convene in 1995 in order to determine whether the current PEL should be revised; accordingly, OSB denied VOF's petition as unnecessary.

FUTURE MEETINGS

September 22 in Los Angeles.
October 27 in San Francisco.
November 17 in San Diego.
December 19 in Sacramento.
January 19, 1995 in Los Angeles.
February 23, 1995 in San Francisco.
March 23, 1995 in San Diego.
April 20, 1995 in Sacramento.
May 18, 1995 in Los Angeles.

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.

The Senate ended its 1993–94 session on August 31 without confirming Governor Wilson's appointment of Jacqueline Schafer as ARB's Chair. In November 1993, Schafer replaced Jananne Sharpless, a strong and vocal clean air advocate who had chaired the Board for eight years prior to resigning under pressure by the Wilson administration. *[14:1 CRLR 118]* The Senate Rules Committee held a hearing on Schafer's appointment on August 22, but took no vote after receiving opposition testimony from the Sierra Club and other environmental organizations which view Sharpless' dismissal and Schafer's appointment as symbols of the Wilson administration's increasing capitulation to the oil and trucking industries. Unless the legislature convenes a special session and the Senate confirms Schafer's appointment, she must leave her post by November 22.

MAJOR PROJECTS

ARB Amends Emission Control Regulations for Utility Engines. On July 28, ARB held a public hearing to consider proposed amendments to sections 2400–2407, Title 13 of the CCR, its regulations and test procedures for controlling emissions from utility engines such as lawn mowers, chain saws, leaf blowers, and generators. ARB originally approved its landmark utility and lawn and garden (utility) engine regulations on December 4, 1990; they became effective on May 31, 1992. *[11:1 CRLR 115]* As originally adopted, the regulations were to become effective on January 1, 1994; however, in response to a petition filed by the industry, ARB delayed the implementation date of the regulations for one year, making the regulations applicable to engines produced on or after January 1, 1995. *[13:2&3 CRLR 155–56]*

Since ARB's adoption of its utility regulations, new test procedures have been adopted by two standards organizations, the U.S. Environmental Protection Agency (EPA) has proposed emission standards and procedures for new small utility engines sold in other states, and gasoline sold in California has been reformulated. The proposed amendments considered by ARB at its July meeting, many of which were developed in cooperation with utility engine manufacturers as they proceeded through the certification process, are primarily intended to conform the Board's regulations to the newly approved test procedures and to clarify and enhance the certification and compliance procedures in light of these recent events; according to ARB, they do not change the air quality and environmental impacts of the originally adopted program.

Following discussion, the Board unanimously approved the proposed amendments; at this writing, they have not yet been submitted to the Office of Adminis-

trative Law (OAL) for review and approval.

Air Toxics "Hot Spots" Fee Regulation. Also on July 28, ARB considered proposed amendments to sections 90700–90705, Titles 17 and 26 of the CCR, its fee regulation to cover the cost of implementing the Air Toxics "Hot Spots" Information and Assessment Act of 1987, Health and Safety Code section 44300 *et seq*. The Act establishes a "Hot Spots" program to develop a statewide inventory of site-specific air toxic emissions of specified substances, assess the risk to public health from exposure to these emissions, and notify the public of any significant health risks associated with these emissions. *[13:4 CRLR 138–39]*

Under the Act, ARB is annually required to adopt a fee regulation to ensure that all costs incurred by the state and the districts in implementing and administering the "Hot Spots" program are defrayed by assessing fees on those facilities subject to the requirements of the program. For fiscal year 1994–95, ARB staff proposed to (among other things) reduce the overall state/district costs of the program by a total of 18% from the 1993–94 level; include a charge for the number of facilities defined as "industrywide facilities" when calculating each district's share of the state's cost; increase the state's cost for facilities in the highest health risk priority categories, in accordance with SB 1378 (McCorquodale) (Chapter 375, Statutes of 1992) *[12:4 CRLR 172]*; reduce the fee caps for facilities which qualify as small business; and require Cal-EPA's Office of Environmental Health Hazard Assessment to initiate a program to track its time spent on risk assessment review during fiscal year 1994–95.

