the California Environmental Protection Agency (Cal-EPA).

CIWMB reviews and issues permits for landfill disposal sites and oversees the operation of all existing landfill disposal sites. The Board requires counties and cities to prepare Countywide Integrated Waste Management Plans (CoIWMPs), upon which the Board reviews, permits, inspects, and regulates solid waste handling and disposal facilities. Alternatively, local governments may join together to form regional agencies which must file Regional Agency Integrated Waste Management Plans (RAIWMPs). Approved CoIWMPs or RAIWMPs must outline the means by which the locality will meet AB 939’s required 25% waste stream reduction by 1995 and 50% waste stream reduction by 2000. Under AB 939, the primary components of waste stream reduction are recycling, source reduction, and composting.

CoIWMPs and RAIWMPs are comprised of several elements. Each area must produce a source reduction and recycling (SRR) element, which describes the constituent materials which compose solid waste within the area affected by the element, and identifies the methods the city will use to divert a sufficient amount of solid waste through recycling, source reduction, and composting to comply with the requirements of AB 939. Each area must also produce a household hazardous waste (HHW) element which identifies a program for the safe collection, recycling, treatment, and disposal of hazardous wastes which are generated by households in the area and should be separated from the solid waste stream. The siting element describes the methods and criteria a jurisdiction will use in the process of sifting a new or expanding an existing solid waste disposal and transformation facility. The non-disposal facility (NDF) element must include a description of new facilities or expansion of existing facilities that will be needed to reach AB 939’s mandated disposal reduction goals, and must identify transfer stations to be used by the local jurisdiction. Once a CoIWMP or RAIWMP is certified by the Board, the responsibility for enforcing its terms is delegated to a CIWMB-approved local enforcement agency (LEA).

The statutory duties of CIWMB also include conducting studies regarding new or improved methods of solid waste management, implementing public awareness programs, and rendering technical assistance to state and local agencies in planning and operating solid waste programs. Additionally, CIWMB staff is responsible for inspecting solid waste facilities such as landfills and transfer stations, and reporting its findings to the Board. The Board is authorized to adopt implementing regulations, which are codified in Division 7, Title 14 of the California Code of Regulations (CCR).

CIWMB is composed of six full-time salaried members: one member who has private sector experience in the solid waste industry (appointed by the Governor and confirmed by the Senate); one member who has served as an elected or appointed official of a nonprofit environmental protection organization whose principal purpose is to promote recycling and the protection of air and water quality (appointed by the Governor and confirmed by the Senate); two public members appointed by the Governor (who need not be confirmed by the Senate); one public member appointed by the Senate Rules Committee; and one public member appointed by the Speaker of the Assembly.

Issues before the Board are delegated to any of six committees; each committee includes two Board members and is chaired by a third. The Permitting and Enforcement Committee handles all matters pertaining to the issuance and enforcement of solid waste permits and state standards for solid waste. The Legislation and Public Education Committee recommends positions to the Board regarding relevant legislation, and oversees Board involvement in public affairs activities. The Policy, Research, and Technical Assistance Committee is responsible for all issues and policy development regarding research, development, and special wastes activities. The term “special wastes” refers to those wastes which require a unique collection, handling, or disposal method, such as HHW, sludge, and medical wastes.

The Local Assistance and Planning Committee deals with the CoIWMPs and local waste reduction plans submitted by cities and counties, and helps cities and counties implement their plans. The Market Development Committee is responsible for developing new markets for recycled materials. The Administration Committee is responsible for contracts entered into by the Board, and for issues that do not clearly belong to any other committee.

On June 5, Governor Wilson announced the appointment of Daniel G. Pennington to CIWMB, filling the vacancy left by former Board Chair Jesse R. Huff. Pennington previously served as special assistant to the Century Freeway Housing Program, where he acted as liaison officer between the multifamily housing component of the Century Freeway Housing Program and South Central Los Angeles and the Sacramento headquarters of the Department of Housing and Community Development (DHCD). Prior to that, Pennington served
as chief of the Division of Community Affairs at DHCD. Pennington has also served as Director of Marketing for the California Exposition and State Fair, and is a former member of the board of directors of the California Association for Local Economic Development.

Following his appointment by the Governor, Pennington was elected Chair of CIWMB on June 28, and was named to chair the Board’s Administration Committee and to serve as a member of the Board’s Policy, Research and Technical Advisory Committee. In accepting the post of Board chair, Pennington pledged to work with the public and agencies appearing before the Board to build upon the progress achieved to date in addressing California’s integrated waste management problems, and stated that in the next year the Board will be looking toward increasing its efficiency in the face of potential declining revenues, as well as promoting voluntary efforts in the private sector to help California achieve its integrated waste management mission.

On June 28, CIWMB also elected gubernatorial appointee Robert C. Frazee to serve as Vice-Chair of the Board. Frazee, appointed in March 1995, chairs CIWMB’s Permitting and Enforcement Committee, and also sits on both the Legislation and Public Education Committee and the Local Assistance and Planning Committee. Frazee is a former member of the State Assembly and a past mayor of the City of Carlsbad.

