

Paint Product Stewardship Initiative Memorandum of Understanding

October 6, 2004

(Revised to reflect new start date: April 1, 2005)

I. Agreement on this MOU

The undersigned parties have reached agreement on this voluntary Memorandum of Understanding (“MOU”) in order to address the challenge of reducing and managing leftover paint. The Product Stewardship Institute launched this initiative, the Paint Product Stewardship Initiative (“PPSI”), by contacting government officials, paint manufacturers, retailers, painting contractors, and other key stakeholders regarding a national dialogue on leftover paint management. This MOU is the result of four meetings and numerous workgroup conference calls over the past year (December 2003 – September 2004), and was made possible through the cooperation of the stakeholders, and by their shared priorities.

II. Preamble

- A. Product stewardship is a principle that directs all participants involved in the life cycle of a product to take shared responsibility for the impacts to human health and the natural environment that result from the production, use, and end-of-life management of the product. The greater the ability of a party to influence the life cycle impacts of a product, the greater the degree of that party’s responsibility.
- B. Leftover paint management is a product stewardship priority based on its high volume in the waste stream; potential to impact human health and the environment; cost to manage; and the potential for increased reduction, recovery, reuse, and recycling.
- C. The PPSI Participants have explored a broad range of issues, options, and approaches to the challenge of leftover paint management in an attempt to develop collaborative solutions to specific issues, including the following: the generation of leftover paint; the collection, sorting, transportation, and recycling or disposal of leftover paint; the management of empty containers; the development of markets for recycled content paint and non-paint uses of leftover paint; and the financing of strategies to reduce and manage leftover paint.

III. Findings

- A. Leftover paint and paint containers present a significant burden to state and local governments to manage.
- B. The significant volume of leftover paint and containers that become unwanted each year are frequently treated as a waste rather than a resource.

- C. Leftover paint and empty containers have the potential for increased recovery, reuse, and recycling, and could be used to create a commodity of value.
- D. Increased demand for recycled products made from leftover paint may have the potential to create value and significantly decrease the burden of managing leftover paint.
- E. Paint is designed to be completely used, and when used up, the end-of-life management costs resulting from the product will be reduced.
- F. While eliminating or reducing the volume of leftover paint is a fundamental priority, PPSI Participants acknowledge that some amount of leftover paint may remain and need to be managed, and that empty containers will always need to be managed.

IV. Goals and Objectives

- A. The overriding goal of the PPSI is to ensure that leftover paint and empty containers will be managed in a manner that is protective of human health and the environment. The primary goal of the dialogue is to develop an agreement that will result in reduced paint waste; the efficient collection, reuse, and recycling of leftover paint; increased markets for products made from leftover paint; and a sustainable financing system to cover any resulting end-of-life management costs for past and future products. Supporting objectives include decreasing the improper disposal of leftover paint; attaining the highest value possible for leftover paint; and improving container collection and recycling.
- B. While the PPSI Participants reached conclusions on many aspects of leftover paint management, there are important issues and key findings that are unresolved. Therefore, the goal of the PPSI Participants is to promote the development of economically sustainable, flexible, market-based approaches to leftover paint management using a Project Portfolio, developed through the dialogue, to be implemented over the term of this MOU to meet the following objectives:
 - 1. To test the potential to reduce or eliminate leftover paint volume and management costs, and to test possible strategies for nationally coordinated implementation based on the following paint management hierarchy:
 - Reduce over-purchasing.
 - Reseal containers and store properly.
 - Reuse leftover paint or donate for reuse.
 - Recycle leftover paint and containers.
 - Dispose of unusable paint properly.
 - 2. To increase the resource value of leftover paint through reuse and recycling;
 - 3. To determine viable alternatives to disposal and resolve any related regulatory barriers; and

