sections 25401 and 25540. The major issue raised by Keating is whether aiding and abetting of a section 25401 crime statutorily exists; Keating claims that criminal liability is restricted to direct offerors and sellers, and that the evidence failed to prove he personally interacted with any of the investors. The Supreme Court unanimously voted to hear Keating's appeal of his state conviction, for which he received a ten-year prison term and a $250,000 fine. However, even if his state conviction is set aside by the court, Keating must serve a twelve-year term in federal prison based on his January conviction by a federal jury for racketeering, conspiracy, and fraud. *[13:4 CRLR 110]* At this writing, the matter has been fully briefed; the court has not yet scheduled oral argument.

DEPARTMENT OF INDUSTRIAL RELATIONS

CAL-OSHA

Executive Director:
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California's Occupational Safety and Health Administration (Cal-OSHA) is part of the cabinet-level Department of Industrial Relations (DIR). The agency administers California's programs ensuring the safety and health of California workers.

Cal-OSHA was created by statute in October 1973 and its authority is outlined in Labor Code sections 140-49. It is approved and monitored by, and receives some funding from, the federal OSHA. Cal-OSHA's regulations are codified in Titles 8, 24, and 26 of the California Code of Regulations (CCR).

The Occupational Safety and Health Standards Board (OSB) is a quasi-legislative body empowered to adopt, review, amend, and repeal health and safety orders which affect California employers and employees. Under section 6 of the Federal Occupational Safety and Health Act of 1970, California's safety and health standards must be at least as effective as the federal standards within six months of the adoption of a given federal standard. Current procedures require justification for the adoption of standards more stringent than the federal standards. In addition, OSB may grant interim or permanent variances from occupational safety and health standards to employers who can show that an alternative process would provide equal or superior safety to their employees.

The seven members of the OSB are appointed to four-year terms. Labor Code section 140 mandates the composition of the Board, which is comprised of two members from management, two from labor, one from the field of occupational health, one from occupational safety, and one from the general public. At this writing, OSB is functioning with a labor representative vacancy.

The duty to investigate and enforce the safety and health orders rests with the Division of Occupational Safety and Health (DOSH). DOSH issues citations and abatement orders (granting a specific time period for remedying the violation), and levies civil and criminal penalties for serious, willful, and repeated violations. In addition to making routine investigations, DOSH is required by law to investigate employee complaints and any accident causing serious injury, and to make follow-up inspections at the end of the abatement period.

The Cal-OSHA Consultation Service provides on-site health and safety recommendations to employers who request assistance. Consultants guide employers in adhering to Cal-OSHA standards without the threat of citations or fines.

The Appeals Board adjudicates disputes arising out of the enforcement of Cal-OSHA's standards.

MAJOR PROJECTS

Long-Awaited Ergonomics Standards Proposed by OSB. After seven years of public complaints, political cajoling, and finally a legislative directive, OSB has proposed standards to deal with cumulative trauma disorders (CTDs)—injuries caused by poor workplace design in jobs that require long periods of repetitive physical movement, such as typing and assemblyline work. The incidence of CTD, also called repetitive stress injury, has increased so dramatically in the past decade that it is the leading occupational illness in America. Federal statistics reported 281,000 cases of CTDs in private industry in 1992, up from 22,600 cases in 1982. In California, DIR reports that CTD incidence grew from 13% of all occupational diseases in 1985 to 32% in 1991. Much of this rapid growth has been attributed to the advent of the computer age, with more people working at keyboards all day, or using machinery in a repetitive assemblyline fashion.

In 1987, OSB received a petition from the Communications Workers of America, the Northern California Newspaper Guild, and the Bay Area Typographical Union asking it to adopt standards to regulate the use of video display terminals (VDTs) (computer screens) in the workplace. The petitioners noted the rise in workers' compensation claims for injuries such as repetitive eyestrain and wrist and hand disorders caused by typing in front of a computer screen all day, and asked OSB to require employers to adopt preventive strategies to avoid future injuries. The petitioners noted that the general standards of the Board's then-existing Injury and Illness Prevention Program (IIPP) were

not adequate to deal with the specific problems caused by VDT use; although the program's standards required employers to prevent illness in the workplace, they did not provide adequate notice to employees of the dangers of VDT use. Under the general IIPP standards, only the most severe cases of employer neglect could be penalized by the issuance of a special order, which triggered a long procedural process of review by four different divisions, and a final decision that was subject to appeal.

In response to the petition, the Board created an Ad Hoc Expert Advisory Committee which spent two years studying the potential adverse effects of VDTs on vision, musculoskeletal system, stress, reproduction, and the effects of an indoor environment. The Committee, which presented its final report at OSB's June 1989 meeting, concluded that standards concerning VDT usage were necessary to protect workers from a variety of health problems. After analyzing the Committee's findings and recommendations, DOSH concurred with the Committee that some problems should be addressed, but had reservations about the need for specific VDT regulations. DOSH instead recommended that an ergonomics regulation be developed, which would include workstation design and flexibility as well as training; this regulation would apply to all workers, not just those working with VDTs. In spite of several public comments urging OSB to reject DOSH's evaluation and follow the recommendations of its Expert Advisory Committee, OSB voted to accept the Division's recommendation to study the feasibility of adopting broader ergonomics standards for the workplace. *[9:4 CRLR 102]*

In the meantime, OSB issued special orders to selected employers, including the *Fresno Bee* and the *San Diego Union*, requiring that employees who use VDTs at work be given, among other things, rest breaks, adjustable keyboards and screens, adequate leg space, and adjustable chairs. OSB issued the special orders under its IIPP standards after a showing was made that a large percentage of workers (33% in the case of the *Fresno Bee*) were already suffering repetitive eye strain and other injuries from working long hours in front of a computer screen. OSB's issuance of these special orders to only a few companies while denying the need for workplace-wide VDT standards appeared selective and inconsistent, and the scientific community continued to urge the adoption of standards to regulate ergonomic safety in all workplaces, both to provide a level playing field for businesses and to prevent further increase of CTDs. *[10:4 CRLR 130; 10:2&3 CRLR 152]*