MAJOR PROJECTS
CIWMB Structural Reform Bill Stalls—Again. Since Governor Wilson’s January 1994 “State of the State” address in which he proposed to abolish CIWMB in order to streamline overlapping and duplicative state agencies, and his renewed promise to do so in the January 1995 “State of the State” address, several pieces of legislation have been introduced to carry out the Governor’s proposal. These bills stem in part from a March 1994 report by the Little Hoover Commission, which found that the placement of overlapping recycling mandates in three separate agencies—CIWMB, the Department of Conservation’s (DOC) Division of Recycling (DOR), and the Department of Toxic Substances Control (DTSC)—has resulted in duplication of work, public confusion, and lost opportunities for maximum effectiveness in implementing state waste management policies. [14:2&3 CRLR 16] So far, these bills have been unsuccessful—SB 2026 (Bergeson), sponsored in 1994 by the Wilson administration to merge CIWMB and DOR into a Cal-EPA department headed by an executive branch appointee, was killed in the Senate Governmental Orga-
CIWMB Proposes Changes to Contaminated Soil Regulations. On September 8, CIWMB published notice of its intent to adopt new sections 17958, Title 14 of the CCR, and to modify CIWMB Form 430, which is incorporated by reference in Title 14 of the CCR. California’s Recycled Content Newsletter mandates that newspaper consumers use a specified amount of recycled-content newspaper containing at least 40% post-consumer fiber. The law, which is administered by CIWMB, requires printers and printer/publishers to annually certify their recycled-content usage to the Board by March 1 of each year. The Board has determined that supplier-specific reporting requirements are unnecessary because alternative sources of supplier-specific information are available to meet newspaper certification objectives, and thus proposes to modify the regulations to eliminate all supplier-specific reporting requirements. CIWMB held a public hearing on the proposal on October 26; CIWMB subsequently adopted the sections, which await review and approval by OAL.

CIWMB Seeks Modification of Supplier-Related Newsprint Reporting Requirements. On October 20, CIWMB published notice of its intent to amend section 17958, Title 14 of the CCR, and to modify CIWMB Form 430, which is incorporated by reference in Title 14 of the CCR. California’s Recycled Content Newsletter mandates that newspaper consumers use a specified amount of recycled-content newspaper containing at least 40% post-consumer fiber. The law, which is administered by CIWMB, requires printers and printer/publishers to annually certify their recycled-content usage to the Board by March 1 of each year. The Board has determined that supplier-specific reporting requirements are unnecessary because alternative sources of supplier-specific information are available to meet newspaper certification objectives, and thus proposes to modify the regulations to eliminate all supplier-specific reporting requirements. CIWMB held a public hearing on the proposal on December 4, after which it adopted the changes. At this writing, OAL is reviewing the rulemaking file.

Emergency Waiver of Regulatory Standards for Solid Waste Handling and Disposal. On December 15, CIWMB published notice of its intent to amend sections 17210–17210.9, Title 14 of the CCR, which would provide clarification and guidance to operators who hold a solid waste facilities permit in applying for an emergency waiver of regulatory standards and terms and conditions of their permits in the event of a state of emergency or local emergency. The proposed changes would outline the procedure for an operator who holds a solid waste facilities permit to apply for a waiver of the minimum regulatory standards and specific terms of the permit in the event of a declared state of disaster/emergency. The waiver, if granted, would allow solid waste facility operators to accept disaster debris and other waste from a declared disaster area in excess of the normal tonnage amounts, and in some cases accepting certain waste types not normally permitted. While in the past CIWMB has adopted emergency regulations which, upon OAL’s approval, have granted solid waste facility operators a waiver from compliance with certain minimum standards for solid waste handling and disposal (see below), the proposed changes obviate this requirement, and would authorize a LEA to approve an application for a waiver of standards during a declared disaster for 120 days, extendable as necessary, upon approval of CIWMB’s Executive Director, to assist in the recovery from an emergency.

The proposed regulations would also define the role and duties of the LEA and CIWMB’s Executive Director in responding to an operator’s request for a waiver of minimum standards, while establishing reporting requirements for operators to follow once a waiver is granted. In considering a written application for a waiver in an emergency, the LEA must determine that a disaster exists; the operator applying for the waiver holds a valid solid waste facilities permit; the waiver will not post a threat to public health and safety or the environment; the waiver will not conflict with disaster response plans; and the operator agrees to implement feasible diversion programs for disaster-related waste. The LEA must make its determinations and respond to the request within seven days. Once a waiver is granted, it applies to a lifting of standards regarding the origin of waste; the rate of inflow for storage, transfer, or disposal of waste; the type and moisture content of solid waste; the hours of facility operation; and the storage time before transfer or disposal of wastes at a solid waste facility. Solid waste facility operators who are granted a waiver, however, are not absolved of all requirements; the operators must submit a written report to the LEA within 90 days of activation of the waiver documenting the origins and amount of debris received and the increase in tonnage per day during the waiver period.

As noted above, the procedures and regulations under the proposed changes would remove the obstacle of obtaining OAL’s approval of an emergency regulation granting a waiver of standards before operators of solid waste facilities holding valid permits could accommodate cleanup tasks after a disaster. According to the Board, these regulations better protect the public health, safety, and the environment while expediting recovery for a disaster area. At this writing, CIWMB is scheduled to hold a public hearing on these proposed changes on February 6.

