

Request for comments on PaintCare's request for a continuance of the Minnesota Architectural Paint Stewardship Assessment at the current level

On March 1, 2021, PaintCare, Inc. submitted a letter to the Minnesota Pollution Control Agency (MPCA), requesting to maintain the Minnesota Architectural Paint Stewardship Assessment at current levels through December 30, 2023, at a minimum, pending a financial review to be submitted to the MPCA by March 31, 2024. PaintCare's request includes a financial review of the assessment levels on its operating revenues and expenses, an overview of the potential impacts of COVID on program finances, long-term financial projections, and an expressed desire to establish an operating reserve between 75-125% of annual operating expenses. The request from PaintCare may be found at: <https://www.pca.state.mn.us/sites/default/files/w-ps2-05.pdf>.

Background

In November 2016, PaintCare submitted a request that proposed increasing the assessments in its product stewardship plan by between 24 and 40% for almost all architectural paint sold in Minnesota and was designed to help eliminate its operating deficit and establish a cash reserve of 25% consistent with that prescribed in the Minnesota Architectural Paint Stewardship Program Plan. PaintCare's request was approved by the MPCA (after a public comment period) in March 2017 for a period extending through June 30, 2019 after which, if no longer necessary or approved, the assessments will revert to their previous levels.

In March 2019, PaintCare, Inc. submitted a financial review of the assessment increases to the Minnesota Pollution Control Agency (MPCA) that included a request to maintain the Minnesota Architectural Paint Stewardship Assessment at current levels through Fiscal Year 2024, effective July 1, 2019, contingent upon future reviews and projections. PaintCare's request included a financial review of the 2017 assessment increase on its operating revenues and expenses, its rationale for requesting the continuance, its long-term financial objectives, and a request to establish an operating reserve of 75-125% annual operating expenses. The MPCA approved the request to maintain the assessment levels through September 30, 2020, and stated its expectation that the operating reserve be maintained at 25-50% of annual operating expenses. The approval included a requirement that by March 1, 2021, PaintCare shall submit a proposal to MPCA requesting any changes to the assessment needed for the annual revenues to cover the program's annual expenses for Fiscal Year 2022 and beyond.

MPCA's draft determination

MPCA has reviewed the data and projections provided by PaintCare, as well as other program data, relevant reports and policies. The current assessment levels have successfully allowed PaintCare to eliminate its operating deficit and establish an operating reserve that is 67% of annual expenses as of the end of 2020. Based on MPCA's projections, this trend should be expected to continue. However, the challenges of accurately projecting program revenues and expenses due to the potential continued impacts of COVID-19 disruptions on the program could be contributing to differences between MPCA's and PaintCare's projections.

Because of this, MPCA is proposing that the current assessment levels be maintained pending further financial review by PaintCare and MPCA, which will afford the time and data required to determine more certain future projections for revenues and expenditures. In addition, based on fair and representative non-profit industry reports and the relative security of the revenue stream relied on by PaintCare, MPCA maintains that PaintCare should not exceed a 75% reserve level for the program. Therefore, by April 1, 2022, PaintCare must submit a new proposal to MPCA requesting a continuation of the current assessment levels or any changes to the assessment needed to ensure that annual revenue covers the program's annual expenses without generating a reserve in excess of 75% of annual expenses. Should the reserve exceed a 75% level, it is expected the assessment will be adjusted to ensure the financial needs of the program are met without collecting more funds than are necessary to maintain the financial health of the program.

PaintCare's initial request to increase the fee and the PaintCare product stewardship plan may be found at: <https://www.pca.state.mn.us/quick-links/paint>

How to comment

As part of its review and approval process (Minn. Stat. § 115A.1415, subd. 7), the MPCA will accept written comments from stakeholders on PaintCare's request until 4:30 p.m. on Monday, October 18, 2021.

Written comments should be directed to Matthew Webb at matthew.webb@state.us.mn, or mailed to him at the Minnesota Pollution Control Agency, 520 Lafayette Road N., St. Paul, MN 55155-4194.