4. To research and analyze infrastructure systems for leftover paint management.

V. Work Agreements

- A. The Work Agreements below are intended to achieve the Goals and Objectives in Section IV, relative to completing the Project Portfolio and establishing a nationally coordinated leftover paint management system. This section outlines PPSI Participant tasks, timelines, and deliverables, and also designates roles and responsibilities among PPSI Participants.
- B. The undersigned PPSI Participants agree to work collaboratively over the next two years, to do the following:
 1. Continue the PPSI by regular meetings of the full dialogue group and through workgroup conference calls, and by establishing a PPSI Steering Committee, comprised of a subset of PPSI participants;
 2. Support research and implement projects through a Project Portfolio, as described in Attachment A, to address outstanding questions;
 3. Resume discussions on the issue of financing a leftover paint management system, beginning October 1, 2006, using the information gathered from the projects as a base, and appropriate evaluative criteria;
 4. Decide whether financing (transitional or otherwise) will be needed to establish a nationally coordinated leftover paint management system, by the January 2007 Steering Committee Meeting, unless the Steering Committee determines that additional time is needed and, if needed, pursue an agreement regarding a financing system in a timely manner; and
 5. Decide whether a nationally coordinated procurement strategy for recycled products made from leftover paint will be needed by the January 2007 Steering Committee Meeting, unless the Steering Committee determines that additional time is needed and, if needed, pursue an agreement regarding a procurement strategy in a timely manner.
- C. The undersigned PPSI Participants agree that projects undertaken are intended to accomplish the following:
 1. Demonstrate the potential to reduce the volume of leftover paint and the cost of managing leftover paint;
 2. Increase the use of leftover paint as a resource;
 3. Increase government and private purchase of products made from leftover paint, in accordance with regulatory and industry standards; and

4. Support and implement strategies that effectively change consumer behavior to reduce leftover paint.
- D. The undersigned PPSI Participants agree to work collectively to secure resource contributions and/or provide information to complete the Project Portfolio as identified in Attachment A.
 - E. The undersigned PPSI Participants agree that the Project Portfolio is sufficient to collect the information necessary to resume meaningful discussions on the issues of improved procurement and of financing a leftover paint management system, beginning October 1, 2006, but that additional information might need to be gathered as new questions arise.
 - F. The undersigned PPSI Participants agree that any nationally coordinated leftover paint management system that is determined to be needed will be based on the results of the Project Portfolio and the recommendations of the PPSI Steering Committee, and will:
 1. Establish national waste reduction and management goals for paint, including goals for source reduction, reuse, recycling, and the purchase of marketable, environmentally preferable, and economically viable products made from leftover paint;
 2. Define roles and responsibilities, based on the principle of product stewardship, for all PPSI Participants; and
 3. Include any necessary financing system.
 - G. The undersigned PPSI Participants agree that a multi-stakeholder Steering Committee composed of 12 PPSI Participants, as appears in Attachment B, will monitor the Project Portfolio.
 - H. The undersigned PPSI Participants agree that the PPSI Steering Committee is to report semi-annually on the Project Portfolio and other related matters to the full dialogue group, regarding costs, performance measures, project status, follow-up monitoring, and next steps necessary, beginning October 1, 2005.
 - I. The undersigned PPSI Participants agree to hold meetings of the PPSI Steering Committee and PPSI Dialogue Group and to convene workgroup and project-related consultations as needed.

VI. Limitations

- A. Since this MOU reflects a cooperative, voluntary approach to addressing leftover paint management issues, the MOU is not legally binding and does not convey or waive any rights or obligations on the part of any signatory and/or on behalf of any third party.

- B. This MOU, including the Attachments contained herein, encompasses the entire understanding of all signatories with respect to the subject matter of this MOU and supersedes all prior drafts. This MOU may be amended only by a written document duly executed by all PPSI Participants or their successors.

- C. It is intended that this MOU will remain in effect until April 1, 2007.