Rulemaking Update. The following is a status update on other CIWMB rulemaking proposals discussed in detail in recent issues of the Reporter:

- Household Hazardous Waste Form Revision. On June 28, CIWMB adopted proposed amendments to sections 18751.2(a)(1) and 18751.4(b)(1), Title 14 of the CCR, to revise Form CIWMB-303 concerning HHW; on September 6, those changes were approved by OAL. The form is designed to assist LEAs in accurately determining the types and quantities of HHW generated in their jurisdictions. The previous form listed types and categories of hazardous wastes expected to be generated by households; the changes revise the form to include U.S. Environmental Protection Agency identification numbers and require that a copy of the form be sent to DTSC. [15:2&3 CRLR 139]

- Waste Tire Hauler Registration and Recycling Program. On August 21 and again on November 28, OAL approved the Board’s readoption of emergency regulations implementing the Waste Tire Hauler Registration Program, as mandated by SB 744 (McCorkindale) (Chapter 511, Statutes of 1994). [15:2&3 CRLR 139; 15:1 CRLR 130–31] Among other things, the Waste Tire Hauler Program requires that on and after January 1, 1995, every person who engages in the transportation of waste tires must hold a valid waste tire hauler registration, unless exempt as specified. In addition, PRC section 42951 provides that any person who gives, contracts, or arranges with another person to transport waste tires shall only utilize a person holding a waste tire registration from the Board; under PRC section 42962, hauling or contracting without a valid registration may result in civil and/or administrative penalties for the hauler, contractor, and/or receiving facility. The emergency regulations also set forth definitions, as well as general provisions and information on re-
REGULATORY AGENCY ACTION

At this writing, the emergency rules approved on November 28 are valid for 120 days; CIWMB must transmit a certificate of compliance to OAL by March 27, 1996, or the emergency language will be repealed by operation of law on the following day.

**RMDZ Redesignation Regulations.** On July 10, OAL approved CIWMB’s amendments to sections 17914 and 17914.5, Title 14 of the CCR, which specify procedures for the redesignation of recycling market development zones (RMDZs). [15:2&3 CRLR 140; 15:1 CRLR 131] Sections 17914 and 17914.5 currently describe the redesignation process; however, the Board believed that these sections failed to include sufficient detail on specific information which must be included in the redesignation application, especially for zone expansion applications. Accordingly, the Board’s changes clarify the procedures for zone redesignation, define categories of redesignation, and specify application requirements for each category.

**Emergency Earthquake Regulations.** On September 15, in continuing response to the January 1994 Northridge earthquake, CIWMB readopted—again on an emergency basis—sections 17008-17014, Title 14 of the CCR, which allow landfills to exceed their tonnage limits in accepting earthquake debris; by allowing solid waste facility operators to waive any term or condition of a solid waste facilities permit in accepting earthquake-related solid waste, CIWMB hopes to expedite the recovery process by allowing owners to quickly clear their property. [15:2&3 CRLR 140; 15:1 CRLR 132; 14:4 CRLR 15] CIWMB intends to readopt the emergency regulations continuously until the earthquake cleanup is completed.

**Composting Facilities.** On June 30, OAL approved CIWMB’s adoption of new sections 17850, 17852, 17854, 17858, 17860, 17862, 17862.1-17862.11, 17865, 17866, 17867.1-17867.5, 17868.1-17868.4, 17869.1-17869.3, and 17870; amendments to sections 17851, 17853, 17855, 17856, 17857, 17859, and 17861; and repeal of sections 17860, 17869, 17871, 17873, 17875, 17876, 17877, 17879, 17881, 17883, 17885, 17886, 17887, 17889, 17891, 17893, and 17895; Title 14 of the CCR, to change the minimum standards for green materials facilities, and establish minimum standards for design and operation of other types of composting facilities. [15:2&3 CRLR 140; 15:1 CRLR 132; 14:4 CRLR 150] According to the Board, the regulatory action is aimed at ensuring that composting facilities are designed and operated in a manner which protects the public health, public safety, and the environment.

**Used Oil Recycling Program.** On June 16, OAL approved CIWMB’s amendments to sections 18601—18655.6, Title 14 of the CCR, which describe the requirements of the Board’s used oil recycling program. [15:2&3 CRLR 140; 15:1 CRLR 132; 14:4 CRLR 150] The changes clarify the procedures for certifying and operating used oil collection centers and reduce the amount of information required from used oil recycling program applicants.

CIWMB Cleanup of Illegal Dump Sites Continues. The Solid Waste Disposal and Codisposal Site Cleanup Program requires the Board to initiate a cleanup program for solid waste disposal and codisposal sites where either the responsible party cannot be identified or is unable or unwilling to pay for timely remediation. Under the Program, CIWMB finances—through loans, grants, and direct expenditures—a wide range of cleanup projects. To date, 17 illegal dump sites have been cleaned up under this program.

At its June 29 meeting, CIWMB approved the allocation of $1.1 million to clean up two dump sites. The Greenfield Illegal Disposal Site in Kern County received $197,000 to remove tire piles and transport other wastes to an approved landfill; the dump sits on a 130-acre vacant lot south of Bakersfield, and contains 2,000 tons of illegally dumped garbage and 10,000 discarded tires. The City of Bakersfield, owner of the property, will contribute $50,000 for fencing and ditching around the site to prevent future unauthorized access and dumping. CIWMB also approved a $1 million loan to the Greater Chico Urban Redevelopment Agency to remediate burned rubbish in the 125-acre Humboldt Road Burn Dump, east of Chico in Butte County. The dump, formerly owned by the City of Chico, contains an estimated 400,000 cubic yards of burned refuse, with more than half of this amount confined to the primary ten-acre burn dump. A stream, with burned refuse exposed along its banks, flows through the site, and during periods of heavy rain the dump poses an environmental threat from exposed organic lead. The burned refuse will be removed from twelve sites within the dump to the primary burn dump area, and this area will be expanded and covered with an approved soil cap. An additional one-foot layer of topsoil will be placed over the cap to support vegetation.

