CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (CAL-EPA)

AIR RESOURCES BOARD

Executive Officer: James D. Boyd
Chair: John D. Dunlap III
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Pursuant to Health and Safety Code section 39003 *et seq.*, the Air Resources Board (ARB) is charged with coordinating efforts to attain and maintain ambient air quality standards, to conduct research into the causes of and solutions to air pollution, and to systematically attack the serious problem caused by motor vehicle emissions, which are the major source of air pollution in many areas of the state. ARB is empowered to adopt regulations to implement its enabling legislation; these regulations are codified in Titles 13, 17, and 26 of the California Code of Regulations (CCR).

ARB regulates both vehicular and stationary pollution sources. The California Clean Air Act requires attainment of state ambient air quality standards by the earliest practicable date. ARB is required to adopt the most effective emission controls possible for motor vehicles, fuels, consumer products, and a range of mobile sources.

Primary responsibility for controlling emissions from stationary sources rests with local air pollution control districts (APCDs) and air quality management districts (AQMDs). ARB develops rules and regulations to assist the districts and oversees their enforcement activities, while providing technical and financial assistance.

Board members have experience in chemistry, meteorology, physics, law, administration, engineering, and related scientific fields. ARB's staff numbers over 400 and is divided into seven divisions: Administrative Services, Compliance, Monitoring and Laboratory, Mobile Source, Research, Stationary Source, and Technical Support.

On December 20, Governor Wilson appointed John Dunlap as ARB's new chair. Dunlap succeeds Jacqueline E. Schafer, whose appointment was not confirmed by the Senate Rules Committee prior to its statutory deadline. Before his appointment to ARB, Dunlap served as the Chief Deputy Director at Cal-EPA's Department of Toxic Substances Control. He was responsible for pollution prevention, technology development, and external affairs. From 1983 to 1992, he held several positions within the South Coast Air Quality Management District.

Although Schafer was forced to resign as chair, she was immediately appointed by Governor Wilson to the position of "communications advisor" to ARB. In this position, created specifically for her, Schafer will serve as ARB's main spokesperson for the media and will help the Board develop state air pollution regulations and programs by conferring with industry groups, the public, and the legislature. Unlike ARB's former press secretary (who reported to the Board's executive officer), Schafer will report directly to the Board chair, which gives her more independence.

MAJOR PROJECTS

ARB Approves Revision to State Implementation Plan. On November 15, ARB finally approved comprehensive revisions to its state implementation plan (SIP) to achieve national ozone standards throughout the state and, specifically, in six major ozone nonattainment areas of the state (San Diego, Sacramento, the San Joaquin Valley, the South Coast Air Basin, the Southeast Desert, and Ventura). *[14:4 CRLR 144–45]* The Board's approval followed initial release of the SIP for public comment on October 7, a request by Governor Wilson that ARB secure an independent economic analysis of the SIP, and several public hearings during early November for the receipt of comments.

The federal Clean Air Act Amendments of 1990 require a comprehensive attainment plan from every ozone nonattainment area classified as serious, severe, or extreme. Each nonattainment area is assigned a statutory deadline for achieving the national ozone standard. Serious areas must attain by the end of 1999, severe areas by 2005 or 2007 (depending on their peak ozone level), and extreme areas by 2010. The Act requires these plans to be submitted to the U.S. Environmental Protection Agency (EPA) by November 15, 1994, as a revision to California's SIP.

The first element of the SIP revision involves state-level measures which are the principal responsibility of ARB (*e.g.*, setting standards and controls for automobiles, trucks, lawn and garden equipment, fuels, and consumer products). The state-level SIP elements also include the Bureau of Automotive Repair's Smog Check Program statutes and regulations, and the pesticide control statutes and regulations of the Department of Pesticide Regulation (*see* agency report on DPR for related discussion).