In 1990, then-Assemblymember Tom Hayden introduced AB 955, which would have directed OSB to immediately adopt regulations for VDT usage that would meet the standards of the American National Standards Institute (ANSI). AB 955 was vetoed by then-Governor Deukmejian, who stated that a law requiring employers to comply with ANSI's design and ergonomic standards for workplace VDTs is "undesirable" and would eliminate employers' flexibility to address the issue in a manner most appropriate and cost-effective for their individual workplaces. *[10:4 CRLR 133]*

In December 1990, then-San Francisco Mayor Art Agnos signed a local ordinance establishing ergonomics standards for the Bay Area community. The local statute was hailed by some as a rare compromise between labor and business interests; leaders of both interest groups were involved in the creation and revision of the ordinance. The standards applied to any business with fifteen or more employees, and established specific guidelines for adjustable workstations, regular breaks, special ergonomics training, and new equipment. Businesses were given four years to comply with the new standards; after that, violators could pay up to $500 for each day spent out of compliance with the new rules. *[11:1 CRLR 106]* However, in *C&T Management Services v. San Francisco*, No. 936661 (Feb. 13, 1992), San Francisco Superior Court Judge Lucy Kelly McCabe ruled that the local ordinance was preempted by the statewide authority over occupational safety and health delegated to Cal-OSHA; according to Judge McCabe, California law allows only the state, not individual cities, to regulate safety in the workplace. *[12:2&3 CRLR 192–93]*

As part of the legislature's reform of the state's workers' compensation laws in 1993, AB 110 (Peace) set a January 1, 1995 deadline for OSB to develop a statewide ergonomics standard. *[13:4 CRLR 115–16, 133]* Accordingly, last November OSB published notice of its intent to adopt new section 5110, Title 8 of the CCR, which would apply to all employers and establish minimum requirements for controlling exposure to the risk of developing CTDs. Under the proposed regulations, employers would be required to perform a one-time review of certain records bearing on the presence of CTDs and CTD risk in the workplace, covering a specified period of time; and to establish a reporting procedure which encourages employees to report CTD symptoms or CTD risk. Among other things, employers would also be required to provide two types of training to minimize CTD risk—general training for all employees and job-specific training for all employees whose work activities are required to be addressed by engineering controls, administrative controls, or personal protective equipment, unless the controls eliminate the necessity for safety instruction with respect to CTD risk. *[14:1 CRLR 113]*

During the spring, OSB conducted two public hearings to hear public comment on the proposed standards. Over 300 people attended the first hearing in Los Angeles on January 13, and 400 attended a February 24 hearing in San Francisco. Management representatives who testified at the hearings offered diverse opinions of section 5110; some stated that the regulations are appropriate in their present form with only minor changes, while others claimed that the regulations are too inclusive and will be too costly. Many business representatives suggested that the Board adopt a more result-oriented standard which would allow employers to develop their own ergonomics programs so long as the results meet OSB's standards for prevention and treatment; these employers felt that the proposed rules are too inflexible to cover all industries at once. Some employers contended that small businesses should be exempted from the program because of the costs of implementation; others argued that the construction industry should be exempted, claiming that the Board has not adequately identified evidence of CTDs in the construction industry. Many business representatives opined that the one-year compliance deadline is too short, and most expressed concern about the costs of implementing the standards.

Several injured workers and labor representatives also spoke at the public hearings, many of whom praised the Board for its attempt to address the problem of ergonomics in the workplace and urged the Board not to back down in the face of pressure from business interests. Workers and labor representatives, as well as some ergonomics experts and physicians, commented that back injury is not adequately represented as a CTD even though it is one of the most common workplace-related injuries. Supporters of the ergonomics standards urged OSB to implement the program quickly, especially since local governments cannot act on their own to create ergonomics ordinances without being preempted by state law. Other hearing participants chastised OSB for waiting until it was compelled by state law to adopt ergonomics standards.

Some Board members expressed a few concerns about the proposed standards;

for example, the Board asked some of the physicians present at the February hearing if the proposed standards would likely cause overreporting, over-diagnosis, and over-treatment of CTDs, because employers will be paying the bills. No consensus was reached on this issue, although many employers expressed concern about possible abuse of the new system. The Board also noted that its effort may be preempted by impending federal ergonomic regulations; President Clinton is expected to announce a federal standard for ergonomics in November 1994, and the progress of the California standards is being monitored by the federal government. The Board is concerned that any standards it does finally adopt could be preempted by the Fed-OSHA regulation; a new federal standard would force OSB to rework its own standards until the federal government is convinced that the state standards are at least as effective as the Fed-OSHA regulation. However, if Fed-OSHA does adopt an ergonomic standard, OSB could simply adopt an identical regulation; this would seemingly invalidate the alleged threat that businesses will leave the state in search of less stringent ergonomics standards.

At this writing, OSB is still responding to public comments it received that the January 13 and February 24 public hearings; the proposed standards await adoption by OSB and review and approval by the Office of Administrative Law (OAL).

Respiratory Protective Equipment. On May 6, OSB published notice of its intent to amend sections 1531, 3409, and 5144, Title 8 of the CCR, which provide minimum requirements for the use of respiratory protective equipment to control harmful exposures to dusts, mists, fumes, and vapors; each of those sections prohibit the use of contact lenses in atmospheres where a respirator is required. OSB's proposed changes to those sections would eliminate that prohibition and add a training requirement regarding employees using contact lenses in atmospheres requiring respiratory protection. At this writing, OSB is scheduled to conduct a public hearing on the proposed changes on June 23 in San Francisco.

Airborne Contaminants. On May 6, OSB published notice of its intent to amend section 5155, Title 8 of the CCR, which establishes requirements for controlling employee exposure to airborne contaminants. OSB's proposed changes to section 5155 would lower the permissible exposure limits (PEL) of thirteen compounds; raise the PEL for grain dust; add six substances to Table AC-1 (Permissible Exposure Limits for Chemical Contaminants); add short-term exposure limits to four substances in Table AC-1; add five glycol ethers to Table AC-1 with skin notations; and add propylene glycol methyl ether acetate to Table AC-1. According to OSB, all of the proposed changes to section 5155 are considered at least as effective or more stringent than Fed-OSHA's requirements in Part 1910.1000, Title 29 of the Code of Federal Regulations. At this writing, OSB is scheduled to hold a June 23 public hearing on these proposed changes.