Following discussion at the July 28 hearing, the Board approved the proposed regulatory changes with several modifications: (1) districts whose fee schedules are established in the state's fee regulation may adopt their own fee rules after adopting the state's fee regulation; (2) the state may waive a district's request to have its fees established in the state's fee regulation; and (3) the regulation will specify the information that must be included on Hot Spots fee invoices sent to facilities. These modifications were released for an additional 15-day comment period; at this writing, the proposed regulatory changes have not yet been submitted to OAL for review and approval.

Board Amends Diesel Fuel Regulations for Small Refiners. On July 29, the Board held a public hearing on proposed amendments to section 2282, Title 13 of the CCR, which imposes statewide limits on the aromatic hydrocarbon content and the sulfur content of diesel fuel sold or supplied after September 30, 1993, for use in motor vehicles in California. Motor vehicle diesel fuel produced by large refiners or imported into the state is subject to a 10% aromatic hydrocarbon content limit; qualifying small refiners are subject to an aromatic hydrocarbon content limit of 20%; and, for a limited period of one to three years, independent refiners can also be subject to this less stringent limit. *[14:1 CRLR 118; 9:1 CRLR 86]*

Existing section 2282 sets an annual limit on the quantity of California motor vehicle diesel fuel produced by a small refiner that is subject to the less stringent 20% standard; this specified quantity, which is called the small refiner's "exempt volume," is based upon 65% of historic annual production volumes produced at that refinery during 1983–87 (as reported to the California Energy Commission). However, ARB staff determined that this method of determining the limit on the small refiners' exempt volumes may be more restrictive than necessary to effectuate the Board's original intent, and proposed an alternative method of calculating the small refiners' exempt volumes. Under the amendments as proposed, small refiners would have the option each year of producing California motor vehicle diesel fuel subject to the 20% aromatic hydrocarbon limit in volumes up to 100% of its "distillate fuel" production during the base years, provided that under the option the small refiner's total sales do not exceed 100% of its "distillate fuel" production during the base years. Staff also proposed to delay the effective date of the exempt volume limitations from October 1, 1994 to January 1, 1995, to avoid market adjustments from occurring during the fall harvest season, which is a period of peak diesel demand.

At the July 29 hearing, however, staff proposed to delete the originally proposed alternative calculation method, and to substitute new language which would allow small refiners to elect each year to use an optional calculation of exempt volume. This optional calculation is made in accordance with several steps which utilize each individual small refiner's crude capacity, an industry average utilization crude capacity for the period 1991–92, small refiners' ratio of distillate production to crude input, and small refiners' diesel fuel fraction of distillate.

At the hearing, major oil companies testified that staff's proposals constitute an unfair change to the diesel fuel regulations which will give small refiners with an unfair economic advantage. On the other hand, small refiners testified that staff's modified proposal does not address all of the adverse economic impacts associated with the original proposal and with general compliance with the diesel fuel regulations. After discussion, the Board adopted the modified regulations by a 7–1 vote. On August 10, ARB published the modified language for a 15-day comment period ending on August 25; at this writing, staff is preparing the rulemaking file for submission to OAL.

ARB Amends Phase 2 Reformulated Gasoline Regulations. At its June 9 meeting, ARB considered the proposed adoption of new sections 2264.2 and 2265, and amendments to sections 2260, 2212, 2262.2, 2262.3, 2262.4, 2262.5, 2262.6, 2262.7, 2264, and 2270, Title 13 of the CCR, its Phase 2 Reformulated Gasoline (RFG) regulations originally adopted in November 1991. *[12:1 CRLR 139–40]* These regulations establish a comprehensive set of specifications for eight properties of gasoline (sulfur, benzene, olefin, oxygen, and aromatic hydrocarbon contents, the 50% and 90% distillation temperatures, and the Reid vapor pressure (RVP)), and are designed to achieve the maximum reductions in emissions of criteria pollutants and toxic air contaminants (TACs) from gasoline-powered motor vehicles. California gasoline will in most cases have to meet the Phase 2 RFG specifications beginning March 1, 1996.