Of critical importance, the mobile source component of the first element is designed to help districts in their efforts to achieve the federal ambient ozone standard by reducing reactive organic gas (ROG) and oxides of nitrogen (NOx) emissions from most categories of mobile sources. The proposed mobile source component is expected to reduce ROG and NOx in the South Coast Air Basin by 193 and 339 tons per day, respectively, by 2010. These reductions are the result of applying a combination of control measures ranging from the short-term (such as accelerated vehicle retirement and other market-incentive programs) to long-term technology-based measures (such as more stringent emissions for virtually all categories of mobile sources). In addition, the mobile source component calls for EPA to accept the responsibility for adopting national standards for marine vessels, pleasure crafts, and interstate trucks, as well as for sources preempted from the state's control (such as locomotives, aircraft, and some off-road equipment).

The SIP also includes a consumer products component intended to reduce volatile organic compound (VOC) emissions to approximately 20 tons per day in the South Coast Air Basin by 2010. The consumer products component consists of near-term, mid-term, and long-term measures. The near-term measures include ARB's existing consumer products regulations plus the recently-adopted alternative control plan (*see below*), and ARB's current aerosol paint regulations. The mid-term measures include the formation of an advisory group (Consumer Products Working Group) and regulation of additional consumer product categories. The long-term emissions reduction strategies rely on market incentives and new technologies that are not currently available, but can reasonably be expected so long as efforts are made to foster research and development.

The second element of the SIP revision involves local plan elements adopted by the governing boards of eleven separate air pollution control districts in the six nonattainment areas. This element includes (1) an "attainment demonstration," in which each serious and above ozone nonattainment area must demonstrate attainment of the federal ozone standard by the applicable statutory deadline; and (2) a "post-1996 rate of progress plan," in which each serious and above nonattainment area must demonstrate at least a 3% per year average reduction in VOC emis-

sions after 1996, or demonstrate that a reduction by a lesser amount reflects all measures that can feasibly be implemented in the area.

In conjunction with its presentation of the proposed SIP revisions to the Board, staff also presented its analysis of the direct costs of the SIP and its associated economic implications. The SIP's mobile source and consumer products elements are estimated to cost the affected industries about $1.9 billion per year by 2010. Staff projected that increased control costs would affect economic activity in California only slightly. The California economy is expected to employ approximately 16.2 million people and produce goods and services valued at approximately $1.7 trillion in the year 2010. Projections estimate that the output of California's industries would be about $4 billion less and employment lower by 38,000 in the year 2010 than they would be without the SIP.

Thus, following months of work and over 25 hours of testimony by over 100 witnesses, ARB adopted its SIP revisions by the November 15 deadline. If approved by EPA, ARB's SIP will supplant EPA's stringent federal implementation plan released in February 1994.

ARB Implements Diesel Fuel Reimbursement Program. In November, ARB began administering a program to reimburse owners of diesel fuel-powered engines and equipment who claim their engines have been damaged by ARB-required reformulated diesel fuel sold in California after October 1, 1993.

The reimbursement program implements AB 3290 (Cannella) (Chapter 781, Statutes of 1994), which requires ARB to dedicate all fees received from diesel fuel manufacturers who received variances from the diesel fuel content standards toward the Diesel Fuel Trust Fund, and to establish a program to reimburse owners of diesel engines who can demonstrate damage to diesel fuel injection system elastomer components (such as O-rings, fuel lines, seals, or hoses) which resulted from the use of the reformulated diesel fuel. *[14:4 CRLR 145]* The new law allows heavy-duty vehicle owners to claim up to $550 for damages; owners of light-duty vehicles may claim up to $450 in damages. To file a claim, diesel engine owners must secure a claim form from ARB, complete it, and file it with the Board by March 31, 1995.

