
From: Alison Keane [akeane@paint.org]
Sent: Monday, December 19, 2011 12:44 PM
To: Mortensen, Carol
Cc: Sande George; nelson@randlettnelsonmadden.com; livingstong@gtlaw.com; Wang, Emily; Dunn, Cynthia; Levenson, Howard
Subject: Second 15-day Comment Period
Attachments: CALRECYCLE PAINT REGS (MORTENSEN) ACA COMMENTS 12 19 11.pdf

Carol - pursuant to my voicemail message – thanks again for all your help with the paint regs. – unfortunately, we still cannot support since two of our substantive issues have not been addressed – but we appreciate your help on this and if there is further opportunity to work on the regulations we stand ready, willing and able.

Alison.

Alison A. Keane. Esq.

Vice President, Government Affairs
American Coatings Association
General Counsel, PaintCare
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AmericanCoatings
ASSOCIATION

December 19, 2011

Ms. Caroll Mortensen, Director
California Department of Resources,
Recycling and Recovery 801 K Street, MS 19-01
Sacramento, CA 95814

RE: Regulations for Architectural Paint Recovery Program; Revised Proposed Regulations, Second 15-Day Comment Period

Dear Caroll:

Thank you again for your efforts to address the American Coatings Association concerns and to facilitate compromise language on the regulations for the architectural paint recovery program. We sincerely appreciate your work on this issue and continue to want to see resolution to our remaining issues in the hopes of bringing the PaintCare program to California in a timely manner. However, as stated in our last letter of November 30, 2011, in order for us to agree to the compromise language in the revised regulation, our non-starter issues had to be addressed. As two of these issues, the additional mandatory requirements for the Annual Report and the lack of any notice and comment procedures for the administrative fees to the Department, have not been addressed, we will not be able to support the latest revisions.

Please note that we are still willing to accept the compromise language negotiated to-date should our remaining two issues be appropriately addressed. However, in order to highlight the considerable parts of the regulations where the Department has gone above and beyond its statutory authority for the Office of Administrative Law, and to preserve our judicial rights going forward, we will raise objections to substantial portions of the regulation through our comment submission on December 22, 2011.

Please do not hesitate to contact me should you need further information or have any questions.

Sincerely,

Alison A. Keane, Esq.
Vice President, Government Affairs

Cc: Cynthia Dunn Emily Wang

** Sent in Electronic Format **