



A Masco Company

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September 5, 2010

MVB-11016

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:

Behr Process Corporation (herein after referred to as “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”). Behr is a manufacturer of paint stains and varnishes and distributes its products in North and South America and China.

Behr supports the comments submitted by the American Coatings Association (ACA) and PaintCare. Behr 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. Behr stands ready and willing to implement a paint stewardship program in the state of California, and supports the legislation enabling such. However, Behr 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. Behr 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 in this case, is very specific and

is the basis for the program already being implemented in Oregon and the program that will be implemented in Connecticut. In fact, Behr 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. 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, Behr 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,



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