APPENDIX A

PROJECT PORTFOLIO DESCRIPTIONS

Appendix A contains summaries of the 11 projects requiring funding to provide information needed for the development of a nationally coordinated paint management system. Together, these 11 projects constitute the “Project Portfolio” referenced in the Memorandum of Understanding (MOU). These 11 projects were developed by PPSI Dialogue participants and are intended to achieve the various goals and objectives delineated in the MOU Section IV.

EDUCATION

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1. Leftover Paint Management and Guidance for Consumers
2. Public Education Survey and Analysis

INFRASTRUCTURE

Page A-3

3. Paint Reuse Primer
4. National Infrastructure Model
5. Infrastructure Cost Analysis

MARKETS

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6. Market Development Strategy for PPSI
7. Recycled Paint Marketing Guide for Distributors
8. Recycled Paint Certification System

OTHER PROJECTS

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9. Health/Safety/Environmental and Regulatory Issues
10. Financing System Research and Model Development
11. Lifecycle Balance of Costs and Benefits

I. EDUCATION PROJECTS

1. LEFTOVER PAINT MANAGEMENT GUIDANCE FOR CONSUMERS

During the dialogue, the group developed one-page guidance for consumers on how to manage leftover paint. The guidance has been posted on the NPCA, Earth911, and PSI websites. However, before any large-scale campaign is developed to further disseminate the guidance, this project will test the effectiveness of the message and various communication techniques. This project includes hiring a contractor that specializes in social marketing to develop and implement a pilot project to determine the extent to which consumer behavior can be influenced, and leftover paint reduced, by educating consumers using the Leftover Paint Management Guidance For Consumers.

Total Cost: \$45,360

PSI Role: Develop Scope of Work (SOW), including tasks, budget, timeline, and selection of geographic area; assist workgroup in hiring consultant; ensure coordination with the Public Education Survey and Analysis project; coordinate consultant work products; develop summaries and be liaison to Steering Committee. **\$15,360**

Consultant Role: Design pilot project, conduct pilots, analyze results, produce summary of findings report that includes recommendations on how to proceed in distributing the guidance or modifying the guidance; assist in development of public education materials. **\$30,000**

2. PUBLIC EDUCATION SURVEY AND ANALYSIS

The PPSI group conducted surveys at household hazardous waste (HHW) facilities and retail locations, and tried to determine why there is so much leftover paint. Although the data collected are valuable, conclusions are not statistically valid and require additional survey responses from retail locations. This project is related to project #1 in that a consultant, assumed to be the same consultant in project #1, will perform the tasks listed below. The Education Subgroup will work with the consultant to develop an advanced survey to identify and rank the reasons that people over purchase paint. The survey will be designed to identify differences between consumers and painting contractors that overbuy versus those who buy the right amount. Following the survey, the consultant will recommend educational strategies to reduce leftover paint. **Total Cost: \$29,360**

PSI Role: Develop SOW, including tasks, budget, timeline, and selection of geographic area; ensure coordination with the Leftover Paint Management

Guidance for Consumers project; ensure quality of project work. To reduce project management costs, PSI assumes that the same contractor will be used for project #2 as for project #1. **\$9,360**

Consultant Role: Will design and execute survey, analyze results to determine why there is so much leftover paint, and make recommendations on how to design a public education campaign that would effectively change behavior. **\$20,000**

II. INFRASTRUCTURE PROJECTS

3. PAINT REFUSE PRIMER

One of the issues identified during the dialogue was that managers of HHW facilities often do not know how to add a paint swap to their program. It was also clear that the existing documents developed by various entities on how to start paint reuse programs were outdated and incomplete. Since the PPSI group determined the most cost effective and highest and best use for leftover paint is to reuse it as paint, they decided to consolidate and update these resources into a single document called a *Paint Reuse Primer*. The *Primer* will be a comprehensive manual on paint reuse for states, municipalities, non-profit and/or other material reuse organizations, and other businesses and consumers. The goal of this project is to encourage HHW collection programs to start and/or expand paint reuse opportunities to maximize reuse and reduce paint management costs. There will be a significant outreach component once the *Primer* is completed. **Total Cost: \$49,360 (printing costs are estimated at \$8,000)**

