



December 10, 2010

Federal Trade Commission  
Office of the Secretary  
Room H-135 (Annex J)  
600 Pennsylvania Avenue, NW  
Washington DC 20580

**Re: Comment in response to Docket Identification Number: FTC-2010-0099 (Proposed Revised Green Guides)**

Dear Federal Trade Commission:

This comment is in response to the Federal Trade Commission's (FTC) "Proposed Revised Green Guides, 16 CFR Part 260, Project No. P954501" published at 75 FR 63552 on October 15, 2010 (Docket Identification Number: FTC-2010-0099). Thank you for allowing the public the opportunity to comment on FTC's important and timely revisions to the Guides for the Use of Environmental Marketing Claims ("Green Guides").

Benjamin Moore & Co. is a high-performing, innovative manufacturer and retailer of quality architectural coatings and provider of related goods and services for decoration and preservation. With its acquisition in 2000 by Berkshire Hathaway, Benjamin Moore joined Warren Buffet's family of companies, which embodies success and is distinguished by sustainable brands. Through its network of more than 3,000 paint and decorating stores and lumberyards, and more than 1,300 ACE hardware outlets, Benjamin Moore keeps Main Street America employed and helps drive the economy. At Benjamin Moore, we have a long history of providing quality products that preserve, protect, and beautify American homes, buildings, and structures. We take pride in the science behind our innovations which allows us to develop truly environmentally friendly paints and operate our business with the utmost integrity in our environmental claims.

At Benjamin Moore, we take significant issue with current environmental marketing claims in our industry, and we suggest improvements to your Green Guides to correct these inconsistencies. As you may know, current claims based on the level of volatile organic compounds, such as "low VOCs" and "no VOCs," are rampant in the paint industry because VOCs can cause detrimental environmental effects and a host of harmful health effects. Unfortunately, the vast majority of paint manufacturers that utilize those environmental claims on the front of their paint cans only measure the VOC level prior to the time colorant (tint) is added to the base paint. It is widely known in the paint industry that as colorant is added to the base paint, the VOC levels of the paint typically rise dramatically – up to 24 times the original amount. When customers buy paint, they are assuming that the final product – the tinted paint – has low VOC levels because the gallon is advertised as being "green," "low VOC," "no VOC," or otherwise environmentally friendly. This practice is misleading customers as to how safe a product actually is.

We would like to comment on a few specific sections of your Green Guides, and offer additional examples for your consideration.

Section 260.3(b) states that “[u]nless it is clear from the context, an environmental marketing claim should specify whether it refers to the product...or just a portion of the product...” When paint manufacturers state on their paint cans that their paint is “low VOC” they are typically just referring to a portion of the product – the portion that changes virtually every time to the product is sold because colorant is added to nearly every paint can before it leaves the store. In light of this, we would suggest adding the following “Example 3” to Section 260.3(b):

**“Example 3:** A can of paint is labeled ‘low VOC’ because the base paint has a VOC level below 50 g/L of VOC content prior to colorant being added. Because colorant is added to virtually every paint can before it is purchased by the customer, the claim is deceptive. The colorant cannot be characterized as “minor” or “incidental” due to the fact that tinting typically adds a large amount of VOCs – up to 24 times the original amount.”

Similarly, Section 260.9(a) states: “[i]t is deceptive to misrepresent, directly or by implication, that a product, package, or service is non-toxic. Such claims should be clearly and prominently qualified to the extent necessary to avoid deception.” In order to not mislead customers, paint manufacturers that utilize environmental claims such as “low VOC” should couple those statements with a disclaimer such as “prior to the addition of colorant,” or “pre-tinted.” We also suggest adding the following “Example 4” to Section 260.9:

**“Example 4:** A manufacturer advertises a can of paint as ‘low VOC.’ The advertisement likely conveys that the product, as purchased, contains a level of VOCs below below 50 g/L of VOC content. Because colorant is added to virtually every paint can before it is purchased by the customer, the claim is deceptive. The colorant cannot be characterized as “minor” or “incidental” due to the fact that tinting typically adds a large amount of VOCs – up to 24 times the original amount.”

Overall, due to the potentially serious environmental and health effects attributed to VOCs in architectural coatings, it is vital that customers are not misled as to the amount of VOCs in their cans of paint. Any claims regarding “low VOCs” or “no VOCs” based on pre-tinted measurements should be clearly qualified, as to not be deceiving.

Again, we commend the FTC for its efforts to ensure that environmental representations are not misleading to customers. Benjamin Moore & Company believes that in order to maintain truth in advertising, changes like the ones outlined above must be made to protect customers from unqualified environmental claims. We hope you will consider our suggestions to your updated Guides in order to promote integrity in the marketing practices of our industry.

Sincerely,



John R. Vanderpool  
Benjamin Moore & Co.