Drilling and Production Regulations. On May 6, OSB published notice of its intent to revise sections 6500–6693 (non-inclusive), Title 8 of the CCR, to make a number of changes to the regulatory provisions concerning drilling and production in the petroleum industry. Among other things, the proposed changes would permit smoking only in areas designated by the employer, and require each employer to identify all areas—including areas of flammable liquids and gases—which are safe for smoking at production or oil well sites; require an employer's written employee emergency plan to include evacuation procedures; and require the regulated public to install the appropriate type of electrical equipment and wiring at petroleum production facilities or at oil drilling and servicing locations in accordance with the provisions of the Electrical Safety Orders, and require that the electrical equipment be maintained in accordance with the area classifications as defined in the Electrical Safety Orders. At this writing, OSB is scheduled to hold a public hearing on the proposed changes on June 23 in San Francisco.

Revision of Injury and Illness Prevention Program. On April 1, OSB published notice of its intent to amend section 3203, Title 8 of the CCR, to revise the Injury and Illness Prevention Program to provide relief from specific recordkeeping requirements to certain groups of employers, including employers with fewer than twenty employees who are in industries not on a designated list of high-hazard industries established by DOSH, and who have a workers' compensation experience modification rate of 1.1 or less; employers on a designated list of low-hazard industries established by DIR; employers determined by DOSH to have historically utilized intermittent employment; and local governmental entities or any public or quasi-public corporation. These changes are the result of amendments made to Labor Code section 6401.7, Cal-OSHA's IIPP statute added by SB 198 (Greene) (Chapter 1369, Statutes of 1989), by AB 395 (Hannigan) (Chapter 928, Statutes of 1993) and AB 1930 (Weggeland) (Chapter 927, Statutes of 1993). *[13:4 CRLR 133–34]* At this writing, OSB is scheduled to hold a May 19 public hearing on this proposal in Los Angeles.

Clarification of "Amusement Ride" Definition. On April 1, OSB published notice of its intent to amend section 3901, Title 8 of the CCR, to clarify the definition of the term "amusement ride" to include the business of bungee jumping, but not slides, playground equipment, coin-operated devices, or conveyances which operate directly on the ground or operation of amusement devices of a permanent nature. At this writing, OSB is scheduled to hold a May 19 public hearing on this proposal in Los Angeles.

Portable Power-Driven Hand Saws. On March 4, OSB published notice of its intent to amend section 4307(b), Title 8 of the CCR, regarding safety requirements for portable power-driven circular hand saws. Existing section 4307(b) requires the lower half (point of operation) of the saw blade to be guarded to the saw teeth's root with either a telescopic or hinged guard which opens when material is fed into the saw and closes (covers the saw teeth) when the saw teeth are removed from the cut. OSB's proposed amendment would add an exception to the guarding requirements of section 4307(b) to exclude powered rescue saws or similar devices when used by fire or rescue personnel and those persons are equipped or provided with suitable personal protective equipment.

OSB conducted a public hearing on this proposal on April 21. As the result of comments about lack of clarity in the proposal, staff recommended that the language be modified to state that "the lower blade guard is not required on hand-held powered cut-off saws used by fire or rescue personnel for rescue procedures and roof venting for smoke removal provided the operator is wearing appropriate eye, face, head and body protection as specified in Articles 10 and 10.1 of the General Industry Safety Orders." Also in response to comments received, OSB may revise the proposed exception to include fire training activities and qualified trainers who are not currently fire personnel. At this writing, the amendments await adoption by OSB and review and approval by OAL.

Installation of Load Drum Rotation Indicators on Cranes. On February 4, OSB published notice of its intent to repeal section 4929(f), Title 8 of the CCR, which currently requires the installation of load drum rotation indicators on cranes, except cranes used exclusively with a

clamshell or dragline. OSB proposes to repeal this subsection; owners of cranes with a lifting capacity rated above three tons will no longer be required to install load drum indicators. According to OSB, there should be no diminished safety experienced by employees handling loads positioned by a crane. OSB conducted a public hearing on this proposal on March 24; at this writing, the amendments await adoption by OSB and review and approval by OAL.

Refining, Transporting, and Handling of Petroleum. On February 4, OSB published notice of its intent to amend sections 6750, 6755, 6760, 6767, 6772–6781, 6786, 6787, 6793, 6798, 6803, 6805, 6815, 6816, 6821, 6822, 6828, 6833, 6838, 6844–6846, 6851, 6852, 6857, 6862, 6873, 6874, 6879, 6880, 6881, 6886, and 6891, repeal sections 6792, 6804, 6810, 6823, 6839, 6867, and 6872, and adopt new sections 6751, 6788, 6789, 6799, 6800, 6801, 6806, 6807, 6808, 6809, 6887, and 6892–6894, Title 8 of the CCR, regarding the refining, transportation of, and handling of petroleum. Although many of the proposed changes would have no effect on the regulated public, the proposed changes would—among other things—require gas-detecting equipment to be provided, properly maintained, and used at locations where combustible gases and vapors may be present. OSB held a public hearing on these proposals on March 24; at this writing, the changes await adoption by OSB and review and approval by OAL.

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

• ***Haulage Vehicle Operation***. On February 24, OSB adopted its proposed amendments to section 1593, Title 8 of the CCR, regarding safety requirements for the use of haulage vehicles; the amendments prohibit employees at construction jobsites from using the attachments of haulage vehicles, which do not provide fall protection equivalent to that required by section 3210, Title 8 of the CCR, to elevate employees or serve as work platforms. The amendments also prohibit haulage vehicles from being used to transport other employees in a manner inconsistent with section 1597, Title 8 of the CCR. As amended, section 1593 holds the employer responsible for ensuring that, when used as an elevated work platform or to transport employees, a haulage vehicle attachment (*e.g.*, dozer blade, scoop, or bucket) is equipped with standard guardrail protection, seat belts, or safety belts with lanyards to provide fall protection consistent with specified regulatory provisions. *[14:1 CRLR 114]* On April 11, OAL approved the changes to section 1593.

• ***Riding Loads on Derricks, Hoists, or Cranes***. At its February 24 meeting, OSB reviewed its proposed amendments to section 4999, Title 8 of the CCR, which would prohibit persons from riding on the load, hook, or sling of any derrick, hoist, or crane; according to OSB, the change would provide consistency between the General Industry Safety Orders and the Construction Safety Orders by prohibiting employees from riding loads in all crane operations, whether in the general or construction industry. *[14:1 CRLR 114]* Following discussion, OSB agreed to insert this language into proposed new section 4995 instead of adding it to section 4999; OSB then adopted the proposed section. On April 11, OAL approved new section 4995.

