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**From:** Mike Butler [MButler@behr.com]  
**Sent:** Friday, September 09, 2011 11:52 AM  
**To:** Dunn, Cynthia  
**Cc:** Alison Keane; Marjaneh Zarrehparvar  
**Subject:** Re: Paint Rulemaking Public Comments  
**Attachments:** Behr Testimony 9-8-2011.docx

Good morning Cynthia,  
Thanks for the opportunity to provide my comments at yesterdays public hearing. Please find a copy of my comments attached.

Sincerely,  
Michael Butler

MICHAEL V. BUTLER  
Director - Environmental and Regulatory Affairs  
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From: "Dunn, Cynthia" <[Cynthia.Dunn@CalRecycle.ca.gov](mailto:Cynthia.Dunn@CalRecycle.ca.gov)>  
To: "mbutler@behr.com" <[mbutler@behr.com](mailto:mbutler@behr.com)>  
Date: 09/09/2011 10:56 AM  
Subject: Paint Rulemaking Public Comments

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Hello Mr. Butler:

Thank you for your input at yesterday's paint public hearing on CalRecycle's proposed regulation to implement AB 1343. Is it possible for you to send me written comments by noon today?

Thank you,  
Cynthia

**Cynthia Dunn**  
California Department of Resources Recycling and Recovery (CalRecycle)  
Statewide Technical & Analytical Resources Division  
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Behr Testimony – 9/8/2011

Good afternoon. My name is Mike Butler. I am the Director of Environmental and Regulatory Affairs for Behr Process Corporation. 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. Along with other members of these organizations, Behr supported AB 1343, the underlying legislation these regulations attempt to enact. Unfortunately, the regulations go far beyond what is necessary to actually implement the program and well beyond the authority granted to the Agency by the statute. Thus, while Behr supports the PaintCare program and is a participant of such in Oregon, it must oppose these regulations.

The paint industry has chosen to take a proactive approach to the management of leftover paint and has worked hard, along with other stakeholders, to put together and promote consensus based legislation. Our proactive approach is designed to ensure consistency of programs throughout the United States as well as making sure any program would be industry managed in order to keep program costs appropriate without impacts to markets or marketability. The Proposed Regulations, by mandating additional and costly requirements will not enable us to bring a cost effective program to the State of California and will subject companies doing business in California to different requirements than companies doing business in other PaintCare states.

Just the recordkeeping requirements in the proposed regulation alone will increase the cost of the program substantially, thus increasing the cost of the assessment and the final purchase price of paint.

For example, the proposed regulations mandate that a retailer keep records of when the paint was purchased from a manufacturer as well as a date the retailer sold the paint. In addition, the proposed regulations mandate retailers keep certification letters demonstrating that the paint they sell is manufactured by a participant in a stewardship plan.

These records are:

- not generally kept
- they are not required by the PaintCare program in any other state, and
- given the often complex distribution network among manufacturers, distributors and retailers and the thousands of brands of paint sold, they are records that, in some cases, cannot be produced.
- And, if a retailer cannot produce these records – they will be subject to a potential \$5,000 dollar a day fine.

All of these unnecessary costs will be absorbed by the paint purchaser in California – and the nominal fee for service enjoyed by paint purchasers in Oregon and subsequent PaintCare states, will not be realized for California residents.

Thus, Behr urges CalRecycle to revise the regulations based on the comments submitted by the American Coatings Association and allow the industry to bring a cost-effective, environmentally sound program for the management of post-consumer paint to California.

Thank you for your time.