ARB has developed a seven-step process which claimants must follow in order to receive reimbursement. Initially, claims will be examined to determine their type, level of completeness, and general validity. The five claim-type categories consist of: (1) in-state vehicles, (2) out-of-state vehicles, (3) commercial fleet vehicles, (4) marine engines, and (5) stationary equipment. Second, ARB will categorize claims by their level of completeness; claims which are complete and ready for review must contain an accurately completed claim form, proof of ownership, repair and fuel receipts, and must be postmarked prior to March 1. Claimants with incomplete claims will be notified and given thirty days to correct the deficiencies; claimants with invalid claims will have 21 days to appeal the rejected claim. Third, the claimant must establish that the claim meets the basic requirements of AB 3290: The damage must have occurred to the elastomer components which are not the responsibility of the manufacturer; the damage must have occurred after September 1, 1993 and be caused by the use of California diesel fuel; and evidence of ownership of the vehicle or equipment is provided. Fourth, ARB will calculate the amount of the qualifying claim expenditure and determine an initial reimbursement amount. Qualified expenditures include the cost of replacement parts, diagnosis, labor, and towing; consequential damages such as loss of profits or rental cars are not covered. All claims will be adjusted to account for only elastomer fuel system repair costs which qualify for reimbursement. Also, all claims will be adjusted if the amount of claims exceeds the amount of funds available in the Diesel Fuel Trust Fund. Fifth, after determining an initial reimbursement, a technical panel of ARB staff will review the claim file. If the panel does not agree with the initial amount of reimbursement, it may determine a new amount. Sixth, after the panel confirms the reimbursement and after ARB has received and reviewed all claims, a letter and a check for the amount of the reimbursement will be sent to the claimant. The claimant will have 21 days to appeal the amount. The final step occurs when the payment has been made and is accepted by the claimant.

Board Delays Implementation Date of PSI Program for Heavy-Duty Diesel-Powered Fleets. At its December 9 meeting, ARB held a public hearing on staff's proposal to amend section 2190, Title 13 of the CCR, to delay implementation of the Periodic Smoke Self-Inspection Program (PSI) for heavy-duty diesel vehicles from January 1, 1995 to July 1, 1996. Health and Safety Code section 43701(a) requires ARB to adopt regulations which compel owners or operators of heavy-duty diesel vehicles to perform regular inspections of their vehicles for excessive emissions of smoke; accordingly, ARB adopted its PSI program regulations in December 1992; as adopted, the rules require California-based fleets having two or more heavy-duty diesel vehicles to perform annual inspections for excessive smoke emissions on these vehicles. *[13:1 CRLR 97]* At the time ARB adopted its rules, it specified a January 1, 1995 implementation date in order to allow the Society of Automotive Engineers (SAE) time to develop a new smoke test procedure that would mandate the use of substantially modified, or new, smoke test opacity meters. Because SAE has not yet completed and approved the new test procedure, staff proposed that the implementation date of the new program be proposed until July 1, 1996.

Following discussion, the Board agreed to delay the implementation date, but only until January 1, 1996; after that date, fleets will have 180 days to begin vehicle inspections. At this writing, ARB staff is preparing to release the modified language for an additional 15-day comment period and is compiling the rulemaking file on this proposed regulatory change for submission to the Office of Administrative Law (OAL).

Board Amends Specifications for M100 Fuel Methanol. At its December 8 meeting, ARB voted to amend section 2292.1, Title 13 of the CCR, which contains its specifications for M100 methanol fuel (100% methanol). One of the specifications required in section 2292.1 as adopted in March 1992 is that when M100 is burned, it must produce a luminous flame which is continuously visible even in maximum daylight conditions. This specification was included because without some type of additive to create a visible flame, pure M100 normally burns without one and thus could pose a fire hazard. The 1992 ARB regulations were intended to prohibit a supplier from selling M100 fuel as a motor vehicle fuel if it did not meet this luminosity requirement. Since no flame luminosity additive was available at the time of the original rulemaking in 1992, ARB instructed staff at that time to investigate potential additives and established a delayed implementation date of January 1, 1995 for the luminosity requirement.