• ***Ventilation Requirements for Laboratory-Type Hood Operations/Biological Safety Cabinets***. OSB's proposed amendments to section 5154.1 and adoption of new section 5154.2, Title 8 of the CCR, would regulate the use of laboratory-type hoods and biological safety cabinets. Section 5154.1 currently sets forth requirements for ventilation rates, operation, and other special requirements for laboratory-type hoods. OSB's proposed amendment would, among other things, exempt biological safety cabinets from the section's requirements; biological safety cabinets are used primarily in microbiological laboratories and pharmacies where organisms and pharmaceutical materials which present a health hazard must be manipulated to maintain a sterile environment.

New section 5154.2 would include requirements for use, operation, ventilation rates and negative pressure, airflow measurements and leak testing, and other special requirements for biological safety cabinets; under the proposed language, section 5154.2 would only apply to biological safety cabinets used to control biohazard materials or hazardous substances. The section would also allow the use of biological safety cabinets to control exposure to cytotoxic drugs, aerosols, and particulate matter, provided the presence of these substances presents no risk of fire or explosion, and specified control requirements are met. *[14:1 CRLR 114]*

At this writing, the proposed changes await adoption by OSB and review and approval by OAL.

• ***Automotive Lift Standards Amendments***. On February 24, OSB adopted its proposed amendments to sections 3542 and 3543, Title 8 of the CCR, regarding automotive lifts. The amendments to section 3542 would require that new lifts installed after February 1, 1994 be in accordance with the provisions of ANSI/ALI B153.1-1990, which is incorporated by reference, except for specified sections; the amendments to section 3543 would require that automotive lifts manufactured after May 21, 1990, be provided with a label or statement of compliance indicating the lift was manufactured to conform to the requirements of ANSI/ALI B153.1-1990. *[14:1 CRLR 114]* At this writing, the changes await review and approval by OAL.

• ***Lead in Construction***. At its April 21 meeting, OSB readopted new section 1532.1, Title 8 of the CCR, which establishes interim standards regarding occupational exposure to lead in construction work; OAL accepted this action on April 28. The standard, which is identical to the interim final rule adopted by Fed-OSHA in May 1993, will remain in effect for six months unless OSB readopts it for an additional six months or adopts a state standard that is at least as effective as the federal standard. Section 1532.1, which is exempt from OAL review because it is the same as the federal standards *[13:1 CRLR 91]*, provides in part that it applies to all construction work where an employee may be occupationally exposed to lead; the term "construction work" is defined as work for construction, alteration, and/or repair (including painting and decorating), and includes demolition or salvage of structures where lead or materials containing lead are present; removal or encapsulation of materials containing lead; new construction, alteration, repair, or renovation of structures, substrates, or portions thereof, that contain lead or materials containing lead; installation of products containing lead; lead contamination/emergency clean-up; transportation, disposal, storage, or containment of lead or materials containing lead on the site or location at which construction activities are performed; and maintenance operations associated with the construction activities described above.

Among other things, section 1532.1 provides that an employer shall assure that no employee is exposed to lead at concentrations greater then fifty micrograms per cubic meter of air averaged over an eight-hour period. If an employee is exposed to lead for more than eight hours in any work day, the employees' allowable exposure, as a time-weighted average for that day, shall be reduced according to a specified formula. *[14:1 CRLR 114–15]*

• ***Excavation Access and Egress***. On January 24, OAL approved OSB's proposed amendments to sections 1541(c)(2) and 1541(l)(1), Title 8 of the CCR, regard-

ing safe walkways and egresses in and around trench excavations. The amendments specify that existing provisions for safe egress shall apply to all excavations, including trenches, that are over thirty inches in width or six feet in depth, and require walkways or bridges only if the excavation is six feet or more in depth. *[14:1 CRLR 115; 13:4 CRLR 131]*

• ***Process Safety Management of Acutely Hazardous Materials***. On January 4, OAL approved OSB's amendments to section 5189, Title 8 of the CCR, regarding the management of processes using highly hazardous chemicals, flammables, and explosives. *[13:2&3 CRLR 149–50]*

• ***Cleaning, Repairing, Servicing, and Adjusting Prime Movers, Machinery, and Equipment***. On January 4, OAL disapproved OSB's proposed amendments to section 3314(a) and (b), Title 8 of the CCR, which would specifically include unjamming activities as part of cleaning, repairing, servicing, and adjusting activities conducted on prime movers, machinery, and equipment; require employers to address unjamming machinery and equipment in their hazardous energy control procedures; provide that, for the purpose of section 3314, the term "locked out" means the use of devices, positive methods, or procedures which will result in the isolation or securing of prime movers, machinery, and equipment from mechanical, hydraulic, pneumatic, chemical, electrical, thermal, or other energy source; and provide that minor tool changes and adjustments and other minor servicing activities which take place during normal production operations are not covered by the requirements of section 3314 if they are routine, repetitive, and integral to the use of the equipment or machinery for production, provided that the work is performed using alternatives measures which provide effective protection. *[14:1 CRLR 115; 13:4 CRLR 131]*

This last provision, exempting minor servicing activities from the scope of section 3314, was not part of the originally published amendments, and was added by OSB in response to public comments. However, OSB did not make the modified language available for an additional public comment period. According to OAL, "the adoption of this exception materially altered the Board's original proposal which contained no express exception." Further, OAL found that "no evidence in the file demonstrates that the initial proposal was intended to contain any implied exception, much less this one." OAL concluded that under Government Code section 11346.8(c), the public is entitled to prior notice of, and at least a 15-day opportunity to comment in writing on, the exception for minor servicing activities before any such exception is adopted by the Board. Since the Board did not provide such a notice and opportunity to comment on this exception to section 3314, OAL disapproved the action.

OSB released the modified language for a 15-day public comment period, and then resubmitted the proposal to OAL; on March 24, OAL approved the amendments to section 3314.