In July, CIWMB added four illegal dump sites and an old abandoned landfill to the Board’s priority list of cleanup sites. The sites, located in Los Angeles, Ventura, San Bernardino, San Mateo, and Santa Clara counties, contain a variety of illegally disposed waste such as auto bodies, demolition debris, household appliances, mattresses, and tires; at some of the newly-targeted sites, groundwater supplies, creeks, and nearby residences are impacted by the illegal dumping.

In October, CIWMB began cleanup at a previously approved southern California illegal dump site; the project involves the removal of an estimated 54,000 waste tires, along with abandoned vehicles and other residential waste, located in a residential area within the City of Pacoima.

At its November 15 meeting, the Board announced the completion of the cleanup of an illegal dumpsite in Klamath County; located on the Yurok Indian Reservation, the site had been utilized as an illegal dump since the 1950s. In a cooperative effort between federal, state, county, and tribal authorities, as well as local business, cleanup began on July 14 and was completed on October 27, at a cost of $500,000. The cleanup removed 979 tires, 42 tons of scrap metal sent for recycling, and 6,500 tons of solid waste material, including construction debris and household trash.

Recycling Market Development Zone Loan Program. In June, CIWMB tentatively approved low-interest loans totaling $4.8 million to eleven California businesses located in CIWMB-designated RMDZs, geographic areas defined by local jurisdictions working with CIWMB to attract businesses that utilize waste diversion methods and materials. [14:1 CRLR 129; 13:4 CRLR 150; 13:2&3 CRLR 164] The loans are projected to create up to 154 jobs and will be used by the firms to recycle plastic, paper products, glass dust, metal, wood, waste tires, organic, and other materials into new saleable products. The loans range from $60,000 to $1 million, and are subject to CIWMB review of financial documentation to be submitted by each business.

In December, CIWMB gave final approval to $1.5 million in loans for two California businesses that propose to create approximately 30 new jobs and divert more than 20,000 tons of waste annually from state landfills. Marfred Industries of Los Angeles received final approval for a $1 million loan to expand its manufacturing of high-quality custom packaging from recycled shipping boxes. The nonprofit Porterville Sheltered Workshop, located in Tulare County, received final approval for a $475,000 loan to purchase new equipment to make fire logs from sawdust and recycled cardboard.

To date, CIWMB’s RMDZ loan program has issued loans to 42 businesses.
tolling nearly $16.3 million. These businesses are projected to divert more than 1.3 tons of waste annually from California landfills and create more than 550 new jobs. The RMDZ loan program is currently scheduled to sunset on July 1, 1997. In a report to the Board at CIWMB’s May meeting, the Market Development Committee recommended that the program be extended to July 1, 2006; after discussion, the Board voted to recommend that the legislature extend the program until July 1, 2000.

### LEGISLATION

**AB 59 (Sher).** The California Integrated Waste Management Act of 1989 authorizes CIWMB to establish a comprehensive research and development program, including but not limited to the establishment of cooperative research and development facilities at universities and colleges in the state, and designed to achieve specified goals regarding innovative resource management and waste reduction programs. As amended September 12, this bill authorizes CIWMB to establish those cooperative research and development facilities in cooperation with DOC, and makes clarifying changes in those provisions.

The Act requires CIWMB and certified LEAs to perform specified functions with regard to the regulation of solid waste management, including with regard to the issuance and enforcement of solid waste facilities permits. This bill requires each proposed LEA, as part of the certification process, to establish and maintain an inspection program.

The Act provides that CIWMB may designate and certify an LEA within each county to carry out specified powers and duties. The Act requires the Board, if an LEA is not designated and certified, in addition to its other powers and duties, to be the enforcement agency within the county. The Act authorizes the Board, when acting as the enforcement agency, to charge reasonable fees to the local governing body to recover its costs, in addition to other specified fee authority. This bill requires CIWMB, if it is the enforcement agency and an enforcement agency is then designated and certified by the Board, to continue to act as the enforcement agency for the remainder of the fiscal year unless otherwise specified by CIWMB. The bill authorizes CIWMB, when it is the enforcement agency, to impose fees to recover its costs of operation on the local governing body, a solid waste facility operator, or a solid waste enterprise that operates within the jurisdiction, and requires CIWMB to collect those fees in a manner determined by the Board and developed in consultation with the local governing body. The bill requires those fees to bear a direct relationship to the reasonable and necessary costs, as determined by the Board, of providing for the efficient operation of the activities or programs for which the fee is imposed. The bill requires any fees or charges imposed by the LEA pursuant to specified provisions of the Act to bear a direct relationship to the reasonable and necessary cost, as determined by the enforcement agency, of providing those activities or programs, as specified. The bill also requires, if CIWMB is the enforcement agency, CIWMB and the local governing body, with the exception of the local governing body for Stanislaus County or Santa Cruz County, to enter into a specified agreement.