The existing regulations set "cap" limits that apply to finished gasoline throughout the distribution system in California. The Phase 2 RFG standards also include generally more stringent limits that apply to gasoline when it is first supplied from a production facility (typically a refinery) or an import facility. Except for RVP and oxygen content, the regulations provide two compliance options for meeting the limits applicable to gasoline being supplied from a production or import facility—the "flat" limit (which must be met by every gallon of gasoline leaving the production or import facility) and the "averaging" limit (the producer may assign differing "designated alternative limits" (DALs) to different batches of gasoline being supplied from the production or import facility, and each batch of gasoline must meet the DAL for the batch). The Phase 2 RFG regulations also permit producers to seek certification of alternative gasoline formulations found to result in equivalent emissions reductions based on a motor vehicle emission testing program. A producer may elect to have gasoline sold from the production facility subject to the specifications of a certified alternative gasoline formulation instead of the flat or averaging limits in the regulations.

The proposed regulatory changes, which were developed by ARB staff with considerable public participation through four workshops, will allow gasoline producers the option to use the California predictive model to assign specifications to an alternative gasoline formulation, which could then be used in lieu of meeting either the flat or averaging limits applicable to gasoline being supplied from production and import facilities. The California predictive model is a set of three equations that allows one to estimate the change in exhaust emissions from motor vehicles that will occur when the value of one or more selected fuel properties is changed. The first equation determines the change in exhaust emissions of hydrocarbons; the second determines the change in exhaust emissions of oxides of nitrogen; and the third determines the change in the combined exhaust emissions of four TACs. According to ARB, the proposed amendments are designed to provide additional flexibility to gasoline producers and importers without sacrificing either the emission benefits or the enforceability of the Phase 2 RFG regulations. This additional flexibility is expected to allow producers to make more gasoline at a lower cost, thereby lowering the expected cost to the consumer and minimizing the potential for disruptions in the supply of gasoline.

Following public testimony, the Board adopted the proposed California predictive model regulations with several modifications proposed by staff. The modifications simplify the three equations, allow producers more flexibility in complying with the averaging limit option during the first two years of the regulation, and allow producers to enter into enforcement protocols concerning the notification requirements of the predictive model. ARB published the modified regulatory changes for a 15-day comment period; at this writing, staff is preparing the rulemaking file for submission to OAL.

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

• The Board's April 1994 rulemaking package adopting new section 90800.5 and amending section 90803, Title 17 of the CCR, which establishes the fee rate which APCDs and AQMDs must pay ARB to offset the state costs of air pollution control programs related to nonvehicular sources during the sixth year of ARB's implementation of the California Clean Air Act of 1988, has not yet been submitted to OAL at this writing. *[14:2&3 CRLR 154]*

• ARB's February 1994 amendments to section 1976, Title 13 of the CCR, and the incorporated document entitled *California Evaporative Emission Standards and Test Procedures for 1978 and Subsequent Model Motor Vehicles*, which conform ARB's evaporative emissions standards and test procedures for motor vehicles and engines with new federal procedures and apply the enhanced procedures to the heavy complete medium-duty vehicle class (8,501–14,000 lbs., gross vehicle weight rating), have not yet been filed with OAL at this writing. *[14:2&3 CRLR 154]*

• ARB's January 1994 adoption of new sections 2410–2440 (nonconsecutive), Title 13 of the CCR, which contain important new regulations establishing emission standards, test procedures, certification procedures, and labeling and registration requirements for 1997 and later model year "off-highway recreational vehicles" (defined to include off-road motorcycles, all-terrain vehicles, golf carts, go-karts, and specialty vehicles such as hotel and airport shuttle vehicles), has not yet been submitted to OAL at this writing. *[14:2&3 CRLR 154–55]*

• ARB's November 1993 amendments to sections 70300–70306 and Appendices 1–4 thereto, Title 17 of the CCR, which change the criteria used by the Board in designating areas of California as nonattainment, attainment, or unclassified for state ambient air quality standards, have not yet been submitted to OAL at this writing. *[14:1 CRLR 120; 13:1 CRLR 97]*

• The Board's November 1993 amendments to its area designations in sections 60200–60209, Title 17 of the CCR, which (1) change the requirements for determining complete data—when less than three years of data area available—to exclude data affected by highly irregular or infrequent events before using the maximum pollutant concentration to determine if the data meet the completeness criteria, and (2) change the emission screening value for the annual emissions of oxides of nitrogen in an air basin to reflect ARB staff's improved procedure for estimating oxides of nitrogen emissions, have not yet been submitted to OAL for review. *[14:1 CRLR 120]*