However, to date, no additive has been found which satisfies the luminosity requirements of M100 without sacrificing emissions performance. At ARB's December meeting, staff proposed an interim solution that would permit M100-powered vehicles to continue operating past January 1, 1995. Under the proposed amendment, fuel suppliers would be allowed to sell M100 fuel which does not have a luminosity additive if they can demonstrate that the

fuel will be used in vehicles equipped with either a system for automatically detecting and suppressing on-board fires or a system for on-board luminosity enhancement.

The Board adopted staff's interim proposal by a vote of 7–0 and directed staff to conduct a thorough risk assessment of M100 motor vehicle fuel and report their findings to the Board as soon as possible. At this writing, the rulemaking file on this proposed regulatory change has not yet been submitted to OAL.

Board Amends OBD II Regulations. At its December 8 meeting, ARB considered several proposed amendments to sections 1968.1, 2040, and 2031, Title 13 of the CCR; originally adopted in September 1989, these provisions require automobile manufacturers to implement new on-board diagnostic (OBD) systems to monitor all emission-related components or systems for proper performance, starting with the 1994 model year. *[9:4 CRLR 107–08]* The so-called "OBD II" systems replace systems previously required by section 1968.1, which were known as "OBD I." The 1989 OBD II regulations, which apply to passenger cars, light-duty trucks, and medium-duty vehicles and engines, require the implementation of monitoring strategies for catalyst efficiency, misfire detection, evaporative systems, exhaust gas recirculation systems, fuel systems, oxygen sensors, secondary air systems, electronic emission-related powertrain components, and others.

Because the 1989 OBD II regulations were technology-forcing, ARB required staff to report back to the Board in two years regarding the progress of auto manufacturers in developing these required monitoring strategies. Thus, in September 1991, staff recommended (and the Board adopted) minor amendments to make OBD II more workable, but concluded that the technology for OBD II remained feasible and that most manufacturers were generally on schedule to implement OBD II systems beginning with the 1994 model year. *[11:4 CRLR 154]* ARB adopted further minor amendments to the OBD II regulations in August 1993. *[13:4 CRLR 139]*

In December, staff reported that many manufacturers have been able to certify and have been offering for sale in California vehicles meeting the OBD II regulations; however, manufacturers continue to have problems in developing fully compliant monitoring systems. These problems are generally associated with implementation of enhanced monitoring requirements that are effective with the 1996 or later model years. Specifically, manufacturers have expressed concerns about the OBD II catalyst efficiency requirements for low-emission vehicle applications, and the enhanced monitoring conditions for misfire detection systems.

Thus, staff proposed amendments to ARB's OBD II regulations to address these implementation concerns while maintaining the effectiveness of the requirements; further, staff proposed additional lead time to facilitate any modifications that are necessary to ensure that the revised requirements will be met in-use. Other proposed amendments would define more specifically the OBD II tamper resistance requirements and the monitoring requirements for diesel vehicles and engines; provide additional lead time for full OBD II compliance on vehicles using alternate fuels; increase the effectiveness of OBD II systems in detecting small evaporative system leaks; and further clarify the regulatory requirements.

After receiving testimony, the Board adopted staff's proposed amendments with three modifications:

(1) With respect to the catalyst monitoring amendments, staff proposed malfunction criteria based on 1.5 times vehicle hydrocarbon standards. In response to lead time concerns, a phase-in period was proposed in conjunction with the malfunction criteria, and less stringent interim malfunction criteria are specified for vehicles not meeting the phase-in percentages. Staff originally proposed phase-in percentages of 40% in 1998 and 70% in 1999. The Board modified these percentages to 30% and 60%, respectively.

(2) Regarding evaporative system leak detection, staff proposed an amendment that would require the detection of leaks as small as a .02-inch diameter hole beginning with the 1998 model year. The Board adopted the amendment, but the phase-in for the new requirement was delayed until the 2000 model year.

