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October 21, 2010

MVB-11017

Mr. Mark Leary, Acting Director
California Department of Resources,
Recycling and Recovery
801 K Street, MS 19-01
Sacramento, CA 95814

RE: Revised Proposed Regulations for Architectural Paint Recovery Program

Dear Mr. Leary:

Behr Process Corporation (Behr) is submitting comments on the above referenced California Department of Resources, Recycling and Recovery (CalRecycle) Regulations for Architectural Paint Recovery Program (herein after referred to as "Proposed Regulations" or "Revised Proposed Regulations"). Behr is a manufacturer of architectural coatings with distribution in North America, South America and China. Behr is also a member of the American Coatings Association and the California Paint Council.

Behr supports the comments submitted by the American Coatings Association (ACA) and PaintCare. The Proposed Regulations go well beyond the scope of CalRecycle's statutory authority and the revisions made through the first round of comments do not correct this. In fact, the Revised Proposed Regulations continue to add elements that were either not contemplated by the underlying legislation or were contemplated and specifically not adopted. Thus, Behr cannot support the Revised Proposed Regulations. While the latest comment period specifies that comments can only be made on the revisions, Behr incorporates by reference ACA and PaintCare's comments of September 5, 2011, since these core issues still remain and were not addressed in the Revised Proposed Regulations.

The purpose of the Proposed Regulations as stated in numerous stakeholder meetings and correspondence by CalRecycle was to "establish administrative procedures to efficiently and effectively implement the department's responsibilities under the law and

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to provide a uniform competitive business environment to all architectural paint manufacturers, retailers, and distributors pursuant to the underlying statute. Unfortunately, CalRecycle is using this rulemaking as an open-ended invitation to address all the requirements it desires under its Extended Producer Responsibility policy – something it attempted to do through legislation and failed. Thus, the Proposed Regulations do little to clarify CalRecycle's role and/or provide uniform compliance standards for producers, retailers or more importantly, product stewardship organizations such as PaintCare – they are merely an attempt to extend CalRecycle's regulatory authority beyond its statutory limits.

Thus, Behr once again urges CalRecycle to revise the regulations in keeping with the underlying statute and the intent of AB 1343, pursuant to ACA and PaintCare comments in this regard. In advance, thank you for your consideration. Please do not hesitate to contact me with any questions.

Sincerely,



MICHAEL V. BUTLER

Director – Environmental and Regulatory Affairs
Behr Process Corporation