REQUEST FOR APPROVAL

To:	**Caroll Mortensen** Director
From:	**Elliot Block** Chief Counsel
Request Date:	**January 3, 2012**
Decision Subject:	**Approval of 2012 Annual Rulemaking Calendar**
Action By:	**January 30, 2012**

Summary of Request: Government Code Section 11017.6 requires 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 2012 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 2012 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 2012 Annual Rulemaking Calendar.

Dated: 1/17/2012

Caroll Mortensen
Director

Attachments: Proposed 2012 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."

The Proposed 2012 Rulemaking Calendar

The 2011 rulemaking calendar listed 22 potential rulemaking packages.

The 2012 rulemaking calendar (attachment) was prepared with input collected by the regulations coordinators of the Department's various divisions. The 2012 calendar lists 19 potential regulatory packages.

Twenty rulemaking packages with new or revised regulations are being carried over from last year in the following areas (but three of them regarding Waste Tires are being combined into one):

- Mandatory Commercial Recycling
- 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
- Revisions to Title 14 and 27 (Compostable Materials, Transfer Processing, Permit)
- AB 274 (Portantino) Trust Fund
- Closure, Postclosure Maintenance and Financial Assurance Fee
- Waste Hauler Regulations
- Waste Tire Storage/Permitting, New Fire Standards and Simplification of the Five-year Permit Reapplication Process, Penalties
- Architectural Paint Recovery Program
- Product Stewardship for Carpets
- California Oil Recycling Enhancement
- Procedural Rules for Conducting Hearings
- E-Waste regulations
- Notice of Violations and Hearings
- Cancellation of Beverage Containers
- Load Limits for Plastic and Aluminum Beverage Containers
- Persons Importing Beverage Container Material

Two rulemaking packages are being dropped for the time being:

- Proposed Solid Waste Facility Permit; CIWMB Processing Requirements
- Repeal of Recycled Content Newsprint Regulations

One potential rulemaking packages is being added:

- Revisions to Definitions and Requirements for Beverage Container Program