(3) The Board also modified staff's proposal with regard to components that have very little impact on emissions when they malfunction. The Board decided that such components should be monitored and the malfunction indicator light (MIL) should be illuminated if the impact on emissions is greater than 15% of the vehicle's standards. If emissions are less than 15% of the vehicle's standards, only a fault code needs to be stored and the MIL does not need to be illuminated.

After approving the amendments by a vote of 6–2, the Board directed staff to continue following manufacturers' progress towards meeting the OBD II regulations, and to continue discussion regarding the OBD II tamper resistance requirements and vehicle reprogramming concerns. Should modifications be necessary based on these efforts, staff was directed to report back to the Board with proposed amendments to address outstanding issues.

ARB Amends Area Designations. At its November 9 meeting, ARB held a public hearing on its proposal to amend sections 60201, 60202, 60204, and 60206, Title 17 of the CCR, the regulatory provisions which designate certain areas of the state as attainment, nonattainment, or unclassified for any state ambient air quality standard cited in section 70200, Title 17 of the CCR. The state sets standards for several pollutants, including ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, suspended particulate matter (PM10), sulfates, lead, hydrogen sulfide, and visibility-reducing particulates. ARB originally adopted its area designations in 1989 pursuant to the provisions of the California Clean Air Act of 1988; Health and Safety Code section 39608 requires the Board to annually review and update its area designations.

During this year's annual review, Board staff recommended—and the Board approved—a change to the carbon monoxide designations for the counties of Santa Clara, Orange, San Joaquin, and Stanislaus; the sulfur dioxide designation for the Southeast Desert Air Basin portion of Kern County; and the sulfate designation for the South Coast Air Basin. Staff also noted a change in the ozone designation for Mono County by operation of law (which does not require Board action).

At this writing, ARB has not yet submitted the rulemaking file on these proposed regulatory changes to OAL for review and approval.

Alternative Control Plan for Consumer Products. On September 22, ARB held a public hearing on its proposal to adopt sections 94540–94555, Title 17 of the CCR, to establish a voluntary, market-based "alternative control plan" for controlling emissions of volatile organic compounds (VOC) emitted by consumer products. *[14:1 CRLR 125]*

ARB has adopted a series of regulations to reduce the emissions of VOCs from the use of consumer products *[12:2&3 CRLR 197; 11:1 CRLR 113–14; 10:1 CRLR 124]*; these regulations employ traditional command-and-control type VOC limits on 27 product categories. Under this approach, the regulations specify maximum allowable VOC content limits for individual product categories. Although the regulations provide flexibility in a number of ways, ARB staff believes there is room for providing additional flexibility in order to improve the efficiency of ARB's consumer products program.

Thus, staff developed a voluntary, market-based program called the "alternative control plan" (ACP) which would permit manufacturers of common household products to replace traditional emissions controls on individual products with company-wide pollution limits. ACP employs aggregate emissions caps while attempting to achieve emissions reductions equivalent to those in the existing regulations. Under this voluntary program, manufacturers of consumer products like hair sprays, colognes, window cleaners, and adhesives will be given greater freedom to choose from a number of emission reduction options that allow maximum operating flexibility without increasing pollution. This flexibility includes the option of chemically reformulating some products without changing others in an attempt to balance overall product-line emissions while minimizing pollution control costs. Instead of a system which would place controls on individual products, this plan would permit a manufacturer to maintain a product that exceeds clean air standards but which would be prohibitively costly to reformulate, and to make up for that product by reformulating others much less expensively so that they overcomply with emissions standards. Manufacturers would be approved for the ACP once they show that their plan reduces as much pollution as previous emissions limits on individual products would have achieved.

