

California Integrated Waste Management Board

Board Meeting

January 21, 2009

AGENDA ITEM 9

ITEM

Consideration Of the 2009 Annual Rulemaking Calendar

I. ISSUE/PROBLEM STATEMENT

Government Code Section 11017.6 requires the California Integrated Waste Management Board (CIWMB) and all other State agencies to prepare, by January 31 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 2009 Rulemaking Calendar was developed with input from each of the Board's divisions and offices. Staff is seeking the Board's 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.

II. ITEM HISTORY

None on this item. The Board has approved previous Rulemaking Calendars annually.

III. OPTIONS FOR THE BOARD

1. The Board may adopt the proposed 2009 annual Rulemaking Calendar and direct staff to submit the Calendar to the Office of Administrative Law.
2. The Board may approve the proposed 2009 annual Rulemaking Calendar with direction to staff on revisions to be made prior to submitting the Calendar to the Office of Administrative Law.

IV. STAFF RECOMMENDATION

Staff recommends that the Board select option 1 and adopt Resolution No. 2009-1 approving the 2009 Rulemaking Calendar as proposed.

V. ANALYSIS

A. Key Issues and Findings

Background

Government Code Section 11017.6 requires all State agencies to prepare, by January 31 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.

A copy of the proposed 2009 Rulemaking Calendar is attached.

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 Board 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 2008 Rulemaking Calendar

The 2008 rulemaking calendar listed nineteen potential rulemaking packages.

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

- Temporary Solid Waste Facilities Permits – AB 1473 (Feuer)
- Temporary Waiver of Solid Waste Facilities Permit Terms
- Closure and Postclosure Maintenance Cost Estimates (Phase 1) – AB 2296 (Montanez)
- Mammalian Tissue Composting
- At-Store Recycling Program (Plastic Carryout Bags)

The Proposed 2009 Rulemaking Calendar

The 2009 rulemaking calendar (attachment 1) was prepared with input collected by the regulations coordinators of the Board's various divisions. The 2009 calendar lists Sixteen potential regulatory packages.

Fourteen 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)
- Financial Assurances [Phase 2] – 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
- Appointment of Hearing Officer/Panel
- Cleanup Programs (Solid Waste; Farm and Ranch)
- Compostable Materials Handling Operations and Facilities

- Proposed Solid waste Facility Permit; CIWMB Processing Requirements
- Landfill Methane Capture
- California Oil Recycling Enhancement
- Procedural Rules for Conducting Hearings
- Form 303 – HHW Collection Information
- E-Waste regulations

Two new rulemaking packages are proposed to be added:

- Disposal Site Gas Monitoring and Control Compliance Deadlines
- Waste Tire Product Storage Requirements

B. Environmental Issues

Based on available information, staff is not aware of any environmental issues related to this calendar item.

C. Program/Long Term Impacts

Based on available information, staff is not aware of any impacts related to this calendar item.

D. Stakeholder Impacts

Based on available information, staff is not aware of any stakeholder impacts related this item.

E. Fiscal Impacts

No fiscal impact to the Board results from this item.

F. Legal Issues

Staff is not aware of any legal issues related to this item in addition to those already discussed above.

G. Environmental Justice

Staff is not aware of any environmental justice issues resulting from this calendar item.

VI. FUNDING INFORMATION

This item does not require any Board fiscal action.

VII. ATTACHMENTS

1. Draft 2009 Annual Rulemaking Calendar
2. Resolution No. 2009-1

VIII. STAFF RESPONSIBLE FOR ITEM PREPARATION

A. Program Staff: Regulations Coordinators

Phone: n/a

B. Legal Staff: Elliot Block

Phone: 341-6080

C. Administration Staff: Yvette Cox

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IX. WRITTEN SUPPORT AND/OR OPPOSITION

A. Support

None received at the time this item was written.

B. Opposition

None received at the time this item was written.