The Act requires any person who proposes to become an operator of a solid waste facility to file with the LEA having jurisdiction over the facility, or CIWMB if no LEA is designated and certified, an application for a solid waste facilities permit at least 120 days in advance of the date on which it desires to commence operation. The Act prohibits the operator of a solid waste facility from making a significant change in the design or operation of any solid waste facility, except in conformity with the terms and conditions of an approved solid waste facilities permit or revised solid waste facilities permit issued by the LEA, or the Board acting as the enforcement agency, to the operator. This bill instead requires that application to be filed 150 days in advance of the date on which it is desired to commence operations unless the enforcement agency allows the operator to commence operations prior to that date. The bill prohibits the operator of a solid waste facility from making any significant change in the design or operation of the solid waste facility, not authorized by the existing permit, unless the terms and conditions of the solid waste facilities permit are revised to reflect the change, or the change is allowed by the enforcement agency, due to specified circumstances, without requiring a revised permit. The bill also specifies the procedure for changing the person identified as the owner or operator of a solid waste facility on the solid waste facilities permit, and prescribes related matters.

For a prescribed two-year period, this bill exempts compost operations from air pollution control provisions prohibiting the discharge of air contaminants that cause, among other things, nuisance or annoyance. As to compost operations subject to the jurisdiction of an enforcement agency under the Act, the bill requires an air pollution control district or air quality management district to transmit any complaint pertaining to odors that emanate directly from the facility to the enforcement agency. The enforcement agency will be required to take appropriate action in consultation with the district.

The Act provides for the denial, suspension, or revocation of permits, and generally provides for the administrative enforcement of solid waste management. This bill requires, if the enforcement agency determines that a person is operating a solid waste facility without a permit or disposing of solid waste in an unauthorized manner, the enforcement agency to issue a cease and desist order. The bill prohibits any change in the design or operation of a solid waste facility unless the operator meets specified conditions.

The bill requires that, by January 1, 1996, CIWMB prepare a list of solid waste facilities permits that have not been reviewed in the five-year period prior to the formation of the list, and which meet certain conditions.

The Act requires, for those facilities that accept both hazardous wastes and other solid wastes, that DTSC exercise enforcement and regulatory powers relating to the control of the hazardous wastes at the facility pursuant to specified provisions of law. The Act requires CIWMB, at mixed waste facilities, to exercise enforcement and regulatory powers relating to the control of solid wastes, other than hazardous wastes, at the facility, pursuant to specified provisions of law. This bill instead requires CIWMB and the enforcement agency, at solid waste disposal facilities, to exercise enforcement and regulatory powers relating to the control of solid wastes and asbestos-containing waste, as defined, in accordance with specified provisions.

The bill repeals and recasts provisions of the Act allowing an applicant to request a hearing if the LEA denies a permit or if the applicant determines that the terms or conditions imposed by the permit are inappropriate, as determined by the applicant; revises provisions pertaining to the denial, suspension, or revocation of permits; and provides for a permit suspension where changed conditions at the solid waste facility necessitate a permit revision or modification.

The bill also revises and recasts provisions pertaining to corrective action and cease and desist orders, civil penalties, and enforcement procedures. This bill, which took effect immediately as an urgency statute, was signed by the Governor on October 16 (Chapter 952, Statutes of 1995).
SB 845 (Leonard). Existing hazardous waste control laws require a public agency, or its contractor, that intends to operate a HHW collection facility, to submit specific information to DTSC, which is authorized to allow any HHW collection facility to accept hazardous waste from conditionally exempt small quantity generators. DTSC is authorized to adopt and revise regulations for HHW collection facilities and specify requirements imposed upon the transportation of hazardous waste to a HHW collection facility and the operation of curbside and door-to-door HHW collection programs and HHW residential pickup services. A hazardous waste facilities permit must be obtained for the operation of a HHW collection facility, except as specified. As amended August 24, this bill requires DTSC, by March 31, 1996, to develop a separate and distinct regulatory structure for the permitting of permanent HHW facilities which conduct specified activities, and requires the regulations to meet specified standards. The bill requires those regulations to apply only to HHW collection activities that are operated by a public agency, or its contractor, and that only accept HHW or hazardous waste collected from conditionally exempt small quantity generators (CESQGs). The bill makes legislative findings and declarations regarding HHW and hazardous waste from CESQGs.

Existing law exempts a person transporting HHW and a CESQG transporting hazardous waste to an authorized HHW collection facility from the requirements of registration as a hazardous waste transporter and possession of a manifest, if specified requirements are met. Hazardous waste transported to a HHW collection facility is required to be transported by the individual or CESQG who generated the waste, a curbside HHW collection program, or by a door-to-door HHW collection program or HHW residential pickup service. An individual or CESQG transporting HHW to a HHW collection facility is prohibited from transporting more than a total liquid volume of five gallons or a total dry weight of 125 pounds, provided the public agency finds that the local household transportation collection program operated by that public agency, or its contractor, has adequate public information programs. This bill was signed by the Governor on October 8 (Chapter 672, Statutes of 1995).