The ACP regulations contain definitions; provisions for ARB approval of an ACP plan submitted by manufacturers; provisions delineating means by which manufacturers can reconcile shortfalls in the degree of emission reductions to which they committed in approved ACP plans; an enforcement and violations provision; provisions for cancelling or modifying an approved ACP; and provisions for the issuance and trading of surplus reduction credits.

At the Board's hearing ARB staff proposed two modifications to the ACP regulation. The first would add to the violations section a provision to determine the number of violations for an emissions cap exceedance based on one violation per 40 pounds of exceedance. The second modification would provide for limited, one-time use credit for early reformulations of ACP products resulting in overcompliance with the VOC standards occurring in the compliance period prior to the submittal of an ACP plan. ARB approved the proposed regulations as modified by staff, and released the modified version for a 15-day comment period ending on December 20. At this writing, the rulemaking file on the proposed ACP regulations has not been submitted to OAL for review and approval.

ARB Amends Specifications for Diesel Fuel Used in Engine Certification and LPG Regulations. At its September 22 meeting, ARB conducted a public hearing to consider amendments to sections 1956.8(b), 1956.8(d), 1960.1(k), and 2292.6, Title 13 of the CCR, its specifications for diesel fuel used for motor vehicle engine certification and its commercial motor vehicle liquefied petroleum gas (LPG) regulations.

Staff proposed new specifications for diesel engine certification fuel to provide a more consistent test fuel. This new set of specifications may be used as an option to the federal requirements for certification testing of 1995 and subsequent model year passenger cars, light-duty trucks, and medium-duty diesel-fueled vehicles. The new specifications may also be used for 1995 and subsequent model year medium-duty diesel engines, 1996 and 1997 model year urban bus diesel engines, and 1995 and subsequent model year diesel-fueled utility lawn and garden engines. Also, the proposed specifications would be used for in-use compliance testing.

Staff also proposed an amendment to ARB's commercial motor vehicle LPG fuel regulations. The amendment is intended to address concerns regarding the available supplies of low-propene LPG by continuing the 10 volume percent propene standard until January 1, 1997.

At the hearing, Western States Petroleum Association testified that staff's proposed specifications for diesel engine certification fuel would permit the certification of vehicles which would not achieve the desired emission reduction goals because the certification fuel used to test them would not be representative of currently in-use fuels. The Engine Manufacturers Association and Navistar both testified in support of the staff's proposal for diesel engine certification fuel specifications. A representative of the South Coast Air Quality Management District indicated that the Board should state that the continuation of the 10 volume percent propene standard is a one-time accommodation to the LPG fuel industry. After staff and oral testimony, the Board approved the amendments by a vote of 8–0. At this writing, the rulemaking file on these proposed changes has yet to be submitted to OAL for review and approval.

Update on Other ARB Rulemaking Proceedings. The following is a status update on regulatory changes proposed and/or adopted by ARB in recent months, and discussed in previous issues of the *Reporter*:

• At its July 1994 meeting, ARB approved amendments to sections 2400–2407, Title 13 of the CCR, its regulations and test procedures for controlling emissions from utility engines such as lawn mowers, chain saws, leaf blowers, and generator sets. The regulations are applicable to engines produced on or after January 1, 1995; the amendments conform the Board's regulations to newly approved test procedures and clarify and enhance the certification and compliance process. *[14:4 CRLR 142–43]* ARB severed the amendment to section 2403(c) from the rest of the package and submitted it to OAL, which approved the change on October 18; at this writing, the Board has not yet submitted the remainder of the regulatory changes to OAL for approval.

• On October 20, ARB released the modified language of its July 1994 amendments to sections 90700–90705, Titles 17 and 26 of the CCR, for an additional 15-day comment period. These provisions are ARB's fee regulations to cover the cost of implementing the Air Toxics "Hot Spots" Information and Assessment Act of 1987, Health and Safety Code section 44300 *et seq. [14:4 CRLR 143]* At this writing, the rulemaking file on these proposed changes has not been submitted to OAL for approval at this writing.