PSI Role: PSI will review and edit this document; send it out for comment by other PPSI participants; finalize and forward *Primer* for printing; post on the PSI website; and alert those in the HHW field via list serves and other means as to the availability of the final document. **\$9,360**

Consultant Role: This project will be conducted primarily by NPCA staff and PPSI participants, with PSI assistance. Funding may be needed for a consultant or other entity to work with those who will most benefit from the *Primer* to encourage the starting of new reuse centers. **Funding TBD**

4. NATIONAL INFRASTRUCTURE MODEL

One of the key issues inhibiting a discussion on a nationally coordinated paint management system is the fact that there is no research available that assists decision makers in determining what the most cost-effective system is to collect and manage leftover paint. This project will take the results from other projects completed, such as the *Paint Reuse Primer*, leftover paint age study,

leftover paint quantity study, percentage of recyclable paint survey, and other infrastructure projects being conducted outside of the dialogue, and analyze them to determine the most efficient infrastructure system. The project goal is to develop a report, which includes a model on how to establish a national infrastructure for paint management that will efficiently and effectively collect and manage leftover paint. **Total Cost: \$136,800**

PSI Role: PSI will assist the project team with the development of the SOW, development and release of an RFP, consultant interviews and selection, consultant management, team coordination and communication, report review and comment, and final report editing and distribution. **\$16,800**

Consultant Role: Consultant will execute the work as described in the SOW, including review and consideration of results from other studies, analysis of existing work, identify gaps in existing work which need to be filled prior to development of the infrastructure model, describe and map optimal collection, processing, and/or disposal of leftover paint for various population densities and geographic distances, finalize and distribute the model. **\$120,000**

5. INFRASTRUCTURE COST ANALYSIS

This project will determine the cost to implement the Infrastructure Cost Model over a 5-year period on a national scale. The consultant will conduct a detailed analysis of costs pertaining to collecting, reusing, consolidating, transporting, recycling, and disposing of leftover paint, as well as capital and administrative costs. **Total Cost: \$66,720**

PSI Role: PSI will assist the project team with the development of the SOW, consultant management, team coordination and communication, report review and comment, and final report editing and distribution. This project assumes that the same consultant will be used for project #4. **\$6,720**

Consultant Role: Consultant will execute the work as described in the SOW, including review and consideration of results from the Infrastructure Model, and determine costs for nationally coordinated implementation. **\$60,000**

III. MARKET PROJECTS

6. RECYCLED PAINT MARKET DEVELOPMENT STRATEGY FOR PPSI

This project will develop strategies for promoting recycled content paint by developing and distributing comprehensive marketing guidance. The strategy will target those agencies and organizations that have significant procurement

responsibilities and paint purchasing requirements to promote recycled content paint. The project will be monitored closely to ensure adherence to antitrust regulations. **Total Cost: \$81,600**

PSI Role: PSI will assist the project team with the development of the SOW, development and release of the RFP, consultant interviews and selection, consultant management and contract oversight, team coordination and communication, review and comment on report and other materials, attending meetings with participants if necessary. **\$21,600**

Consultant Role: Consultant will execute the work as described in the SOW, including development of a market development strategy that includes a state model procurement policy, track changes in the purchase of recycled paint for agencies and organizations targeted, and ensure that paint procurement specifications under development provide for, and promote, the use of recycled content paint. **\$60,000**

7. RECYCLED PAINT MARKETING GUIDE FOR DISTRIBUTORS

The goal of this project is to promote the use of recycled content paint by developing a flexible and adaptable comprehensive marketing guide for both public and private distributors, targeting a variety of market segments (e.g., homeowners, painting contractors, government agencies, non-profits, and export). The guide would educate buyers about the nature of recycled content paint, including its quality and performance. The guide would be used to overcome barriers and misconceptions with regard to recycled content paint. The project will be monitored closely to ensure adherence to antitrust regulations. **Total cost: \$121,600**