AB 1851 (Sher). The California Integrated Waste Management Act of 1989 requires on and after January 1, 1995, that every manufacturer that manufactures plastic trash bags of 0.75 mil or greater thickness for sale in this state to ensure that at least 30% of the material used in those plastic trash bags is recycled plastic postconsumer material. As amended September 7, this bill instead requires, and after January 1, 1996, every manufacturer that manufacturers those plastic trash bags to ensure that at least 20%, and on and after January 1, 1997, at least 30% of the material used in those plastic trash bags is recycled plastic postconsumer material. The bill exempts from that requirement, until January 1, 1997, plastic trash bags that use adhesive, heat-affixed straps attached to the bag during the manufacturing process if the manufacturer of the plastic trash bags manufactured bags of that type prior to January 1, 1995. The bill prescribes the procedure by which any manufacturer of plastic trash bags receives that exemption may thereafter petition CIWMB for a variance from those recycled content requirements that would become effective on and after January 1, 1997. This bill was signed by the Governor on October 12 (Chapter 821, Statutes of 1995).

AB 381 (Baca). The California Integrated Waste Management Act of 1989 requires each city, county, and, if formed, each regional agency to develop a SRR element and a HHW element. The Act requires CIWMB, if it finds that a city, county, or regional agency has failed to implement its SRR element or its HHW element, to impose administrative civil penalties upon the city or county as a member of a regional agency, in an amount up to $10,000 per day until the city, county, or regional agency implements the element.

The California Integrated Waste Management Act of 1989 regulates the management of solid waste. The Act defines, for purposes of the act, the terms “disposal site,” “solid waste,” and “solid waste disposal.” This bill would make various technical and clarifying changes with regard to those definitions and would make other changes to correct a statutory reference.

SB 1163 (Leslie), as amended July 7, would abolish DOC’s Division of Recycling and create the Division of Recycling in CIWMB, thereby transferring the beverage container recycling, litter reduction, plastic waste, and fiberglass recycled content functions of DOC to the Board. Under existing law, there is the Used Oil Recycling Act, the Used Oil Collection Grant Demonstration Program Act of 1990, the California Beverage Container Recycling and Litter Reduction Act, the Dry Cell Battery Management Act, provisions pertaining to plastic waste, and the Fiberglass Recycled Content Act of 1991. This bill would repeal and reenact those provisions as part of the California Integrated Waste Management Act of 1989. The bill would make conforming changes in the California Integrated Waste Management Act of 1989, and prescribe related matters. The bill would also make a statement of legislative intent concerning the reduction of solid waste.

The California Integrated Waste Management Act of 1989 regulates the management of solid waste. The Act defines, for purposes of the act, the terms “disposal site,” “solid waste,” and “solid waste disposal.” This bill would make various technical and clarifying changes with regard to those definitions and would make other changes to correct a statutory reference.

The California Integrated Waste Management Act of 1989 establishes CIWMB as a six-member full-time body, appointed as specified, including four members who are appointed by the Governor, one appointed by the Senate Committee on Rules, and one member appointed by the Speaker of the Assembly; requires the chair to be elected by a majority of the board members; and requires the Governor to appoint one advisor for each member of CIWMB upon the recommendation of the Board member. This bill would reduce the membership of the Board to five members and would instead require
the Governor to appoint all members of the Board, subject to Senate confirmation, and to select the chair. The bill would repeal the provisions requiring the appointment of advisors.

The California Integrated Waste Management Act of 1989 requires any person who proposes to become an operator of a solid waste facility to file with the enforcement agency an application for a solid waste facilities permit at least 120 days in advance of the date on which it is desired to commence operations. The Act requires the Board, in writing, to concur or object to the issuance, modification, or revision of any solid waste facilities permit within sixty days of the Board's receipt of any proposed solid waste facilities permit. This bill would repeal those provisions pertaining to CIWMB's concurrence in the issuance, modification, or revision of a solid waste facilities permit. [A. Appr]

AB 1148 (Cortese). The California Integrated Waste Management Act of 1989 authorizes each county, city, district, or other local governmental agency to provide solid waste handling services, including but not limited to source reduction, recycling, composting activities, and the collection, transfer, and disposal of solid waste; those solid waste handling services may be provided by the local agency itself, another local agency, or a solid waste enterprise, as defined. As introduced February 23, this bill would require a solid waste enterprise that is a solid waste hauler, as defined, to register with the local agency of the jurisdiction in which the solid waste hauler is operating. The bill would require CIWMB to fix the amount of the registration fee that may be charged by the local agency, and would specify the purposes for which the fee may be used.

The bill would require the registered solid waste hauler to maintain a record of each solid waste hauling trip, including the types of solid waste handled and the disposal destination of the solid waste; provide for the revocation of registration and the imposition of a civil penalty if a registered solid waste hauler has disposed of solid waste in a location that is not a permitted disposal facility; and require CIWMB to adopt regulations, and authorize the Board to provide model ordinances, to implement the bill. [A. NatRes]

SB 176 (Alquist). The California Integrated Waste Management Act of 1989 requires CIWMB to develop and implement a HHW information program, which may include information on the proper use and disposal of products that contain hazardous substances and on safer substitutes for products that contain hazardous substances. As amended May 9, this bill would specify that the information on safer substitutes be competent and reliable information, and would require the Board to advise state agencies regarding the potential of proposed substitutes to be accidentally ingested or to pose other hazards to human health and safety. The bill would prohibit any state agency from providing information on HHW substances or safer substitutes for products that contain hazardous substances, unless the information is competent and reliable.