• In July 1994, ARB adopted several amendments to section 2282, Title 13 of the CCR, which imposes statewide limits on the aromatic hydrocarbon content and the sulfur content of diesel fuel sold or supplied after September 30, 1993, for use in motor vehicles in California. Among other things, the amendments permit small refiners to produce greater quantities of exempt volume diesel fuel which is subject to a 20% aromatic hydrocarbon limit, provide a new "optional calculation" which small refiners may elect to calculate their exempt volume, and delay the effective date of the exempt volume limitation from October 1, 1994 to January 1, 1995. *[14:4 CRLR 143]* ARB bifurcated the rulemaking file on these proposed regulatory amendments; it separated out the fourth-quarter volume gas provisions from the rest of the package and submitted them to OAL, which approved them on September 29. At this writing, ARB has not yet filed the rest of the amendments with OAL.

• At its June 1994 meeting, ARB adopted new sections 2264.2 and 2265, and amended sections 2260, 2212, 2262.2, 2262.3, 2262.4, 2262.5, 2262.6, 2262.7, 2264, and 2270, Title 13 of the CCR, its Phase 2 Reformulated Gasoline (RFG) regulations originally adopted in November 1991. *[12:1 CRLR 139–40]* These regulations establish a comprehensive set of

specifications for eight properties of gasoline (sulfur, benzene, olefin, oxygen, and aromatic hydrocarbon contents, the 50% and 90% distillation temperatures, and the Reid vapor pressure (RVP)), and are designed to achieve the maximum reductions in emissions of criteria pollutants and toxic air contaminants (TACs) from gasoline-powered motor vehicles. California gasoline will in most cases have to meet the Phase 2 RFG specifications beginning March 1, 1996. If approved, the regulatory changes will allow gasoline producers the option to use the "California predictive model" to assign specifications to an alternative gasoline formulation, which could then be used in lieu of meeting either the flat or averaging limits applicable to gasoline being supplied from production and import facilities. *[14:4 CRLR 143–44]* At this writing, these regulatory changes have yet to be submitted to OAL for review and approval.

• The Board's April 1994 rulemaking package adopting new section 90800.5 and amending section 90803, Title 17 of the CCR, which establishes the fee rate which APCDs and AQMDs must pay ARB to offset the state costs of air pollution control programs related to nonvehicular sources during the sixth year of ARB's implementation of the California Clean Air Act of 1988, was approved by OAL on November 28. *[14:4 CRLR 144; 14:2&3 CRLR 154]*

• ARB's February 1994 amendments to section 1976, Title 13 of the CCR, and the incorporated document entitled *California Evaporative Emission Standards and Test Procedures for 1978 and Subsequent Model Motor Vehicles*, which conform ARB's evaporative emissions standards and test procedures for motor vehicles and engines with new federal procedures and apply the enhanced procedures to the heavy complete medium-duty vehicle class (8,501–14,000 lbs., gross vehicle weight rating), was approved by OAL on December 15. *[14:4 CRLR 144; 14:2&3 CRLR 154]*

• ARB's January 1994 adoption of new sections 2410–2440 (nonconsecutive), Title 13 of the CCR, which contain important new regulations establishing emission standards, test procedures, certification procedures, and labeling and registration requirements for 1997 and later model year "off-highway recreational vehicles" (defined to include off-road motorcycles, all-terrain vehicles, golf carts, go-karts, and specialty vehicles such as hotel and airport shuttle vehicles), was disapproved by OAL on January 10. OAL found that the regulations do not comply with the clarity and consistency standards of Government Code section 11349.1. At this writing, ARB plans to correct these deficiencies and resubmit the rulemaking file to OAL by the end of January. *[14:4 CRLR 144; 14:2&3 CRLR 154–55]*