• The Board's September 1993 adoption of new sections 2259, 2283, and 2293.5, amendments to sections 2251.5, 2258, 2263, and 2267, and repeal of section 2298, Title 13 of the CCR, would enhance the effectiveness of its wintertime oxygenated gasoline program which started last year and proved successful in reducing carbon monoxide levels. *[13:4 CRLR 140; 13:2&3 CRLR 157]* On September 1, OAL approved all of the proposed regulatory changes except the adoption of sections 2259, 2283, and 2293.5, and the amendment of sections 2251.5 and 2267; these sections establish a process whereby any person may request an exemption from the motor vehicle fuel requirements for various types of fuels used in test programs. Because this type of exemption requires a permit, OAL found that ARB must comply with the Permit Reform Act by establishing permit application processing time periods; because ARB failed to set forth its processing times, OAL rejected the exemption program sections. ARB has 120 days within which to correct this deficiency and resubmit the exemption program sections to OAL.

• ARB's August 1993 amendments to sections 70500 and 70600, Title 17 of the CCR, which identify six additional "transport couple" regions and add new areas to the list of areas subject to mitigation requirements under Health and Safety Code section 39610(b), were approved by OAL on August 8. *[13:4 CRLR 139–40]*

• The Board's July 1993 amendments to sections 90700–90705, Titles 17 and 26 of the CCR, which establish the 1993–94 fee schedules which APCDs and AQMDs must adopt to cover the state's cost of implementing the Air Toxics "Hot Spots" Information and Assessment Act of 1987, were approved by OAL on June 28. *[13:4 CRLR 139]*

Board Working on State Implementation Plan. Presently, ARB staff is in the process of developing a state implementation plan (SIP) to replace the federal implementation plan (FIP) released by EPA on February 15, 1994. *[14:2&3 CRLR 169]* EPA was forced to prepare a FIP for the South Coast Air Quality Management District (SCAQMD), Ventura County, and the metropolitan Sacramento area in the wake of the U.S Supreme Court's refusal to review the Ninth Circuit's decision in *Coalition for Clean Air v. U.S. Environmental Protection Agency*, 971 F.2d 219 (9th Cir. 1992). In that case, the Ninth Circuit held that 1990 amendments to the federal Clean Air Act do not affect EPA's obligation to prepare FIPs for areas which were nonattainment at the time the amendments were passed and for which no SIP has been approved.

EPA's 1,700-page FIP, which will become effective unless ARB can come up with an acceptable SIP by November 15, would impose sweeping control measures on a wide range of stationary and mobile air pollution sources throughout the affected areas, including stringent restrictions on airlines, trucking companies, ocean vessels, and railroads, and utilize a

system of fees and penalties to enforce compliance. The Wilson administration has objected to both the concept and the specifics of the FIP, arguing that it will have a widespread impact on commerce in California; the administration has also called on the Clinton administration to delay imposition of the FIP for 18 months, in order to permit ARB to develop and secure approval of a SIP which is acceptable to the federal government and the courts. At this writing, ARB hopes to release its SIP in early October.

LEGISLATION

The following is a status update on bills reported in detail in CRLR Vol. 14, Nos. 2 & 3 (Spring/Summer 1994) at pages 156–59:

SB 2050 (Presley), as amended August 26, creates a two-county pilot project for Ventura and San Diego counties, wherein a new vehicle emission control program based on the characteristics of individual vehicles and number of miles driven will be tested (if approved by their district governing boards). Under the program, ARB must implement a pollution index numbering system whereby all 1967 and newer light-duty passenger vehicles and trucks up to 6,000 pounds will be assigned a smog index number based on manufacturer's standards for tailpipe and evaporative emissions; the bill would prohibit the retail sale by a dealer of a vehicle lacking an official smog index decal. Additionally, the air quality districts in the two counties must determine "target pollution miles" for each vehicle in the district subject to this program. This calculation, based on the vehicle's index number, will represent the number of miles a vehicle may be driven in a year without becoming subject to more frequent Smog Check testing requirements. For the initial year, the target pollution miles will be set at a figure so that 10% of the vehicles will exceed the limit and 90% will be below it; the total allowable vehicle mileage in the air district will then be reduced by 5% annually until ozone air quality standards are achieved.

