
From: Robert Stetson [RStetson@kellymoore.com]
Sent: Monday, September 05, 2011 1:18 PM
To: Paint Product Stewardship
Subject: Kelly-Moore Paint Company Comment Letter on Proposed Regulations for Architectural Paint Recovery Program
Attachments: Kelly-Moore Paint Company Comment Letter on CA Regulations 9-5-11.pdf

To Whom it May Concern:

The attached letter is for Mr. Mark Leary, Acting Director of the California Department of Resources, Recycling and Recover, and is in reference to the above mentioned subject matter.

Best Regards,

Robert W. Stetson
Director of Risk Management
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September 5, 2010

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

RE: 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"). 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 and we are proud to say we are also an employee-owned company.

KMPC supports the comments submitted by the American Coatings Association (ACA) and PaintCare. Company believes the Proposed Regulations are well beyond the scope of CalRecycle's statutory authority and do not comport with the plain language and legislative intent of the underlying legislation. KMPC stands ready and willing to implement a paint stewardship program in the state of California, and supported the legislation enabling such. However, KMPC cannot support what appears to be the Agency's attempt to satisfy their own interest in putting in place a broad extended producer responsibility regulatory policy by which future products are measured.

The impetus for the program and the enabling legislation was a multi-state, multi-stakeholder dialogue facilitated by the Product Stewardship Institute entitled the Paint Product Stewardship Initiative. KMPC participated in this dialogue and agreed to pursue the legislation in this regard because of the consensus agreements brought about by the dialogue with regard to extended producer responsibility. Thus, AB1343, the enabling legislation here, is very specific and is the basis for the program already being implemented in Oregon and that will be implemented in Connecticut. In fact, KMPC is currently participating in PaintCare and the program is working well in Oregon, without the need for implementing regulations. Therefore, the legislation and ensuing statute provides ample plain language for CalRecycle to draft clear and reasonable

regulations upon. CalRecycle's attempt to add additional requirements over and above what would have been supported in the underlying legislation cannot survive administrative or judicial scrutiny. In order to ensure that the residents of California receive the PaintCare program in a timely fashion, Company urges CalRecycle to revise the Proposed Regulations based on ACA and PaintCare comments, removing superfluous, burdensome and costly additional requirements that the Proposed Regulations currently contain.

In advance, thank you for your prompt attention to these comments, as well as those from ACA, PaintCare and the California Paint Council. Please do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert W. Stetson". The signature is fluid and cursive, with the first name being the most prominent.

Robert W. Stetson,
Director of Risk Management