• ***Electrical Regulations Pertaining to Elevators***. On May 5, OAL disapproved the Board's proposed amendments to sections 3011, 3012, 3016, 3020, 3040, 3050, 3071, 3073, 3078, 3090, 3092, 3093.41, 3093.42, 3100, and 3112, Title 8 of the CCR, regarding electrical regulations pertaining to elevators. OAL noted that the rulemaking file submitted to it did not include the approval of the Building Standards Commission (BSC) of OSB's concurrent changes to sections 7-3040, 7-3073, 7-3093.41, 7-3093.42, and 7-3100, Title 24 of the CCR. According to OAL, the correct procedure is to first obtain BSC's approval before transmitting the regulations to OAL; therefore, OAL disapproved the rulemaking file. In addition, OAL noted that the file contained a few nonsubstantive clarity and inconsistency issues which OSB staff should address prior to resubmittal. OSB has 120 days in which to cure these deficiencies and resubmit the rulemaking record to OAL. *[13:4 CRLR 133]*

• ***Leg Protection for Chain Saw Operators in Logging Operations***. On April 11, OAL approved OSB's proposed amendments to section 6283(a), Title 8 of the CCR, which specify that certain employees who are required to operate chain saws during logging operations must use leg protection. *[14:1 CRLR 116; 13:4 CRLR 131]*

• ***Toilets at Construction Jobsites***. On January 26, OAL approved OSB's proposed amendments to section 1526, Title 8 of the CCR, which require employers to provide jobsite toilet facilities which provide toilet users with privacy and are maintained so as to provide users with privacy. *[14:1 CRLR 116; 13:4 CRLR 131–32]*

LEGISLATION

AB 3377 (Morrow), as introduced February 24, would have repealed the Corporate Criminal Liability Act of 1990 (CCLA), which was enacted in AB 2249 (T. Friedman) (Chapter 1616, Statutes of 1990). *[10:4 CRLR 132]* The CCLA provides that any corporation or person who is a manager with respect to a product, facility, equipment, process, place of employment, or business practice, is guilty of a crime if that corporation or person (1) has actual knowledge of a serious concealed danger that is subject to the regulatory authority of an appropriate agency and is associated with that product or a component of that product or business practice, and (2) knowingly fails during the period ending 15 days after the actual knowledge is acquired, or if there is imminent risk of great bodily harm or death, immediately, to (a) inform DOSH in writing, unless as specified, and (b) warn its affected employees in writing, unless as specified.

AB 3377 was sponsored by the California Manufacturers Association (CMA), which claimed that managers are hard-pressed to avoid personal liability due to what it believes are ambiguities in the language of the CCLA and unreasonable requirements; CMA further complained that no effort was made, when the original law was passed, to "define or limit several sweeping terms" in the bill. However, an Assembly Public Safety Committee analysis prepared in advance of a scheduled May 10 hearing on AB 3377 noted that no managers have yet been incarcerated under this law, and that AB 3377 makes no effort to define or limit any of the law's terms; further, the analysis posed the question whether a law should be repealed, absent any evidence that it is not working as intended, or that it is being abused.

The committee analysis also explained that there have been only two known prosecutions under the CCLA since its enactment. The first was undertaken by the Alameda County District Attorney's Office, and arose out of an accident at a Newark plant in which a worker was crushed to death by two conveyer belts. Investigation showed that the machinery involved, used for flattening bags, was left in an unguarded condition and that managers should have known of the serious hazard it posed because other workers had already been injured and/or had narrowly escaped injury. The corporation pled no contest to the charge, and agreed to pay $100,000 in fines and penalties. A second prosecution was recently carried out by the San Francisco District Attorney's Office against a T-shirt manufacturing company over a similar accidental death occurring when a worker was crushed to death by a machine from which a safety device had been removed; that case also ended in a plea agreement and settlement (*see* LITIGATION).

Opponents of AB 3377, which included the Los Angeles County District

Attorney's Office, the Alameda County District Attorney's Office, the Teamsters, the California Labor Federation, and the California District Attorneys Association, argued that the current law "offers protection to California's working people and consumers from corporate decisions to deliberately operate a dangerous workplace or to sell hazardous products." The opponents further notified CMA that they would resist any effort to repeal what they consider to be a law which has "made California a safer place in which to live and work."

In mid-May, Assemblymember Morrow announced he was dropping AB 3377 at the request of CMA; according to Morrow's office, CMA wants to hold off on the measure until it can build more consensus among its members and other organizations.

AB 3495 (Mountjoy). Existing law imposes specified procedures for the filing and codification of state building standards, and provides that the standards for certain statewide occupancies, which are contained in various uniform building codes and referred to in the California Building Standards Code, shall be effective within a specified time from publication by BSC in the California Building Standards Code. Existing law authorizes OSB to adopt building standards, and regulations that implement or enforce building standards, that become effective thirty days approval by BSC and filing with the Secretary of State. As amended April 19, this bill would extend the application of the effective date provisions to the ANSI/ASME A17.1 Safety Code for Elevators and Escalators, including, but not limited to, Supplements A17.2 and 17.5 of the American National Standards Institute and American Society of Mechanical Engineers. This bill would require that the building standards adopted by OSB include retrofitting requirements and authorize these standards to cover administrative provisions, frequency of inspections, recovery of inspection costs, technical changes, and other changes deemed necessary to enforce any adopted regulations. *[A. W&M]*

SB 1803 (Johnston), as introduced February 24, is a clean-up bill to AB 110 (Peace) (Chapter 121, Statutes of 1993), which provides for the assessment of private self-insured employers with a specified workers' compensation experience rating for purposes of funding Cal-OSHA's Targeted Inspection Program. *[14:1 CRLR 112]* This bill would instead provide for the assessment of any such self-insured employers, and make other technical changes. *[A. Ins]*

AB 3708 (Alby). A provision of the existing California Occupational Safety and Health Act of 1973 prohibits an elevator from being operated in this state unless a permit for its operation is issued by DOSH. As amended May 9, this bill would transfer the regulation and inspection of special access lifts from DOSH to the Division of the State Architect (DSA), in conjunction with the building department of each city and each county. The bill would require DSA to develop a program that requires that reports of annual inspections of special access lifts be maintained onsite and requires that these special access lifts be designed and installed for the exclusive use of persons with disabilities. *[A. Floor]*