Also under the program, Smog Check stations in the pilot districts must visually verify operation of vehicle odometers during regular biennial Smog Checks, record the mileage, and report it to the Bureau of Automotive Repair via an electronic data transfer system. If vehicle owners in the pilot districts exceed their allowable target pollution miles, their vehicles will be subject to annual (rather than biennial) smog checks, and the usual cost repair limits of the Smog Check program will become inapplicable. To provide funding for this program, the bill permits the two pilot counties to increase by $1 the "clean air surcharge" on vehicle registration. This bill was signed by the Governor on September 30 (Chapter 1192, Statutes of 1994).

AB 2852 (Escutia), as amended August 12, requires motor vehicle manufacturers of all 1980 and newer model-year motor vehicles to provide certain emission control service information and, beginning with the 1998 model year, requires this information to be provided in a specified electronic format. The bill requires motor vehicle manufacturers to provide the service information required for compliance with this section as a condition of certification of any new motor vehicle by ARB on and after January 1, 1995. The requirements applicable with respect to 1994 and newer model-year vehicles will become inoperative if ARB determines that EPA has adopted rules relative to the provision of emissions-related service information for 1994 and newer model-year vehicles. This bill was signed by the Governor on September 21 (Chapter 725, Statutes of 1994).

SB 1336 (Leonard). Existing law authorizes APCDs and AQMDs to establish programs using remote sensors or other methods to identify gross polluters and other high-emitting vehicles and to provide financial incentives to encourage the repair or scrapping of those vehicles as a method of reducing mobile source emissions. The districts are authorized to establish procedures to generate marketable emission reduction credits from the program. As amended June 22, this bill requires, under specified conditions, the districts to establish a process to approve or disapprove, within 90 days of receiving a request from an employer, an employer-established program that produces emission reductions equivalent to those that would be achieved under a district rule or regulation by identifying gross polluters and other high-emitting vehicles whose emissions could be reduced by repair. This bill was signed by the Governor on September 11 (Chapter 538, Statutes of 1994).

AB 3290 (Cannella) is a direct response to problems which allegedly resulted from the October 1, 1993 implementation of ARB's regulations restricting the permissible sulfur and aromatic hydrocarbon content of diesel motor fuel sold in California, and the trucking industry's claim that the new fuel is causing mechanical damage to diesel engines. *[14:1 CRLR 119]* As amended August 25, this bill requires any revenues received by ARB from variance fees imposed upon manufacturers who receive variances from the standards for the content of diesel fuel adopted by ARB, which apply on and after October 1, 1993, to be deposited in the Diesel Fuel Trust Fund, which the bill creates. The bill authorizes the expenditure of the money in the trust fund only upon appropriation by the legislature to reimburse owners of diesel fuel-powered vehicles and equipment for damage to fuel injection system elastomer components which can be established as the result of the use of the diesel fuel and which is damage that is not the responsibility of the manufacturer, and requires ARB to develop and implement, by November 30, 1994, a prescribed reimbursement program. This bill was signed by the Governor on September 24 (Chapter 781, Statutes of 1994).

AB 3817 (Sher). Under federal law, EPA is required to impose a federal implementation plan (FIP) in any region or state that fails to adopt a plan to attain federal air quality standards. In February 1994, a federal court ordered EPA to prepare a FIP for the Los Angeles, Ventura, and Sacramento regions because their air plans were found deficient under federal law (*see* MAJOR PROJECTS). The proposed FIP includes several rules that could result in fees and fines. Under federal law, these fees and fines would be deposited in the federal treasury rather than spent to improve air quality in California. As amended August 17, AB 3817 would have authorized ARB, or a district located within a nonattainment area that is subject to the FIP, with ARB's approval, to adopt, subject to specified conditions, substitute equivalent measures that generate revenues after the adoption and implementation of a program by EPA pursuant to the federal plan. The bill would have required any revenues collected by a district as a result of the implementation of a substitute rule or regulation, after deduction of the district's reasonable administrative costs, to be expended within the district in which the revenues are collected to lower taxes or other revenue collection within the district, offset adverse economic and social impacts, and achieve air quality objectives. At the behest of the trucking industry, Governor Wilson vetoed this bill on September 30; according to Wilson, this bill "is premature, puts unnecessary constraints on air quality plans, would jeopardize the state's ability to meet State Implementation Plan (SIP) requirements, and would add an unprecedented fee increase."

