



**RETAIL
ASSOCIATION OF
MAINE**
Voice of Maine Retail

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February 12, 2025

Senator Margaret Rotundo, Chair
Representative Drew Gattine, Chair
Members of the Appropriations and Financial Affairs Committee

Senator Henry Ingwersen, Chair
Representative Michele Meyer, Chair
Members of the Health and Human Services Committee

**RE: Testimony NEITHER FOR NOR AGAINST - LD 210, Language Part "RR"
Increases the Per Gallon Fee, Assessed at the Manufacturer or Wholesaler Level,
from \$0.25 to \$0.75 to Support the Lead Poison Prevention Fund.**

Dear Senator Rotundo, Representative Gattine and members of the
Appropriations and Financial Affairs Committee, and Senator Ingwersen,
Representative Meyer and members of the Health and Human Services
Committee:

My name is Curtis Picard, and I serve as the President and CEO of the Retail
Association of Maine. Our association represents retailers of all sizes, including
many retailers who sell paint.

While we have no objection to supporting lead poisoning prevention efforts, I
wanted to make sure policy makers know that the Maine Department of
Environmental Protection recently approved an increase in the cost of a per
gallon of paint to support the existing PaintCare program. Beginning October 1,

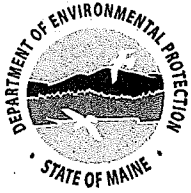
2025, the consumer fee added to the cost of a gallon of paint will increase from \$.75 to \$1.10, a 46% increase. Couple that with Part RR's proposal to increase the fee from \$.25 to \$.75 per gallon, and the legislature should be aware of the cost drivers that will directly consumer pricing of these products.

The escalating cost of housing has been identified as a significant area of focus here in Maine. While paint may be a small part of the overall cost drivers, our purpose is to make sure one hand of the legislature knows what the other hand is doing.

Thank you for your time and consideration.

Sincerely,

Curtis Picard, CAE
President and CEO



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

PAINTCARE INC.)	PRODUCT STEWARDSHIP
INCREASE TO ASSESSMENT FEE)	PLAN
FOR ARCHITECTURAL PAINT)	
R-000035-PSP-B-A)	
(APPROVAL WITH CONDITIONS))	AMENDMENT

Pursuant to the provisions of the *Stewardship Program for Architectural Paint*, 38 M.R.S. § 2144, the Department of Environmental Protection (“Department”) has considered the application of PaintCare Inc. (“PaintCare” or “applicant”), with its supportive data, additional submittals, staff review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. APPLICATION SUMMARY

- A. Application: PaintCare Inc. has submitted an application to amend its *Maine Architectural Paint Stewardship Program Plan* (“Plan”).
- B. History: The *Stewardship Program for Architectural Paint* (“Program”), 38 M.R.S § 2144, was established in Maine in 2015 to set up and operate a statewide collection system for post-consumer paint. PaintCare is a non-profit third-party organization established by the paint manufacturers to fulfill their responsibilities under Maine’s stewardship law and similar laws in 10 other states and the District of Columbia. The program is funded by a consumer fee on each container of paint sold in Maine. PaintCare’s required plan under the Program was approved in Department Order R-000035-PSP-A-N, dated August 10, 2015. The Program is funded by an assessment (“fee”) on certain containers of paint sold in Maine. Under the Program, consumers may return unwanted architectural paint to participating retail establishments and municipal collection sites and household hazardous waste collection events where PaintCare is participating at no cost. PaintCare has provided each collection location with storage containers for the returned paint, in-person training and a manual, education, and outreach materials and provides for transportation and recycling or disposal of collected paint.
- C. Summary of Proposal: The applicant proposes to increase the fee.

2. PROPOSED FEE INCREASE

On August 1, 2024, PaintCare submitted a proposal to the Department to amend its Plan and replace part of Section IV of the Plan, The Program Budget and Paint Stewardship Assessment. The amendment requested an increase to the fee that is charged at the point

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of sale for all architectural paint sold in the state. PaintCare proposes to increase the fee as follows:

Size	Container Size	Current Fee	Proposed Fee	Change
Very Small	Half pint or smaller	\$0.00	\$0.00	\$0.00
Small	Larger than half pint up to smaller than 1 gallon	\$0.35	\$0.50	\$0.15
Medium	1 to 2 gallons	\$0.75	\$1.10	\$0.35
Large	Larger than 2 gallons up to 5 gallons	\$1.60	\$2.00	\$0.40

3. SCHEDULE

PaintCare proposes to update the point-of-sale prices beginning October 1, 2025. PaintCare will inform retailers of the fee increase by March 1, 2025. Any delay in this outreach to retailers will result in a delay of the start of the fee increase to assure a minimum of six months of outreach prior to the fee increase.

