

REQUEST FOR APPROVAL

To: Mark Leary
Acting Director

From: Elliot Block
Chief Counsel

Request Date: January 4, 2011

Decision Subject: Approval of 2011 Annual Rulemaking Calendar

Action By: January 31, 2011

Summary of Request: Government Code Section 11017.6 requires the all State agencies to prepare each year, a rulemaking calendar for that year. Rulemaking calendar requirements are prescribed in this Government Code section as well as in Executive Order W-144-97.

The proposed 2011 Rulemaking Calendar was developed with input from each of the Department's divisions and offices. Staff is seeking approval of the Calendar so that it can be submitted to the Office of Administrative Law (OAL) as required by Government Code Section 11017.6.

Recommendation: Approve the proposed 2011 Rulemaking Calendar so that it may be forwarded to the Office of Administrative Law for publication.

Action:

On the basis of the information and analysis in this Request for Approval and the findings set out above, I hereby approve the 2011 Annual Rulemaking Calendar.

Dated: _____

Mark Leary
Acting Director

Attachments: Proposed 2011 Rulemaking Calendar

Background

Government Code Section 11017.6 requires all State agencies to prepare each year, a rulemaking calendar for that year. The rulemaking calendar must be prepared in accordance with a format specified by the Office of Administrative Law (OAL) and approved by

“...the head of the department or, if the rulemaking agency is an entity other than a department, by the officer, board, commission, or other entity which has been delegated the authority to adopt, amend, or repeal regulations...”

These annual calendars are then published by the Office of Administrative Law in its *Regulatory Notice Register*, giving interested parties advance notice of State agency rulemaking plans for the year.

Government Code Section 11017.6 describes two schedules included in the Rulemaking Calendar. Schedule A describes the rulemaking necessary to implement statutes enacted during the previous year. Schedule B describes all other rulemaking the agency plans to propose, to implement or interpret other statutes enacted during years prior to the previous year. For each proposed rulemaking, the Calendar is to contain information specified in Government Code Section 11017.6 and Executive Order W-144-97.

Key Issues

Effect of the Rulemaking Calendar

The rulemaking calendar is designed to be a "snapshot in time." It provides a once a year overview of each agency's potential regulations for the coming year. A particular regulatory package must be listed on the calendar at the time the Office of Administrative Law is reviewing it for approval. However, the calendar is not restrictive in nature. Emergency regulations need not be on the calendar. The Department is not bound by the projected dates on the calendar. New packages may be added to the calendar during the year if they were not "reasonably anticipated."

Changes Since The 2010 Rulemaking Calendar

The 2010 rulemaking calendar listed 14 potential rulemaking packages:

- Rigid Plastic Packaging Containers –SB 743 and SB1344 (Chesbro)
- Financial Assurances – AB 2296 (Montanez)
- Waste Tire Hauler and Manifesting Requirements
- Solid Waste Facility and Waste Tire Permitting Requirements
- State Minimum Standards for various operations and facilities
- Compostable Materials Handling Operations and Facilities
- Proposed Solid Waste Facility Permit; CIWMB Processing Requirements

- Landfill Methane Capture
- Waste Tire Product Storage Requirements
- California Oil Recycling Enhancement
- Procedural Rules for Conducting Hearings
- E-Waste regulations
- Mandatory Commercial Recycling
- AB 274 (Portantino) Trust Fund

During the past year, OAL approved 3 of the rulemaking packages:

- Landfill Methane Capture
- Financial Assurances – AB 2296 (Montanez)
- Waste Tire Hauler and Manifesting Requirements

The Proposed 2011 Rulemaking Calendar

The 2011 rulemaking calendar (attachment) was prepared with input collected by the regulations coordinators of the Department's various divisions. The 2011 calendar lists 22 potential regulatory packages.

Eleven rulemaking packages with new or revised regulations are being carried over from last year in the following areas:

- Rigid Plastic Packaging Containers –SB 743 and SB1344 (Chesbro)
- Solid Waste Facility and Waste Tire Permitting Requirements
- State Minimum Standards for various operations and facilities
- Compostable Materials Handling Operations and Facilities
- Proposed Solid Waste Facility Permit; CIWMB Processing Requirements
- Waste Tire Product Storage Requirements
- California Oil Recycling Enhancement
- Procedural Rules for Conducting Hearings
- E-Waste regulations
- Mandatory Commercial Recycling
- AB 274 (Portantino) Trust Fund

Eleven potential rulemaking packages are being added:

- Architectural Paint Recovery Program
- Product Stewardship for Carpets
- Closure, Postclosure Maintenance and Financial Assurance Fee
- Waste Tire Facility and Hauler Enforcement
- Waste Tire Storage, Disposal and Permitting
- Waste Tire Storage/Permitting New Fire Standards and Simplification of the Five-year Permit Reapplication Process
- Notice of Violations and Hearings
- Cancellation of Beverage Containers
- Load Limits for Plastic and Aluminum Beverage Containers
- Persons Importing Beverage Container Material
- Repeal of Recycled Content Newsprint Regulations