

MINUTES
EX PARTE MEETING BETWEEN U.S. EPA
AND REPRESENTATIVES OF NATIONAL PAINT & COATINGS ASSOCIATION
June 17, 1997

<u>Participants</u>	<u>Organization</u>
Dana Arnold	U.S. EPA/Office of Solid Waste
Terry Grist	U.S. EPA/Office of Solid Waste
Richard Witt	U.S. EPA/Office of General Counsel
David W. Lloyd	National Paint & Coatings Association
Kevin Sall	National Paint & Coating Association
William Hall	Winston & Strawn
Phil Bailey	Eastern Research Group

INTRODUCTION

On November 7, 1996, the U.S. Environmental Protection Agency proposed to designate latex paint as a procurement item in the Comprehensive Procurement Guideline (CPG II). In the accompanying draft Recovered Materials Advisory Notice (RMAN II), EPA recommended that procuring agencies use consolidated latex paint in limited applications, such as covering graffiti, where color and consistency of performance are not primary concerns. EPA further recommended that agencies use reprocessed paint for interior and exterior architectural applications. In addition, EPA recommended that agencies establish minimum content standards for consolidated and reprocessed latex paints and recommended postconsumer content levels for latex paints. See 61 FR 57748 and 57760, November 7, 1996.

The National Paint & Coatings Association (NPCA) submitted comments opposing the proposed designation. NPCA subsequently requested a meeting with EPA, which was held on June 17, 1997.

NPCA began the meeting by introducing the organization (NPCA), its members, its objectives, and current source reduction and paint recovery programs. The organization has been representing 75 percent of all paint manufacturers for the past 110 years. One of the organization's current efforts is a six-point education source reduction program that focuses on reducing the levels of leftover paint by emphasizing that consumers should only buy the amount that is needed for a particular application. If, in fact, there is left over paint, the paint should be donated or swapped whenever possible.

ISSUES DISCUSSED

1. Proposed Latex Paint Designation

NPCA suggested that most products designated in the CPG II, such as snow fencing, are used in specific applications. Paint, however, is used in a variety of different applications -- such as interior and exterior architectural uses -- and, therefore, basing the designation on one U.S. General Services Administration (GSA) specification, as done in the CPG II, to reprocessed and consolidated paint is erroneous.

NPCA also stated that there were many other paint specifications developed by the American Society for Testing and Materials (ASTM) and GSA that were also appropriate. A list of additional ASTM specifications was provided to EPA. NPCA did not specify which of these specifications should be added to EPA's recommendation in the final RMAN II, however. NPCA explained that paint is a mixture of chemical components used to create a product for use in particular applications and, therefore, paint properties change depending on the application. The GSA general "recycled" latex paint specification does not cover the performance range required for all interior and exterior uses. In particular, the GSA specification does not address critical performance issues such as chalking, cracking, and flaking. Surface preparation and application are critical to paint performance as well.

EPA acknowledged the limited range of the GSA specification and stated that GSA will be adjusting its specification to address additional exterior paint criteria.

NPCA added that a revised GSA specification would only be a starting point but additional specifications would still have to be developed since paint use covers a variety of different applications.

EPA stated that there was sufficient information on which to base a designation of latex paint for architectural applications. EPA requested specific recommendations from the NPCA to narrow the range of uses which are included in the CPG II designation.

NPCA also questioned the designation of a category, such as latex paint, rather than a specific item, such as snow fencing. EPA replied that the paper, insulation, and concrete designations are broad category designations. These categories were designated even though testing and specifications for all potential uses was not completed. Rather the designation encouraged the use of the materials and the development of additional uses.

2. U.S. Army Corps of Engineers Testing of Latex Paint

NPCA had commented that the U.S. Army Corps of Engineers Construction Engineering Research Laboratory (USACERL) had concerns about reprocessed and consolidated latex paints and was testing paints. NPCA stated that EPA should not designate latex paint until the Army Corps study was completed. During the June 17, 1997 meeting, NPCA requested information on the status of the USACERL latex paint study.