PSI Role: PSI will assist the project team with the development of the SOW, development and release of an RFP, consultant interviews and selection, consultant management and contract oversight, team coordination and communication, review and comment on report and other materials, attending meetings with participants if necessary. **\$21,600**

Consultant Role: Review experiences with purchasing recycled paint that has already been gathered by the PPSI group; develop a draft outline of the marketing guide, a draft guide, and final guide, receiving and incorporating comments at each stage. The consultant will also produce and distribute the final guide. **\$100,000**

8. RECYCLED PAINT CERTIFICATION SYSTEM

This project involves developing guidelines and performance specifications for recycled paint, along with a system for certifying specific recycled paint products. Such actions will help assure potential buyers and others involved

with paint procurement of the quality and safety of recycled paint. **Total cost: \$201,600**

PSI Role: PSI will assist the project team with the development of the SOW, development and release of an RFP, consultant interviews and selection, consultant management and contract oversight, team coordination and communication, review and comment on report and other materials, attending meetings with participants if necessary. **\$21,600**

Consultant Role: Meet with project team; conduct review of existing testing data provided by current paint recyclers; coordinate communication with possible certification organizations; provide project team with summary of options for testing and what each test would mean to reducing market barriers; determine certifications that can be achieved; establish testing protocols; arrange and execute testing; and attend meetings of certifying organization(s). Project deliverables will include final certification standards and approvals. The consultant will also meet with recycled paint manufacturers to educate them on the process and encourage voluntary use of the certification system. **\$180,000**

IV. OTHER PROJECTS

9. HEALTH, SAFETY, AND ENVIRONMENTAL REGULATORY CONSIDERATIONS FOR PAINT MANUFACTURING

This project will detail the various health, safety, and environmental regulations that paint manufacturers must comply with. The project will also identify what, if any, barriers the regulatory considerations present to the manufacture of rebleded or recycled post-consumer content latex and solvent-based paint. If barriers are identified, the team will work to reduce the barriers. The product will be a white paper.

Total Cost: \$4,320

PSI Role: Liaison between those developing the document and PPSI participants; review and comment on the document; edit document; conduct limited research on findings; facilitate workgroup communication; develop summary for distribution to entire dialogue. **\$4,320**

Consultant Role: No consultant. All work to be done by NPCA and PPSI participants, with PSI assistance.

10. FINANCING SYSTEM RESEARCH AND MODEL DEVELOPMENT

This project will prepare PPSI participants for future discussions on financing related to the development of a nationally coordinated paint management system. The PSI team, with support from PPSI participants, will research transitional and long-term financing models and evaluate their potential application in the financing discussions that will resume June 1, 2006. **Total Cost: \$36,720**

PSI Role: Primary researcher and developer of potential financing models; will summarize data for PPSI review and comment. **\$36,720**

11. LIFECYCLE BALANCE OF COSTS AND BENEFITS FOR MANAGING LEFTOVER PAINT

This project is a study to determine and evaluate scientifically the environmental costs and benefits of various options for managing leftover paint. The project will identify and quantify the relative socioeconomic lifecycle costs and benefits of leftover paint management, including human, natural, and economic resource use. This project will seek to determine the net balance lifecycle benefit to society from the various management options, ranging from simple drying/solid waste disposal to reuse and recycling. **Total Cost: \$275,920**

PSI Role: PSI will assist the project team with the development of the SOW, development and release of an RFP, consultant interviews and selection, consultant management and contract oversight, team coordination and communication, review and comment on report and other materials, attend meetings with participants if necessary over the 18 month project period. **\$25,920**

Consultant Role: Meet with project team; conduct research for existing data; establish assumptions, methodology, and approach with approval by the project team; conduct research and evaluation; provide quarterly written updates on work conducted; submit draft and final reports for review and comment. **\$250,000**

