

HB 880 -- PAINT RECYCLING PROGRAM

SPONSOR: Burger

This bill authorizes producers of architectural paint sold at retail to establish or join a nonprofit representative organization. The representative organization and any producer not a member of such organization must submit a plan for the establishment of a post-consumer paint collection program to the Department of Natural Resources. The program shall be structured to reduce the generation, promote the reuse and recycling, and manage the waste stream of post-consumer paint.

The plan must include specified items including a list of participating producers and brands, information on the types of architectural paint products covered under the program, and a description of how the program will provide for convenient cost-effective statewide collection of post-consumer paint in this state and the education and outreach efforts to inform consumers about the program. The plan must be reviewed by an independent financial auditor selected by the representative organization to verify that the paint assessment fees will cover the costs of the program.

No later than 60 days after the submission of a plan, the Department Director must make a determination of whether to approve the plan as submitted. If the director finds that the plan does not meet the requirements, he or she must provide a written explanation and the organization or producer has 60 days to revise the plan.

The Department must enforce compliance with the plan as specified in the bill. The plan must be submitted within 12 months of the effective date. At the time the plan is submitted and annually thereafter, each producer submitting a plan must pay an administrative fee as set by the Department according to the bill.

Each producer must include in the price of any architectural paint sold to retailers and distributors the per-container amount, known as the paint assessment fee, in the approved plan. The retailer or distributor may not deduct the amount from the purchase price. No paint may be sold in the state unless the producer of a paint brand or a representative organization is implementing or participating in the program.

A paint collection site may not charge any additional amount for the disposal of paint when the paint is offered for disposal. A producer or the representative organization that organizes the collection, transport, and processing of post-consumer paint may not be liable for any claim of a violation of antitrust, restraint

of trade, unfair trade practice, or other anticompetitive activity arising from conduct undertaken in accordance with the program.

Before March 31st of each year, the producers or representative organization must submit an annual report for the previous year to the Director that details the program. The bill specifies the information required to be included in the report. The producers or the representative organization must implement the program on January 1, 2025, or 6 months after the approval of the plan, whichever occurs later.

Generators of household wastes and conditionally exempt small quantity generators may transport or send architectural paints to a paint collection site to the extent permitted by a program. Paint collection sites may collect and temporarily store architectural paints generated by certain entities in lieu of any otherwise applicable requirements of state laws or regulations. The program does not restrict the collection of architectural paint by a program where such collection is authorized by any other state laws or regulations or affect any requirements applicable to facilities that treat, dispose, or recycle architectural paint under any other state laws or regulations.

This bill is similar to HB 2852 (2022).