AB 717 (Ferguson), as amended March 2, authorizes APCDs and AQMDs to establish programs to assist the public, government agencies, and businesses in complying with district regulations; authorizes

the districts, for that purpose, to provide to any person any factual nonconfidential information regarding any product or service that complies with district regulations, and regarding associated air emissions; and prohibits the district from making any recommendation regarding a product or service. This bill was signed by the Governor on July 20 (Chapter 247, Statutes of 1994).

AB 3215 (Pringle). Under existing law, APCDs and AQMDs may establish a permit system for stationary sources; and ARB must adopt and implement a program to assist districts to improve efficiencies in the issuance of permits. As amended May 10, this bill requires ARB to include in that program a process to precertify simple, commonly used equipment and processes as being in compliance with air quality rules and regulations, to expedite permitting of air pollution sources. The bill also requires Cal-EPA to evaluate the feasibility of expanding the precertification program. This bill was signed by the Governor on September 6 (Chapter 429, Statutes of 1994).

AB 3242 (Aguiar). Existing law requires APCDs and AQMDs with moderate, serious, severe, or extreme air pollution to include specified measures in an attainment plan to achieve state ambient air quality standards, including transportation control measures (TCMs) to substantially reduce the rate of increase in passenger vehicle trips and miles traveled per trip. Existing law requires districts with serious, severe, or extreme air pollution, in implementing those provisions, to endeavor to provide employers and businesses with the opportunity to develop and demonstrate alternative strategies to achieve equivalent emission reductions. As amended May 17, this bill requires ARB to develop and periodically update guidelines to be used by districts to establish equivalent emission reductions reduction targets for those alternative strategies. This bill was signed by the Governor on September 6 (Chapter 430, Statutes of 1994).

SB 1403 (Lewis), as amended July 2, prohibits SCAQMD from requiring any local agency to implement the trip reduction plan requirement that the South Coast District itself is prohibited from enacting, unless required by the federal Clean Air Act. The bill also prohibits SCAQMD from requiring any employer to charge its employees for parking, except as specified. This bill was signed by the Governor on August 26 (Chapter 335, Statutes of 1994).

SB 1134 (Russell). Existing law authorizes APCDs and AQMDs to encourage or require the use of ridesharing, vanpooling, flexible work hours, or other measures that reduce the number or length of vehicle trips, and to adopt, implement, and enforce TCMs for the attainment of state or federal ambient air quality standards; SCAQMD is prohibited from requiring employers with fewer than 100 employees at a single worksite to submit a trip reduction plan. As amended August 8, this bill specifies the measures which SCAQMD or an agency in the South Coast District may and may not require an employer to provide for purposes of those provisions; requires employers to give employees notice of proposed plans and the opportunity to comment prior to submittal of the plan to the agency or the South Coast District; and requires the agencies to modify existing programs, and the South Coast District to modify existing regulations, by June 30, 1995, to conform to these provisions. This bill was signed by the Governor on September 11 (Chapter 534, Statutes of 1994).

AB 2581 (Pringle), as amended June 27, prohibits a district, or any regional or local agency, from imposing specified TCMs upon an event center (such as a stadium, arena, theme park, or auditorium) which achieves a specified average vehicle ridership (AVR) or reduction in vehicle trips or miles traveled. Districts may, however, impose alternative measures such as traffic management before and after events, parking management, vehicle flow control, reducing vehicle idling before and after events, implementing transit education programs, and achieving AVR for event center employees. This bill was signed by the Governor on September 6 (Chapter 425, Statutes of 1994).

AB 2913 (Sher), as amended July 7, would have repealed the Atmospheric Acidity Protection Act of 1988, enacted the Particulate Matter Research Act of 1994, and required ARB to implement a program for the control of PM-10. This bill was vetoed by Governor Wilson on September 24; Wilson acknowledged that reducing particulate matter will be one of the most technically challenging air pollution problems facing California in the future, but stated that he already provided funding to ARB in the 1994–95 budget to commence a research project to address the air pollution problems caused by particulate matter.