APPENDIX B

STEERING COMMITTEE

The PPSI Steering Committee will be comprised of individuals from the following:

- 4 manufacturers, including Dunn-Edwards and 3 chosen by NPCA (NPCA staff count as 1 of the 3 NPCA members)
- 1 recycler (Amazon Environmental)
- 1 retailer
- 3 state governments
- 2 local governments, one of which is a paint recycler
- 1 federal government (U.S. EPA)

APPENDIX C
SIGNERS AND ENDORSERS
OF PAINT PRODUCT STEWARDSHIP INITIATIVE
MEMORANDUM OF UNDERSTANDING

Thomas P Dunne
Deputy Assistant Administrator
Office of Solid Waste and Emergency Response
U.S. Environmental Protection Agency
Signed: March 31, 2005

Stephanie Daigle
Acting Associate Administrator
Office of Policy, Economics and Innovation
US Environmental Protection Agency
Signed: April 18, 2005

Robert W Golledge, Jr
Commissioner
Massachusetts Department of Environmental Protection
Signed: January 10, 2004

David B Crabiel
Freeholder Director
County of Middlesex, New Jersey
Signed:

Dr. Ian R. Horen, CAE
PDCA CEO
Painting and Decorating Contractors of America
Signed: March 31, 2005

Michael Hogle
Solid Waste & Recycling Director
Metro
Signed: April 6, 2005

J. Andrew Doyle
President
National Paint and Coatings Association
Signed: March 24, 2005

William G Ross, Jr.
Secretary
NC Department of Environment and Natural Resources
Signed: February 23, 2005

Gina McCarthy
Commissioner
CT Department of Environmental Protection
Signed: March 31, 2005

Joseph R. Powers
Executive Deputy Secretary
PA Department of Environmental Protection
Signed: January 10, 2005

Jared Blumenfeld
Director
City and County of San Francisco
Signed: January 25, 2005

Anne E Reichman
Director
Earth 911
Signed: January 1, 2005

Anthony P Giunta, P.G.
Director, Waste Management Division
NH Department of Environmental Services
Signed: January 5, 2005

Dick Stafford
Chair
Solid Waste Management Coordinating Board – MN
Signed: December 15, 2006

Andre Buisson
President & Chief Operating Officer
Societe Laurentide Inc.
Signed: December 13, 2004

Mark Lipton
President
Tremont Paint Supply
Signed: November 22, 2005

Michael G Rose
President
Dunn-Edwards
Signed: November 19, 2004

David Nightingale
WA Department of Ecology and Northwest Product Stewardship Council
Signed: November 12, 2004

Renee Cipriano
Director
IL Environmental Protection Agency
Signed: November 18, 2004

Michael W. Sole
Director, Division of Waste Management
FL Department of Environmental Protection
Signed: November 19, 2004

Jerry Noel
President
Visions Recycling, Inc.
Signed: November 23, 2004

Craig Perkins
Director, Environmental Public Works Management Department
City of Santa Monica
Signed: November, 19, 2004

Art Dunn
Director
Minnesota Officer of Environmental Assistance
Signed: November 18, 2004

Terry Tamminen
Agency Secretary
CA Environmental Protection Agency
Signed: October 27, 2004

Thomas E Moreau
General Manager
Chittenden Solid Waste District, Chittenden County, VT
Signed: November 11, 2004

Norine Binder
Acting Director
Division of Solid and Hazardous Waste
NJ Department of Environmental Protection
Signed: November 5, 2004

Wally Kiczma
Executive Vice President, Chief Operating Officer
Hotz Environmental Services, Inc.
Signed: October, 14, 2004

Jeffrey Rvonk
Director
IA Department of Natural Resources
Signed:

Lorraine M. Segala
President
Amazon Environmental, Inc.
Signed: November 3, 2004