AB 3831 (Horcher). Existing law requires employers to comply with various health and safety provisions, imposes civil penalties for violation of these provisions, and exempts employers that are governmental entities from these penalties. As introduced March 14, this bill would only exempt employers who are local governmental entities from the imposition of civil penalties for violation of these health and safety provisions, thereby including state governmental entities among those employers subject to the imposition of these penalties. The bill would also make various legislative findings and declarations. *[S. IR]*

ACR 90 (Burton), as amended April 7, would request OSB to adopt an occupational safety and health standard for indoor air quality, excluding environmental tobacco smoke, and to appoint a prescribed advisory committee to develop a proposed standard, in coordination with BSC, on or before December 31, 1995. *[S. IR]*

AB 2784 (Epple). Existing law requires that regulations of DOSH specify a procedure for licensing certificating agencies or agents for certification inspections of cranes, imposes restrictions with respect to those persons who may certify the safety of cranes, and permits the licensure of certifiers of cranes who are employed by insurance carriers who insure the specific crane. As amended April 19, this bill would, except as to certification of tower cranes, additionally permit the licensure of certifiers of cranes who are employed by specified public utilities, municipal utility districts, public utility districts, and municipal utilities that are issued prescribed certificates of self-insurance. *[A. Floor]*

AB 3230 (B. Friedman), as introduced February 24, would require OSB, on or before December 31, 1995, and in consultation with a prescribed advisory committee, to develop a proposed standard for protection of employees from violence in the workplace. The bill would require OSB to adopt the final standard by December 31, 1996; and require DOSH, on or before July 31, 1995, to adopt and implement interim guidelines concerning violence in the workplace, for enforcement of the existing occupational safety and health standard respecting employer injury prevention programs. *[A. Floor]*

SB 1464 (Marks). Existing law authorizes DOSH, after inspection or investigation, to issue to an employer a citation with respect to an alleged violation; requires DOSH, within a reasonable time after termination of the inspection or investigation, to notify the employer by certified mail of the citation and of the 15-day period from the receipt of the notice within which the employer may notify the Occupational Safety and Health Appeals Board of his/her intent to appeal the citation; requires the citation to fix a reasonable time for abatement of the alleged violation; and provides that that period shall not commence running until the date the citation is received by certified mail and the certified mail receipt is signed, or if not signed, the date the return is made to the post office. Existing administrative regulations further provide that all abatement periods and changes required by the division are stayed upon the filing of a docketed appeal with the Appeals Board, and remain stayed until the withdrawal or final disposition of that appeal. As introduced February 10, this bill would require DOSH, if it determines that an alleged violation is serious and presents such a substantial risk to the safety or health of employees that the initiation of appeal proceedings should not suspend the running of the period for abatement, to so direct in the citation issued to the employer. It would authorize an employer who receives a citation as described above to file a motion with the Appeals Board, concurrent with the timely initiation of an appeal, requesting that the running of the period for abatement be suspended during the pendency of the appeal. It would require the Appeals Board, in a case where the motion is filed, to conduct an expedited hearing within fifteen days of the filing of the motion to consider and decide the employer's appeal. It would authorize the Appeals Board, in its decision on the appeal, to modify the citation's direction that the period for abatement not be suspended. *[S. Appr]*

The following is a status update on bills reported in detail in CRLR Vol. 14, No. 1 (Winter 1994) at pages 116–17:

S. 575 (Kennedy) and **H.R. 1280 (Ford)** are federal legislative proposals which

would enact the Comprehensive Occupational Safety and Health Reform Act, which would amend the Occupational Safety and Health Act of 1970 with respect to occupational safety and health programs, committees, employee representatives, coverage, standards, enforcement, antidiscrimination, training and education, hazard and illness evaluation, state plans, and victims' rights. *[14:1 CRLR 113, 116]*

According to a Labor Department report released May 5, the proposed legislation could save the national economy as much as $7 billion per year through the prevention of workplace injuries, illnesses, and deaths. The 91-page report entitled *A Study of the Effects of the Comprehensive Occupational Safety and Health Reform Act* estimates the legislation could prevent between 871 and 1,163 job-related deaths annually and between 912,000 and 1.3 million injuries and illnesses per year; estimates that the annual net benefits of the legislation, figured after costs to employers of complying with new regulatory requirements, could range from $1.3 billion to $7.6 billion; predicts that the legislation would result in improved systems for identifying and correcting workplace hazards, and that those systems would rely less on government inspectors and more on cooperative employer-employee programs built into daily workplace activities and tailored to specific needs of individual job sites; contends that the legislation would give OSHA greater authority to set and enforce job safety and health standards—including use of stronger criminal penalties—and provide workers a greater role in matters affecting safety health; notes that the legislation would require worker participation through joint labor-management safety committees for employers with eleven or more employees and provide workers a role in developing mandatory safety and health programs for all employers; and explains that the proposal would extend OSHA protection to 7.5 million state and local government workers who are not now covered. S. 575 is pending in the Senate Labor and Human Resources Committee; H.R. 1280 is pending in the House Education and Labor Committee.

AB 1605 (B. Friedman), as amended May 3, would require every supermarket, grocery store, or drugstore employer with twenty or more full-time or part-time employees and a retail building location of more than 20,000 square feet to develop and implement a minimum security plan at each store site that is designed to protect employees from crime, assist law enforcement officers in the identification of perpetrators of crimes committed in these stores, and includes specified elements. This bill would require OSB to adopt regulations to enforce these provisions relating to supermarket, grocery store, and drugstore safety not later than September 1, 1995. *[S. Appr]*

SB 999 (Dills). Existing law requires DOSH to promulgate regulations establishing specific criteria for licensing certifiers of cranes and derricks, including a written examination. As amended April 21, this bill would permit DOSH to waive the written examination for renewal of a certifier's license if the applicant has passed the written certification examination on or after January 1, 1992, is currently licensed at the time of application, and has been actively engaged in certifying cranes and derricks for the five preceding years. *[A. Floor]*

AB 1543 (Klehs), as amended April 21, 1993, would provide that neither OSB nor DOSH is authorized to make changes in or grant variances from specified regulations, if the proposed change or variance may have the effect of subjecting workers to increased exposure to electromagnetic fields in work on conductors or equipment energized in excess of 7500 volts. *[S. IR]*

