

Enforcement Advisory Council

Solid Waste Management Through Partnership

June 7, 2010

Ted Rauh, Assistant Director
Department of Resources Recycling and Recovery
Waste Compliance and Mitigation Program
1001 I Street
PO Box 4025
Sacramento, CA 95812-4025

Subject: Enforcement Advisory Council Resolution 2009-01 – Review and
Circulation of Guidance Documents

Dear Mr. Rauh:

On April 29, 2010 the Enforcement Advisory Council (EAC) voted to accept the attached *Review and Circulation of Guidance Documents*. This methodology addresses how the EAC and Department of Resources Recycling and Recovery (CalRecycle) staff are to determine acceptable review periods implementation strategies in response to pending legislation and regulations.

The EAC looks forward to collaborating with CalRecycle staff to develop guidance for Local Enforcement Agencies to fairly and equitably implement statewide compliance and enforcement programs that are required by new legislation and rulemaking.

Should you have any questions, please contact me at 858-694-3595.

Sincerely,



Rebecca Lafreniere, Chair
Enforcement Advisory Council

Enclosure

cc: EAC Members
Rebecca Ng, Chair, CCDEH Solid Waste Policy Committee

Review and Circulation of Guidance Documents

(EAC Resolution 2009-01)

BACKGROUND

EAC resolution 2009-01 discusses working together to develop criteria to establish mutually acceptable review periods for draft CalRecycle guidance documents. The purpose of this document is to outline general procedures that the EAC sub-committee may further expand, revise and/or refine.

GOALS

- To be proactive, responsive and collaborative on identifying upcoming solid waste permitting and enforcement issues that will create implementation challenges.
- Identify tools and mechanisms needed for review of future guidance documents.
- Establish practical criteria for review, circulation and rescission of existing and future guidance documents.

PROACTIVE APPROACH

1. This EAC standing sub-committee would serve as a “legislative, regulatory and guidance document watchdog”.
2. The sub-committee would periodically review soon to be enacted legislation, or regulations that are being developed. If implementation issues are determined, the sub-committee will recommend a new resolution, FAQ, guidance document, and/or white paper, etc. be developed.
3. CalRecycle staff would continue to review proposed legislation, develop regulations and identify other solid waste permitting and enforcement issues. If implementation issues are determined (by staff, EAC, other stakeholders), CalRecycle staff will work with the sub-committee to determine if a FAQ, guidance document, or All LEA E-Mail should be developed to clarify implementation issues and/or provide guidance.
4. The sub-committee and CalRecycle staff would assure that the product of their efforts, whether FAQ, guidance document and/or white paper, would not be construed as a requirement or mandate in accordance with applicable statutes.¹

TOOLS & MECHANISMS

A collaborative review may be accomplished by use of the following, generally in combination:

- CCDEH, EAC, LEA Round Tables
- EAC Sub-Committee
- Work Groups
- LEA Conference
- All LEA E-Mails

¹ Government Code §§ 11340.5 and 11342.600

GENERAL PROCEDURES

The following is a general outline of the review procedures for both full and expedited reviews. The decision for a full or expedited review will be made collaboratively.

Full Review

1. A solid waste program or implementation issue is identified as requiring further guidance and needing a "full review".
2. A work group is identified (stakeholders, LEA, EAC and CalRecycle staff as appropriate).
3. Draft guidance will be developed and scrutinized by the subcommittees & workgroups & CalRecycle Division Chiefs etc
4. The draft will be presented and discussed at EAC and CCDEH SWPC.
5. The draft guidance will be distributed via email to LEAs prior to Roundtable to be discussed at the meeting.
6. The draft guidance (as revised) will be sent out as an All LEA E-Mail and with a request for further comments.
7. Formal vote/poll taken at each Roundtable to determine consensus on draft guidance document.
8. Workshops will be held if appropriate.
9. The draft final guidance will go back to EAC and/or the EAC sub-committee for review.
10. The draft will be finalized and distributed by All LEA E-Mail as well as posted on the web.

Expedited Review

1. An urgent solid waste program or implementation issue is identified as requiring further guidance and needing an "expedited review".
2. Draft guidance will be developed by CalRecycle staff and discussed at EAC and/or by the EAC sub-committee, as well as at CCDEH SWPC.
3. The draft guidance (as revised) will be sent out as an All LEA E-Mail and with a request for further comments.
4. The draft guidance may be discussed at the LEA Round Tables, depending on the issue and the timeframes for finalizing the guidance.
5. The draft final guidance may go back to EAC and/or the EAC sub-committee for review.

Main Issues for Further Discussions:

- Role of the sub-committee
- Criteria for deciding whether a full or expedited review is necessary
- Time frames for review
- Refinement of the review process and discussion of acceptable contingencies
- Develop a process for rescission of guidance documents and LEA Advisories