



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 nearly 22,000 members of the California Restaurant Association, 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.

We appreciate the open dialogue of the process to date as we have been extensively engaged in the rulemaking process. We believe that it is important that any new regulations aimed toward achieving the mandated recycling goals be viewed through the lens of the economy and the existing financial struggles that California restaurants continue to face.

We have a number of remaining concerns that we would like you to consider addressing.

- Will Cal Recycle promulgate rules that hold building owners accountable for commercial recycling services? We feel building owners must be included in the compliance chain to achieve results. Building owners control waste services for an enormous number of retail stores in California. To hold companies responsible for waste they do not control is unreasonable. In addition, many buildings lack space to recycle waste materials. We feel the regulations should provide exemptions for tenants where the building owner cannot or will not provide space for recycling services.
- Recycling and waste collection is highly variable across jurisdictions as recycling services are incongruent and the types of materials accepted into local programs vary widely. For national retailers in particular, they cannot implement a "one size fits all approach" to recycling. We hope Cal Recycle will develop rules that clearly acknowledge

PREPARE TO BE INSPIRED.

621 Capitol Mall, Suite 2000 Sacramento, CA 95814 T: 800.765.4842 F: 916.447.6182 www.calrest.org

these gaps to facilitate not only customer education but also help retailer partner's (employees) education and compliance activities.

- Additionally, the rulemaking mentions that mixed waste processing can be used to meet the recycling requirement, as long as it "yield(s) diversion results comparable to source separation". We suggest Cal Recycle clearly delineate what criteria will be used to determine compliance.
- Many restaurant patrons enjoy their food and beverages at work, home and in locations other than our stores. We have found residential and commercial recycling programs are incongruent. How or will the rulemaking process address these issues?
- Given the lack of enforcement on building owners who control waste services, implementing recycling programs for companies will be difficult to achieve by July 1, 2012. We suggest Cal Recycle include formal language in the rules that encourage local jurisdictions to provide a substantial grace period for enforcement. 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 believe an extension of the education-only enforcement period would be helpful 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.

We appreciate the opportunity to comment on the proposed regulations and look forward to continuing to collaborate so that together we can be a partner in helping California achieve its recycling goals through an efficient, cost-effective recycling program. We are hopeful that continued collaboration will result in a final regulation that provides the restaurant community with clear, simply-understood, and realistic instructions for compliance.

The California restaurant industry is the second largest private employer in the state and we believe it is imperative to have a recycling program that meets the environmental goals set by the Legislature while, at the same time, providing the most flexibility to business to adapt during these challenging economic times.

Thank you for your consideration of our concerns.

Sincerely,



Matt Sutton
Senior Legislative Director