SB 555 (Hart). Existing law requires every physician providing treatment to an injured employee for pesticide poisoning or a condition suspected to be pesticide poisoning to file a complete report with the Division of Labor Statistics and Research. As introduced March 1, 1993, this bill would additionally require every physician providing treatment for pesticide poisoning or a condition suspected to be pesticide poisoning to file, within 24 hours of the initial examination, a complete report with the local health officer by facsimile transmission or other means. The bill would provide that the physician shall not be compensated for the initial diagnosis and treatment unless the report to the Division of Labor Statistics and Research is filed with the employer or, if insured, with the employer's insurer, and certifies that a copy of the report was filed with the local health officer. *[A. Floor]*

AB 13 (T. Friedman), as amended April 6, would prohibit any employer from knowingly or intentionally permitting, or any person from engaging in, the smoking of tobacco products in an enclosed space at specified places of employment. The bill would specify that, for purposes of these provisions, the term "place of employment" does not include certain portions of a hotel, motel, or other lodging establishments, meeting or banquet rooms subject to certain exceptions, retail or wholesale tobacco shops, private smokers' lounges, cabs of motor trucks or truck tractors as specified, bars and taverns and gaming clubs subject to certain prescribed conditions, specified portions of restaurants under prescribed conditions, warehouse facilities, theatrical production sites, and medical research or treatment sites. It would also specify that, for purposes of these provisions, an employer who permits any nonemployee access to his or her place of employment on a regular basis has not acted knowingly or intentionally if he/she has taken certain reasonable steps to prevent smoking by a nonemployee. It would allow an employer to permit smoking in designated breakrooms under specified conditions.

This bill would also specify that the smoking prohibition set forth in these provisions shall constitute a uniform statewide standard for regulating the smoking of tobacco products in enclosed places of employment, and shall supersede and render unnecessary specified local ordinances regulating the smoking of tobacco products in enclosed places of employment. The bill would not, however, supersede more restrictive provisions of local ordinances that are in existence on the effective date of the bill.

AB 13 would additionally provide that a violation of the smoking prohibition set forth in these provisions is an infraction punishable by specified fines. It would further provide that the smoking prohibition shall be enforced by local law enforcement agencies, but would specify that DOSH shall not be required to respond to any complaint regarding a violation of the smoking prohibition, unless the employer has been found guilty of a third violation of the smoking prohibition within the previous year. *[S. Floor]*

The following bills died in committee: **AB 1800 (T. Friedman)**, which would have abolished DIR and instead established the Labor Agency supervised by the Secretary of the Labor Agency; **AB 2225 (Baca)**, which would have required the Department of Health Services to establish and maintain an occupational lead poisoning prevention program; **AB 1978 (Jones)**, which would have excluded from the definition of "asbestos-related work" the installation, repair, maintenance, or removal of asbestos cement pipe and sheets containing asbestos that does not result in asbestos exposures to employees in excess of the permissible limit as determined pursuant to specified regulations, if the employee involved in the work has received training through a task-specific training program and written confirmation of completion of that training from the employer or training entity responsible for

the training; **SB 547 (Hayden)**, which would have prohibited an employer, commencing January 1, 1997, from requiring or permitting the use of diethylene glycol dimethyl ether or ethylene glycol monoethyl ether in any place of employment; and **SB 832 (Hayden)**, which would have—among other things—required that, on or after January 1, 1995, every computer VDT and peripheral equipment, as specified, that is acquired for or used in any place of employment conform to all applicable ANSI design and ergonomic standards.

LITIGATION

In ***People v. Winterland***, No. 1483217, the San Francisco District Attorney charged Winterland Productions Ltd. under the California Corporate Criminal Liability Act of 1990 with the knowing concealment of a workplace hazard that resulted in the death of a worker (*see* LEGISLATION). In November 1992, Winterland employee Banh Tong was killed while making a routine repair to a silk-screen machine; Tong had climbed into the apparatus to repair a tear in one of the sheets of film when the press closed, crushing his head. According to court documents, the press in which Tong was killed had been modified, rendering a safety device inoperable at the time of the accident.

On April 13, however, the San Francisco District Attorney dismissed the charges after reaching a settlement with Winterland, under which the company will pay $350,000 to establish the San Francisco District Attorney's Workplace Safety Trust Fund; the Fund will be used to create a special team to prosecute cases under the Act. Winterland also agreed to change its equipment and production procedures and to run its operations safely and lawfully, and to inform employees and regulatory agencies, such as Cal-OSHA, of any known, concealed workplace hazards. Also under the terms of the settlement, Winterland and one company manager pleaded no contest to a criminal misdemeanor and received three years' probation under Labor Code section 6423(a).

RECENT MEETINGS

At its January 13 meeting, OSB reconsidered Petition No. 330, submitted by John Bobis, Aerojet Propulsion Division, Robert Downey, the Associated General Contractors of California, Inc., and Nancy Moorhouse, A. Teichert & Sons, Inc., who requested that OSB develop and adopt a single generic standard which would cover the common aspects related to controlling exposure to chemicals in Title 8. This petition originally came before OSB at its July 1993 business meeting, where the Board requested an estimated projection of costs and time necessary to develop a generic standard; at the July meeting, the Board also directed staff to determine whether Fed-OSHA would be interested in pursuing a general standard. The Board stated that drafting such a regulation would be time-consuming, and that unless Fed-OSHA adopted generic standards as well, an attempt to create generic standards for California could prove to be a waste of time. *[13:4 CRLR 137]*

Since the July meeting, DOSH staff determined that Fed-OSHA is not interested in pursuing generic standards at this time. Although OSB agreed that generic standards would be more concise and effective, without Fed-OSHA's approval in advance, the Board felt that creating such a standard now would be too risky and time consuming. Accordingly, OSB again denied the petition.

Also at its January meeting, OSB considered Petition No. 342, submitted by Stan Rodrigues of Makita U.S.A., Inc., representing the Power Tool Institute, which requested that OSB amend section 4312, Title 8 of the CCR, regarding portable belt sander tool guarding requirements. The petitioner asked that certain types of belt sanders be excluded from certain safety regulations contained in section 4312. The type to be excluded are those for which both hands must be employed at the same time to properly use the belt sander; in these cases, petitioner argued, the possibility of hand contact with the tool's moving parts is eliminated, and such tools should thus be exempt from certain regulations meant to protect moving parts from hand contact. OSB noted that in 1980, Fed-OSHA issued a letter of clarification on this issue, agreeing with petitioner's position; thus, the Board granted the petition to the extent that it directed staff to develop proposed amendments to section 4312 to include exception language based on Fed-OSHA's clarifying directive.

