



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

April 18, 2024

The Honorable Kevin Avard
Chair, Senate Energy and Natural Resources Committee
State House, Room 103
Concord, NH 03301

RE: HB 1504-FN, An Act Establishing an Architectural Paint Recycling Program

Dear Chair Avard and Members of the Committee:

Thank you for the opportunity to testify on HB 1504-FN, as amended by the House. This bill would establish an architectural paint take back program to provide for the collection, transport, reuse, recycling and disposal of post-consumer paint funded by a fee added to the retail price of paint at the point of sale. The New Hampshire Department of Environmental Services (NHDES) takes no position on this bill. And while the Department supports the ultimate goal of the legislation, it does have concerns about some of the language in the bill, the resources necessary to implement the various regulatory requirements, and the consumer economic impact associated with this bill.

- Text on page one, lines 25 through 28 of the bill states architectural paint, “if properly managed, can be exempt from regulation as a hazardous waste under RSA 147-A and has been exempted by rules adopted by the commissioner under RSA 147-A.” However, under New Hampshire Hazardous Waste Rules, if oil-based paints and stains are considered universal wastes, as stated on page six, line 15 of the amendment they are still considered hazardous wastes, but subject to much less stringent standards than other hazardous wastes. The current text implies that these universal wastes would not be subject to any hazardous waste rules.
- On page six, line 15 the bill states “Paint received at a collection location shall be considered universal waste...” As written, this statement includes latex paints as well as oil-based paints and stains. Under New Hampshire Hazardous Waste Rules, latex paints are not considered hazardous wastes and therefore are not universal waste. Designating latex paints as universal waste would impart more strict regulation than currently exists for that waste stream. Changing the wording to “Paint *that is otherwise defined as hazardous waste by the New Hampshire Hazardous Waste Rules, and that is* received at a collection location shall be considered universal waste...” would correct this issue.
- Text on page five, lines 9 through 13 of the bill does not clearly allow billing for all costs, such as administrative and rulemaking expenses. NHDES suggests clarifying language to be more clearly inclusive of all takeback program expenses.

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- NHDES is concerned with the timeline identified on page four, line 31. Rulemaking can take several months to complete through a lengthy review process. NHDES has little control over the time required to complete this review. Furthermore, the rulemaking process can't begin before the value of the assessment is determined following input from the stewardship organization, which could be as late as January 1, 2025.

HB 1504-FN as amended would require that NHDES be responsible for general administration and enforcement of the program including: adopting administrative rules, reviewing and approving plans to establish the program, assuring compliance by manufacturers, pursuing enforcement, evaluating program efficacy, reviewing annual reports, and preparing and submitting annual reports to the General Court. Because NHDES does not have existing program resources dedicated to such product stewardship activities, the Department would have to hire additional staff to meet its obligations under this bill. The fiscal note prepared for this bill reflects the potential impact to NHDES for an additional full-time employee at an annual cost of approximately \$83,000 to \$116,000.

NHDES is concerned that this bill would require the Department to undertake new and expanded responsibilities for which it is not currently resourced. NHDES believes further study is needed in order to examine details regarding implementation, to ensure that such a program would make best use of limited state resources while meeting the needs of the consumers and small businesses that would be impacted. NHDES would welcome the opportunity to participate in further study.

Thank you again for the opportunity to comment on HB1504-FN. Should you have questions or need additional information, please feel free to contact either Todd Piskovitz, Administrator of the Hazardous Waste Management Bureau (Todd.E.Piskovitz@des.nh.gov, 603-271-1998) or Michael Wimsatt, Waste Management Division Director (Michael.J.Wimsatt@des.nh.gov, 603-271-1997).

Sincerely,



Robert R. Scott
Commissioner

ec: Sponsors of HB1504-FN: Representatives Parshall and Dutzy