EPA summarized its discussion with USACERL staff regarding the latex paint study. USACERL did not have specific concerns about reprocessed and consolidated latex paint and was testing latex paints to assist the Army with its "Green Building" program. USACERL was testing reprocessed and consolidated latex paints available from GSA to determine if these paints met the GSA specification for "recycled" latex paint. The latex paints were also tested against interior and exterior GSA specifications TT-P-29 (interior) and TT-P-1984 (exterior). To date, there had been no negative results indicating that reprocessed and

consolidated paint do not meet the GSA specification. It was not known whether ASTM methods were used in the USACERL tests. The USACERL tests may or may not be completed in June or July 1997, and a final report will be issued.

NPCA commented that the USACERL tests do not cover all possible paint uses and requested that EPA provide the results when the tests are complete.

EPA stated that the results of the California Polytechnic University (CalPoly) study prove that reprocessed paint can be manufactured to meet typical requirements for architectural uses, and the USACERL tests will demonstrate the performance of reprocessed and consolidated latex paint.

NPCA urged EPA to defer the designation, or limit the use to graffiti abatement until the USACERL tests are completed and further information is available. Reprocessed and consolidated paint should meet more ASTM and other performance criteria before being designated.

NPCA reiterated its request that EPA postpone the designation until after the USACERL tests were completed. A workable solution/compromise was requested and it was agreed that NPCA would not oppose the designation but has concerns regarding performance. EPA asked whether NPCA had suggestions for limiting the scope of interior and exterior applications. NPCA suggested EPA not recommend paint for any other application besides graffiti cover-up

3. Performance

The NPCA comments questioned the performance of reprocessed and consolidated latex paints. The comment was repeated by NPCA during the meeting with EPA. EPA stated that sources purchasing from GSA have been pleased with the color, consistency, and coverage performance of reprocessed latex paint. Other users contacted by EPA also were pleased with the performance of the product. Test data that proved otherwise was requested from the NPCA.

NPCA responded by stating that most data regarding unsatisfactory performance is anecdotal. In the past, some major manufacturers have attempted to manufacture reprocessed and consolidated latex paint, but only Kelly Moore is continuing production. Major Paint has discontinued production.

4. Specifications

NPCA indicated that the GSA "recycled" latex paint specification was deficient because it did not reference certain ASTM specifications that NPCA believes are crucial to the use of latex paint. EPA asked whether NPCA had discussed this concern with GSA or was planning to discuss it with GSA. NPCA has not and was not planning to discuss the ASTM specifications with GSA.

NPCA questioned whether the GSA specification was the best specification to use given the range of applications for which government agencies use latex paint. EPA responded that all agencies had the choice of not using a particular paint if the paint did not meet their needs (e.g, paint used for roadway markings, a non-architectural use).

EPA asked whether there were elements of ASTM specifications that should be included in GSA's "recycled" latex paint specification. NPCA responded that the addition of ASTM specifications depended on the ultimate use of the paint. NPCA added that the GSA specification is broad enough to allow for many uses. If top quality is a concern, checking and cracking are considerations. These factors are addressed by ASTM specifications but not by the GSA "recycled" latex paint specification.

5. Recovered Materials Content Recommendations

NPCA requested that EPA recommend both preconsumer and postconsumer content levels in the final RMAN II. The NPCA comments had suggested that EPA add preconsumer content levels but provided no information, and NPCA did not bring additional information to the June 17, 1997 meeting. Preconsumer materials would include off-specification paint and paint that is returned from distributors.

EPA requested information regarding the volume of latex paint that is returned and whether this material is routinely recycled into new paint. Under RCRA, off-specification paint and paint that goes to distributors could be considered recovered materials but not postconsumer. It is not clear that the use of recovered paint (from distributors) requires a market stimulus; from NPCA's comments, it appears to be a well established practice. However, EPA would consider adding recommendations for preconsumer content levels in the future should information become available. EPA referred NPCA to EPA's September 20, 1997 notice regarding "Procedures for Submission of Recycled Content Products Information to EPA," 60 FR 48714.