Also at its January meeting, the Board considered Petition No. 343, submitted by Joseph Olsen of Engineering Consulting Services, who requested that OSB revise the Construction Safety Orders and General Industry Safety Orders by promulgating a new regulation that would require all miter, chop, tilt, cut-off, rip, and radial arm saws to have positive protection for the operation's "off" hand; petitioner defined the term "off hand" as the hand not presently protected by mandated power-switch/brake combinations. According to OSB staff, petitioner designed a switch which prevents operation unless the worker has one hand on the "on" switch, and the other hand depressing the auxiliary switch on the machine. The Board granted the petition to the extent that it directed staff to convene an advisory committee to review and consider the need for such regulation to protect the "off" hand on various types of saws.

At its February 24 meeting, OSB considered Petition No. 344, submitted by Kevin Mahon of E.D. Bullard Company, who requested that OSB amend sections 1531 and 5144 of the Construction and General Industry Safety Orders to include the use of ambient air transfer devices such as Bullard's Free-Air Pump as an acceptable air source for supplied-air respirators. Noting that Fed-OSHA presently allows the "free-air pump" to be used under certain circumstances, OSB granted the petition to the extent that it directed staff to develop a proposal consistent with Fed-OSHA's administrative exception for the portable breathing ambient air pump.

Also at its February meeting, OSB considered Petition No. 345, submitted by John Bobis of Aerojet Propulsion Division, who requested that the Board amend section 5031(c) of the General Industry Safety Orders by adopting new definitions and amending regulations concerning periodic crane inspections. Petitioner explained that section 5031(c) requires periodic inspections of certain cranes every three months, and indicated that this three-month period has been interpreted to begin each time on the day of the last inspection; using this formula, unless the inspection occurs on the last day of every three-month period, more than four inspections can be required in each year. The Board noted the confusing language of the section. OSB granted the petition to the extent that it directed staff to develop proposed amendments to section 5031(c) with respect to periodic inspections, to be presented for consideration by the Board at a future public hearing.

At its April 21 meeting, OSB considered Petition No. 347 submitted by Melvin Young, representing Courtaulds Aerospace Inc., who requested that OSB amend sections 5194 and 5415, Title 8 of the CCR, to maintain labeling consistency in the workplace by adopting the new U.S. Department of Transportation (DOT) definitions for the terms "flammable liquid" and "liquids." Petitioner contended that section 5194's definition for "flammable liquid" has become inconsistent with DOT's definition of the same term. As a result, petitioner believes that many chemical containers are being labeled both as flammable and non-flammable, creating confusion in the workplace. According to OSB staff, other agencies are aware of the in-

consistencies in the definitions but do not see the need to make the definitions consistent at this time; DOT definitions and requirements address the international shipping and public safety hazards which are unique to transportations, whereas Fed-OSHA and Title 8 definitions and requirements have a slightly different occupational and general fire prevention purpose. Accordingly, OSB denied the petition.

Also at its April 21 meeting, OSB considered Petition No. 348, submitted by Robert Downey of Associated General Contractors of California, who requested that OSB repeal sections 5022 and 5023, Title 8 of the CCR, with regard to proof load testing of cranes and derricks. As the result of confusion over whether the petition was limited to boom-type mobile cranes or applied to all cranes in general, the Board granted petitioner's request to withdraw the petition in order to allow him to reconfer with DOSH on the specific issues that affect the construction industry.

FUTURE MEETINGS

May 19 in Los Angeles.
June 23 in San Francisco.
July 21 in San Diego.
August 25 in Sacramento.
September 22 in Los Angeles.
October 27 in San Francisco.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (CAL-EPA)

AIR RESOURCES BOARD

Executive Officer: James D. Boyd
Chair: Jacqueline E. Schafer
(916) 322-2990

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.

At ARB's January meeting, Jacqueline Schafer was sworn in as the Board's new Chair. Schafer replaces Jananne Sharpless, a strong and vocal clean air advocate who chaired the Board for eight years prior to her November 1993 resignation. *[14:1 CRLR 118]* Also sworn in at the January meeting was Lynne T. Edgerton, an attorney who is vice-president of CALSTART, a consortium of California industries and governments working to produce electric cars and other transportation technologies.

At ARB's February meeting, three new Board members were greeted and sworn in. Joseph C. Calhoun of Seal Beach, formerly with General Motors and a previous member of ARB staff, is president of an engineering consulting firm. Jack Parnell, of Auburn, is a familiar face in state government; he was formerly director of both the Department of Fish and Game and the Department of Food and Agriculture. Doug Vagim, of Fresno, is a business owner, Fresno County Supervisor, and former candidate for Assembly.

MAJOR PROJECTS

Board Reaffirms 1998 Deadline for Introduction of Electric Cars in California. After a public hearing and debate which lasted 24 hours over two days, ARB on May 13 withstood the demands of the auto and oil industries and upheld its implementation schedule for the required introduction of electric cars in California.

In September 1990, ARB approved its landmark low-emission vehicle and clean fuels regulations which require the phase-in of four new classes of light- and medium-duty vehicles with increasingly stringent emissions levels—transitional low-emission vehicles (TLEVs), low-emission vehicles (LEVs), ultra-low-emission vehicles (ULEVs), and zero-emission vehicles (ZEVs). *[11:1 CRLR 113]* Specifically, these regulations require that, beginning in 1998, 2% of all vehicles sold by each major manufacturer in California must be ZEVs; the sales quota increases to 5% of all vehicles sold in 2001 and to 10% in 2003. The only zero-emission vehicle technology that is sufficiently advanced to meet the ZEV requirement in the near term is the electric vehicle.

ARB's low-emission vehicle regulations—collectively known as the "LEV program"—are contained primarily in section 1960.1, Title 13 of the CCR, and the incorporated document entitled *California Exhaust Emission Standards and Test Procedures for 1998 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.* In Resolution 90-58 adopted at the September 1990 hearing, ARB directed staff to report to the Board every two years on the status of the implementation of the regulations. After staff's first presentation in June 1992, ARB adopted a resolution finding that the LEV program standards continue be technologically feasible within the designated timeframes. *[12:4 CRLR 170]*