



December 12, 2011

Caroll Mortensen
Director, CalRecycle
1001 I St.
Sacramento, CA 95814

**SUBJECT: PROPOSED REGULATION FOR MANDATORY COMMERCIAL RECYCLING
RULEMAKING – PUBLIC HEARING DECEMBER 13, 2011**

Dear Director Mortensen,

On behalf of the above-listed entities, we thank you for the opportunity to comment on the Department of Resources, Recycling and Recovery's (CalRecycle) proposed draft Mandatory Commercial Recycling regulation (MCR) pursuant to the recent passage of AB 341 (Chesbro).

As authorized under AB 341, CalRecycle is charged with developing regulations to implement a mandatory commercial recycling program in California that will achieve 5 million metric tons of carbon dioxide equivalent (MMTCO₂E) reductions by 2020.

As representatives of businesses that will be impacted by promulgation of the MCR, we have been extensively engaged in the rulemaking process. As expressed in past commentaries, the business community is not opposed to doing its part to increase the recycling rates. It is important however, that any new regulations aimed toward achieving these goals be viewed through the lens of the economy and the existing financial struggles that California businesses continue to face. Regulations must be carefully crafted to minimize impact on the business community. In keeping this in mind, we are pleased that the current draft MCR provides a tenable approach for businesses to reach the state's environmental goals. We acknowledge that the draft incorporates certain flexibilities for businesses and we primarily appreciate that it sets a waste diversion *goal* rather than imposing an onerous mandate.

Additionally, we find other workable provisions in the current MCR iteration that:

- Promote recycling manufacturing facilities in California. We believe recycling facilities are vital assets in waste diversion in the state, as they provide employment and present statewide economic potential.
- Provide parity by clarifying the definition of 'business' to include commercial businesses and public entities.
- Allow for exemption consideration due to space limitations, zoning requirements, lack of markets, and other unintended logistical challenges to the implementation of the regulations.
- Clarify that local governments and jurisdictions are charged with implementation and monitoring of a commercial recycling program that fits *their existing programs and resources*. Provisions further clarify that the programs shall consist of education, outreach and monitoring of businesses.

- Do not impose a mandate and provide flexibility for local jurisdictions in setting waste diversion requirements above the 50% threshold.

While we acknowledge the incorporated flexibilities for businesses, more can be done to ensure compliance in an effective manner to reduce the risk of incurring penalties. We suggest an extension of the education-only enforcement period so that businesses can adjust to the mandatory recycling programs adopted by their jurisdiction without the fear of more stringent enforcement options in early years.

Moreover, we request that the CalRecycle delineates the term “comparable” as it appears on section 18837(a) subsection (2): “Subscribing to a service that includes mixed waste processing alone or in combination with other programs, activities or processes that divert recyclable and/or compostable materials from disposal, and yielding diversion results *comparable* to source separation.” A clarification on what constitutes *comparable* would assist businesses in compliance with the regulation.

As the Department moves forward with implementation of the MCR and codification of AB 341, we hope to continue to collaborate with staff to ensure that the regulation provides businesses with clear, simply-understood, and realistic instructions for compliance. We hope such collaborative effort will result in an efficient and cost-effective recycling program that not only achieves the environmental goals set by the legislature but also, provides the most flexibility to businesses to adapt during these difficult economic times.

If you have any questions, please feel free to contact Brenda Coleman with the CalChamber at 916-444-6670 or Brenda.Coleman@calchamber.com.

Sincerely,

Brenda Coleman
California Chamber of Commerce



John Larrera
California League of Food Processors



Kara Bush
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Mike Rogge
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