The bill would also require CIWMB to prepare, in consultation with DTSC and other appropriate state agencies and interested parties, guidelines for advising local agencies regarding the provision of competent and reliable information on HHW substances and safer substitutes for products that contain hazardous substances. The bill would allow any local agency or interested party to submit information to Cal-EPA for a determination as to whether the information is competent and reliable information, and would require Cal-EPA to make that determination within 60 days of receipt of the information. [S. T&PSM]

SB 1215 (Solis). The California Integrated Waste Management Act of 1989 creates the Solid Waste Disposal Site Clean-up Trust Fund in the state treasury. The money in the Trust Fund is continuously appropriated to CIWMB to fund a program for the cleanup of solid waste disposal or cosdisposal sites. As introduced February 24, this bill would require that an unspecified percentage of the gross revenues received by cogeneration facilities operating at solid waste landfills be deposited in the Cogeneration Facilities Account, which the bill would create in the Trust Fund. The money in the account would be used for unspecified purposes. [G.O]

AB 35 (Mazzoni), as introduced December 5, would prohibit a solid waste facility for which a conditional use permit was issued prior to January 1, 1976, which is located in whole or in part within the coastal zone, as defined, and which is located within two miles of any federal park or recreation area, any unit of the state park system, or any ecological reserve, from being operated, or expanded to operate, in a manner that is not authorized pursuant to the terms and conditions specified in the conditional use permit, or pursuant to the terms and conditions specified in the solid waste facilities permit issued

California Regulatory Law Reporter • Vol. 15, No. 4 (Fall 1995)
by the LEA, unless the LEA issues a new or revised conditional use permit or solid waste facilities permit, as the case may be, which includes terms and conditions that allow for operation or expansion of the facility that may have a significant effect on the environment unless the project has been exempted from the Act. This bill would provide for the issuance of a solid waste facility permit to the LEA, any city or county, or any regional agency, to issue an integrated waste management program. The bill would require the LEA, or city or county, or regional agency to implement a SRR element, on or by October 1, 1994, except as specified. This bill would instead require that report to be submitted on or before March 1 of each year, and would delete obsolete provisions in that regard. The bill would, on or before January 6, 1997, require CIWMB to conduct a cost-benefit study, as prescribed, and to report to the Governor and the Legislature on the implementation of the Act by local governments. The bill would require CIWMB to establish an integrated waste management program. The bill would require each state agency, as defined, on or before October 1, 1996, to develop, in consultation with CIWMB, an integrated waste management program. The bill would require each state agency, on or before April 1, 1996, to complete a waste audit to determine the amount of solid waste generated by the state agency and the amount of solid waste that can be source-reduced, recycled, composted, or reused under the program. The bill would require each state agency to divert at least 25% of the solid waste generated by the state agency from landfill or transformation facilities by January 1, 1995, and 50% by January 1, 2000, through source reduction, recycling, and composting activities. The Act requires each city, county, and regional agency to develop a SRR element, on or by October 1, 1994, except as specified. This bill would instead require that report to be submitted on or before March 1 of each year, and would delete obsolete provisions in that regard. The bill would, on or before January 6, 1997, require CIWMB to conduct a cost-benefit study, as prescribed, and to report to the Governor and the Legislature on the implementation of the Act by local governments. The bill would require CIWMB to establish an integrated waste management program. The bill would require each state agency, as defined, on or before October 1, 1996, to develop, in consultation with CIWMB, an integrated waste management program. The bill would require each state agency, on or before April 1, 1996, to complete a waste audit to determine the amount of solid waste generated by the state agency and the amount of solid waste that can be source-reduced, recycled, composted, or reused under the program. The bill would require each state agency to divert at least 25% of the solid waste generated by the state agency from landfill or transformation facilities by January 1, 1995, and 50% by January 1, 2000, through source reduction, recycling, and composting activities. The Act requires each city, county, and regional agency to develop a SRR element, on or by October 1, 1994, except as specified. This bill would instead require that report to be submitted on or before March 1 of each year, and would delete obsolete provisions in that regard. The bill would, on or before January 6, 1997, require CIWMB to conduct a cost-benefit study, as prescribed, and to report to the Governor and the Legislature on the implementation of the Act by local governments. The bill would require CIWMB to establish an integrated waste management program. The bill would require each state agency, as defined, on or before October 1, 1996, to develop, in consultation with CIWMB, an integrated waste management program. The bill would require each state agency, on or before April 1, 1996, to complete a waste audit to determine the amount of solid waste generated by the state agency and the amount of solid waste that can be source-reduced, recycled, composted, or reused under the program. The bill would require each state agency to divert at least 25% of the solid waste generated by the state agency from landfill or transformation facilities by January 1, 1995, and 50% by January 1, 2000, through source reduction, recycling, and composting activities. The Act requires each city, county, and regional agency to develop a SRR element, on or by October 1, 1994, except as specified. This bill would instead require that report to be submitted on or before March 1 of each year, and would delete obsolete provisions in that regard. The bill would, on or before January 6, 1997, require CIWMB to conduct a cost-benefit study, as prescribed, and to report to the Governor and the Legislature on the implementation of the Act by local governments. The bill would require CIWMB to establish an integrated waste management program. The bill would require each state agency, as defined, on or before October 1, 1996, to develop, in consultation with CIWMB, an integrated waste management program. The bill would require each state agency, on or before April 1, 1996, to complete a waste audit to determine the amount of solid waste generated by the state agency and the amount of solid waste that can be source-reduced, recycled, composted, or reused under the program. The bill would require each state agency to divert at least 25% of the solid waste generated by the state agency from landfill or transformation facilities by January 1, 1995, and 50% by January 1, 2000, through source reduction, recycling, and composting activities. The Act requires each city, county, and regional agency to develop a SRR element, on or by October 1, 1994, except as specified. This bill would instead require that report to be submitted on or before March 1 of each year, and would delete obsolete provisions in that regard.
LITIGATION

