



October 25, 2010

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:

Kelly-Moore Paint Company, Inc. (KMPC) 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"). KMPC is a California-based manufacturer and retailer of architectural coatings with over 900 employees working within the state. We operate over 90 retail locations throughout the state and have a manufacturing plant, as well as our corporate headquarters, located in San Carlos, California. We are one of the few remaining regional paint companies in the United States and are very proud to say we are an employee-owned company.

KMPC 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, KMPC cannot support the Revised Proposed Regulations. While the latest comment period specifies that comments can only be made on the revisions, KMPC 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 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, KMPC 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,

A handwritten signature in black ink, appearing to read "Robert W. Stetson", with a large, sweeping flourish extending to the right.

Robert W. Stetson,
Director of Risk Management