• ARB's November 1993 amendments to sections 70300–70306 and Appendices 1–4 thereto, Title 17 of the CCR, which change the criteria used by the Board in designating areas of California as nonattainment, attainment, or unclassified for state ambient air quality standards, were approved by OAL on November 10. *[14:4 CRLR 144; 14:1 CRLR 120; 13:1 CRLR 97]*

• The Board's November 1993 amendments to its area designations in sections 60200–60209, Title 17 of the CCR, which (1) change the requirements for determining complete data—when less than three years of data area available—to exclude data affected by highly irregular or infrequent events before using the maximum pollutant concentration to determine if the data meet the completeness criteria, and (2) change the emission screening value for the annual emissions of oxides of nitrogen in an air basin to reflect ARB staff's improved procedure for estimating oxides of nitrogen emissions, were also approved by OAL on November 10. *[14:4 CRLR 144; 14:1 CRLR 120]*

• The Board's September 1993 adoption of new sections 2259, 2283, and 2293.5, amendments to sections 2251.5, 2258, 2263, and 2267, and repeal of section 2298, Title 13 of the CCR, would enhance the effectiveness of its wintertime oxygenated gasoline program which started last year and proved successful in reducing carbon monoxide levels. *[13:4 CRLR 140; 13:2&3 CRLR 157]* In September 1994, OAL approved all of the proposed regulatory changes except the adoption of 2259, 2283, and 2293.5, and the amendment of sections 2251.5 and 2267; these sections which establish a process whereby any person may request an exemption from the motor vehicle fuel requirements for various types of fuels used in test programs. Because this type of exemption requires a permit, OAL found that ARB must comply with the Permit Reform Act by establishing permit application processing time periods; because ARB failed to set forth its processing times, OAL rejected the exemption program sections. *[14:4 CRLR 144]* ARB corrected this error and resubmitted the rulemaking file on the rejected provisions to OAL on January 4; at this writing, it is pending at OAL.

LITIGATION

Citizens for a Better Environment—California v. California Air Resources Board, No. 378401 (filed June 14, 1994) is still pending in Sacramento County Superior Court. In this action, Citizens for a Better Environment—California (CBE), a nonprofit environmental organization, challenges ARB's March 10 decision to permit implementation of the South Coast Air Quality Management District's (SCAQMD) recently approved Regional Clean Air Incentives Market (RECLAIM) program. RECLAIM is a market-based pollution control strategy which allows industries in Los Angeles, Orange, Riverside, and San Bernardino counties an annual pollution limit and then lets them choose the cheapest way to stay within the limit, including trading of pollution credits. *[14:2&3 CRLR 153; 14:1 CRLR 125; 13:4 CRLR 145–46]*

CBE alleges that ARB should not have approved RECLAIM because it will fail to achieve equivalent pollution reductions compared with the District's 1991 Air Quality Management Plan; it will delay, postpone, or hinder compliance with state ambient air quality standards; it fails to require the installation of the best available retrofit control technology at all existing sources; it fails to show expeditious progress toward attainment of state ambient air quality standards; it fails to assure the earliest practicable attainment date for ambient air quality standards; and it fails to maintain progress toward attainment of state ambient air quality standards.

FUTURE MEETINGS

January 26 in Sacramento.
February 23 in Sacramento.
March 23 in Sacramento.
April 27 in Sacramento.
May 25 in Sacramento.
June 29–30 in Sacramento (tentative).
July 27–28 in Sacramento (tentative).
September 28–29 in Sacramento (tentative).

CALIFORNIA INTEGRATED WASTE MANAGEMENT AND RECYCLING BOARD

Executive Director: Ralph E. Chandler
Chair: Jesse Huff
(916) 255-2200

The California Integrated Waste Management and Recycling Board (CIWMB) was created by AB 939 (Sher) (Chapter 1095, Statutes of 1989), the California Integrated Waste Management Act of 1989. The Act is codified in Public Resources Code (PRC) section 40000 *et seq.* AB 939 abolished CIWMB's predecessor,