On January 30, the Natural Resources Defense Council (NRDC) filed a petition for writ of mandate and complaint for declaratory relief against CIWMB in Natural Resources Defense Council v. California Integrated Waste Management Board, No. 95CS00229 (Sacramento County Superior Court). The petition alleges that CIWMB has failed to perform various mandatory duties under the California Integrated Waste Management Act (the Act), and that the policy adopted by the Board at its January 1995 meeting relating to alternative daily cover (ADC) violates the Act, as well as the California Administrative Procedure Act (APA), the California Environmental Quality Act (CEQA), and several other statutes (see MAJOR PROJECTS). [14:2&3 CRLR 143-44] In March 1995, NRDC filed a second suit alleging additional CEQA violations by CIWMB.

The two suits were consolidated in late summer, and on December 15 a hearing on NRDC’s petition was held in Sacramento County Superior Court. At the hearing, four central issues were presented to the court: (1) whether CIWMB’s policy of permitting appeals of indefinite duration for solid waste disposal facilities in violation of state minimum solid waste disposal standards is in violation of specific statutory timelines; (2) whether CIWMB’s policy permitting appeals of indefinite duration violates the APA; (3) whether CIWMB’s policy and regulation granting diversion credit for landfilled green waste under AB 939, the court requested additional briefing from the parties. The court took the alleged CEQA violations under advisement pending a ruling regarding the underlying regulations, and advised the parties that it would issue its ruling on the two undecided issues after January 26.

FUTURE MEETINGS

January 24 in Sacramento.
February 27 in San Francisco.
March 27 in Sacramento.
April 23 in Modesto.
May 21 in Long Beach.
June 26 in Sacramento.
July 30 in Yukiah.
August 28 in Sacramento.
September 25 in Salinas.

DEPARTMENT OF PESTICIDE REGULATION

Director: James Wells
(916) 445-4000

The California Department of Food and Agriculture’s Division of Pest Management officially became the Department of Pesticide Regulation (DPR) within the California Environmental Protection Agency (Cal-EPA) on July 17, 1991. DPR’s enabling statute appears at Food and Agricultural Code (FAC) section 11401 et seq.; its regulations are codified in Titles 3 and 26 of the California Code of Regulations (CCR).

With the creation of Cal-EPA, all jurisdiction over pesticide regulation and registration was removed from CDFA and transferred to DPR. Pesticide registration activities (including aerial malathion spraying, quarantines, and other methods of eliminating and/or preventing pest infestations) remain with CDFA. The important statutes which DPR is now responsible for implementing and administering include the Birth Defect Prevention Act (FAC section 13121 et seq.), the Pesticide Contamination Prevention Act (section 13141 et seq.), and laws relating to pesticide residue monitoring (section 12501 et seq.), registration of economic poisons (section 12811 et seq.), assessments against pesticide registrants (section 12841 et seq.), pesticide labeling (section 12851 et seq.), worker safety (section 12980 et seq.), restricted materials (section 14001 et seq.), and qualified pesticide applicator certificates (section 14151 et seq.).

DPR includes the following branches:

1. The Pesticide Registration Branch is responsible for product registration and coordination of the required evaluation process among other DPR branches and state agencies.

2. The Medical Toxicology Branch reviews toxicology studies and prepares risk assessments. Data are reviewed for chronic and acute health effects for new active ingredients, label amendments on currently registered products which include major new uses, and for reevaluation of currently registered active ingredients. The results of these reviews, as well as exposure information from other DPR branches, are used in the conduct of health risk characterizations.

3. The Worker Health and Safety Branch evaluates potential workplace hazards resulting from pesticides. It is responsible for evaluating exposure studies on active and inert ingredients in pesticide products and on application methodologies. It also evaluates and recommends measures designed to provide a safer environment for workers who handle or are exposed to pesticides.

4. The Environmental Monitoring and Pest Management Branch monitors the environmental fate of pesticides, and identifies, analyzes, and recommends chemical, cultural, and biological alternatives for managing pests.

5. The Pesticide Use and Enforcement Branch enforces state and federal laws and regulations pertaining to the proper and safe use of pesticides. It oversees the licensing and certification of dealers and pest control operators and applicators. It is responsible for conducting pesticide incident investigations, administering the state pesticide residue monitoring program, monitoring pesticide product quality, and coordinating pesticide use reporting.

6. The Information Services Branch provides support services to DPR’s programs, including overall coordination, evaluation, and implementation of data processing needs and activities.

Also included in DPR are the Pesticide Registration and Evaluation Committee.