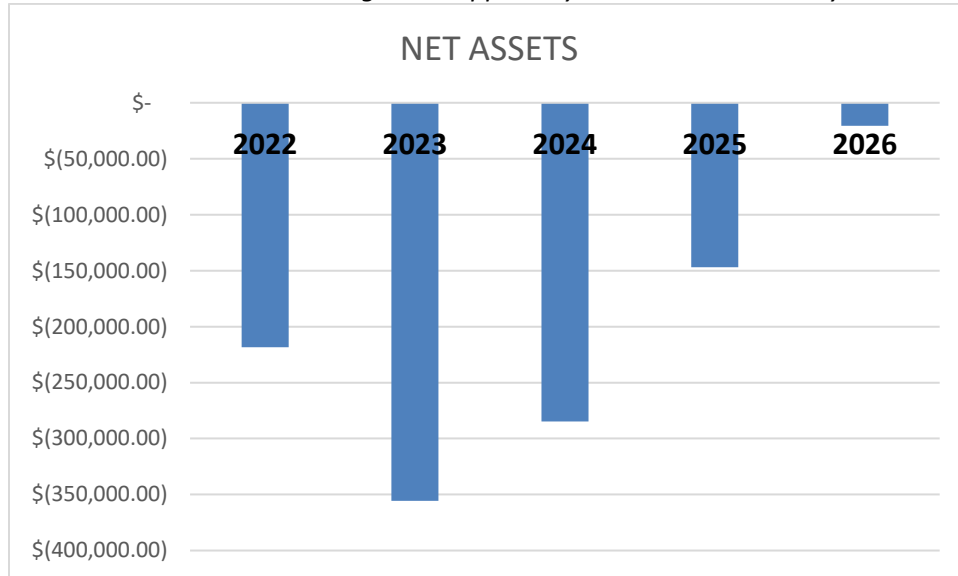
Container Size	Current fee	4/1/2024	% increase
Half pint or smaller	\$0.00	\$0.00	0%
Larger than half pint up to smaller than 1 gallon	\$0.49	\$0.65	33%
1 gallon up to 2 gallons	\$0.99	\$1.35	36%
Larger than 2 gallons up to 5 gallons	\$1.99	\$2.45	23%

2. **Government Affairs Costs:** In this Plan, PaintCare is compensated for “Professional Fees” as a line item of their budget, which now includes government affairs costs (approximately \$11,000 as outlined in their March 1, 2023 first revised Program Plan, Appendix E page 12). PaintCare has requested that lobbying costs be included in their budget. ANR initially denied PaintCare’s prior plan, in part, based on the inclusion of lobbying costs. ANR has been clear that **these lobbying costs are not an eligible use of the fee under Vermont statute**. For purposes of this approval, PaintCare is prohibited from using any approved fee funds on lobbying as [outlined by the IRS here](#). According to the IRS: “An organization will be regarded as attempting to influence legislation if it contacts, or urges the public to contact, members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation, or if the organization advocates the adoption or rejection of legislation.” If the ANR determines that PaintCare is using any fee funds on lobbying, the fees approved under this plan are immediately

repealed and the ANR reserves the right to require PaintCare to reimburse the fund for costs associated with lobbying.

REVENUE & COST PROJECTIONS: PaintCare has provided ANR with data that predicts paint sales (which generate revenue for this program at point of purchase) will be flat or falling in coming years while their costs and expenses for running the program are expected to rise. Even after the increase in the paint stewardship assessment fees, PaintCare’s forecast anticipates the continuation of a deficit into 2026 (see the Net Assets bar chart *Figure 4.* below produced with data supplied by PaintCare in July 2023).

FIGURE 4. ANR created this chart using data supplied by PaintCare in their July 2023 Plan.



AGENCY RESPONSIBILITY (10 V.S.A. §6675(b)(1)): Based upon the data supplied by PaintCare, the Agency has determined that increased paint stewardship assessment fees are necessary to cover costs of this Program. The Agency approved the Plan for a 3-year period to expire on December 31, 2026. This is a reasonable amount of time to evaluate the performance of the new paint stewardship assessment fee to see if it can help reduce the Vermont Paint Stewardship Program’s budget deficit.

To reduce costs on Vermonters, and improve upon this paint collection and recycling system, the Agency recommends the paint stewardship law be revised to have manufacturers take responsibility for the costs of recycling the products they sell and profit from.

Sincerely,

Josh Kelly
Solid Waste Program Manager
Waste Management and Prevention Division

Cc: Matt Chapman, VT DEC Waste Management & Prevention Division Director
John Hurd, PaintCare VT Program Manager
Nicole Dorr, PaintCare Director of State Programs
Mia Roethlein, VT DEC Solid Waste Program