4. PUBLIC NOTICE OF PROPOSED FEE INCREASE AND PUBLIC COMMENTS

A. Public Notice: On September 12, 2024, the Department posted PaintCare’s fee proposed amendment on its website for public review and comment at Opportunity for Comment, Maine DEP. Public comments were accepted for a 30-day period ending October 15, 2024. Comments were received from two parties, the Retail Association of Maine (“RAM”) and the Natural Resources Council of Maine (“NRCM”).

B. Summary of Public Comments: RAM asked questions about PaintCare’s 990 filing (required by their 501(c)(3) status), the increased cost to consumers, the public education budget increase, and the reserve level for PaintCare that would result from the increase. NRCM commented that this program is the only Extended Producer Responsibility program that is funded by consumers though a point-of-sale fee rather than requiring the producers to be responsible for end-of-life management and costs, and that the increase in fees would create additional costs for consumers. NRCM did seem to agree that costs have risen but that PaintCare should be responsible for any additional costs to operate the program. In response

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to these comments, Department staff had subsequent discussions with PaintCare and asked for clarifying information which PaintCare provided. PaintCare clarified the discrepancy between the audit and the 990 filing and explained in detail the public education budget increase.

5. DEPARTMENT EVALUATION AND DISCUSSION

PaintCare submitted appropriate documentation to support the fee increase, including a review by an independent financial auditor as required pursuant to 38 M.R.S. § 2144. The independent financial auditor, Lydon Fetteroff Corydon, P.A., indicated that PaintCare's underlying assumptions used to justify the fee increase were "suitably supported and provide a reasonable basis for PCME's combined and actual forecast, in all material respects." They also stated that "...in our opinion the uniform paint stewardship assessment fee of \$0.50, \$1.10 and \$2.00...starting May 1, 2025 is sufficient, within the meaning of the Maine Paint Stewardship Law, to recover, but not exceed, the costs (expenses) of operating the architectural paint stewardship program and maintain financial reserves to operate said program over the multi-year period from January 1, 2024 through December 31, 2027."

Since the start of the Program in Maine in 2015, PaintCare has not requested any changes to its Plan with the Department, including its fees. In 2021, PaintCare's reserve level was at 49%. In 2022, the reserve level decreased to 43% and in 2023 the reserve level decreased to 30%. Based on models developed by its consultant, Decision Metrics, Inc., PaintCare reports that the projected reserve level for 2024 may drop to 16% and continue to drop further in future years. The agreement between PaintCare and the State requires that the reserve be at a minimum of 16%. This steady decline of PaintCare's reserve levels has caused concern that these levels will continue to fall to below the minimum needed.

One of the public comments stated that PaintCare is proposing a very significant increase of 42% on containers less than 1 gallon; 46% increase on containers of 1-2 gallons; and a 25% increase on containers larger than 2 gallons but less than 5 gallons. However, when considering the fee as part of the overall purchase cost, the increase is minimal. The average 1-gallon can of paint costs between \$20-\$40, depending on the brand. If one were to purchase a \$40 can of paint and pay the \$1.10 for the PaintCare fee, the proposed PaintCare fee will only be approximately 2.75% of the cost of the paint instead of the current 1.9%, an increase in the overall price of a can of paint by less than 1%. This 2% allows the paint to be collected, shipped, and kept out of Maines landfills.

Therefore, the Department finds that the proposed fee increase is appropriate.

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6. ALL OTHER

All other Findings of Fact, not modified by this Order, remain as set forth in Department Order R-000035-PSP-A-N.

BASED on the above Findings of Fact, and subject to the Conditions listed below, the Department makes the following CONCLUSIONS:

1. PaintCare submitted an amendment to its Plan pursuant to the requirements of 38 M.R.S. § 2144.
2. The Department has provided a 30-day public comment period regarding the proposed update to the Plan, including the proposed fee increase, in accordance with 38 M.R.S. § 2144(3).
3. The proposed fee increase is appropriate.
4. All other Conclusions, not modified by this Order, remain as set forth in Department Order R-000035-PSP-A-N.

THEREFORE, the Department APPROVES the above-noted application of PaintCare Inc., SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

1. The invalidity or unenforceability of any provision, or part thereof, of this Order shall not affect the remainder of the provision or any other provisions. This Order shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

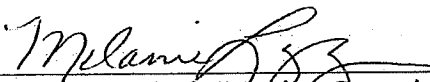
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2. All other Conditions, not modified by this Order, remain as set forth in Department Order R-000035-PSP-A-N.

DONE AND DATED AT AUGUSTA, MAINE THIS 10th DAY OF February, 2025.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: 
Melanie Loyzine, Commissioner

Date of initial receipt of application: August 01, 2024

Date of application acceptance: November 27, 2024

Date filed with the Board of Environmental Protection: February 12, 2025

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