AB 2680 (Bowen). Existing law authorizes any person to petition the hearing board of an APCD or AQMD for a variance from the rules, regulations, or orders of the district. As amended June 30, this bill prescribes criteria and conditions for the granting of product variances from district rules and regulations to persons who manufacture products. This bill was signed by the Governor on September 6 (Chapter 443, Statutes of 1994).

AB 2751 (Honeycutt), as amended March 22, requires ARB, by December 31, 1995, to prepare and submit a report to the Governor and the legislature on the requirements in state law for the preparation and submittal of APCD and AQMD attainment plans to achieve state ambient air quality standards and similar requirements established under federal law for the achievement of federal standards. The bill requires the report to identify inconsistencies in state and federal deadlines for the preparation and submittal of plans, any duplication or overlap in the state and federal planning processes, and related data collection and inventory requirements, and to make recommendations as specified. This bill was signed by the Governor on July 9 (Chapter 189, Statutes of 1994).

AB 2757 (Woodruff). Existing law requires ARB to identify air basins, or subregions of air basins, in which transported air pollutants from upwind areas cause or contribute to a violation of the state ambient air quality standard for ozone, and to identify the district of origin of the transported air pollutants. ARB is required to assess, in cooperation with APCDs and AQMDs, the relative contribution of upwind emissions to downwind ozone ambient pollutant levels, and to establish mitigation requirements commensurate with the level of contribution. *[13:4 CRLR 139]* As amended April 12, this bill requires ARB, in assessing that relative contribution, to determine whether the contribution level is overwhelming, significant, inconsequential, or some combination thereof. This bill was signed by the Governor on September 11 (Chapter 512, Statutes of 1994).

SB 1416 (Rogers). Existing law provides that increases in stationary source air pollution emissions in an APCD or AQMD may be offset by reductions credited to a stationary source located in another district in the same air basin. As amended July 5, this bill allows those offsets as to stationary sources in different air basins if emissions are transported from an upwind to a downwind district, as specified. The bill further requires that any offset credited pursuant to those provisions be approved by a resolution adopted by the governing board of each district, as specified. This bill was signed by the Governor on September 11 (Chapter 539, Statutes of 1994).

AB 1853 (Polanco), as amended August 23, requires, until January 1, 2000, districts with an annual budget of $50

million or more as of January 1, 1994, to submit a proposed budget to the legislature and ARB, and prescribes procedures in that regard. Until January 1, 2000, this bill also requires those districts to prepare and submit to ARB a three-year budget forecast, as prescribed.

Existing law prohibits the fees assessed on stationary sources of pollution by SCAQMD from exceeding the actual costs of district programs for the preceding fiscal year, except as specified. This bill also limits the fees collected by the South Coast District from stationary sources of emissions to the level of expenditure in the 1993–94 fiscal year, adjusted for increases in the California Consumer Price Index. The bill excepts state or federal mandates, as specified, from those limits. This bill was signed by the Governor on September 21 (Chapter 712, Statutes of 1994).

SB 455 (Presley), as amended August 10, requires SCAQMD—with respect to the implementation of its market-based incentive program, the Regional Clean Air Incentives Market (RECLAIM)—to provide a progress report based on annual audits by July 1, 1998, receive public comment on the report, and refrain from lowering the emission threshold for mandatory participation in the RECLAIM program. This bill was signed by the Governor on September 30 (Chapter 1179, Statutes of 1994).

The following bills died in committee: **AB 3264 (Campbell)**, which would have made any business or person who negligently emits any acutely hazardous material which causes actual injury to the health or safety of the public, or which poses a real or an imminent threat to public health or safety beyond the property of origin, civilly liable to the administering agency in an amount not to exceed $250,000, but in no case less than $15,000; **AB 2910 (Baca)**, which would have required the state to promote the development and use of alternative fuels and alternative-fueled vehicles and to purchase alternative-fueled vehicles; **SB 1883 (Campbell)**, which would have, until January 1, 1998, exempted from sales and use taxes the incremental costs of new low-emission vehicles (LEVs); **SB 1455 (Rosenthal)**, which would have required the state to purchase zero-emission vehicles (ZEVs) and ultra-low-emission vehicles (ULEVs); **SB 381 (Hayden)**, which would have required ARB to require the purchase of LEVs and ZEVs by state and local governmental agencies, and authorized those agencies to form a consortium to purchase electric vehicles; **SB 668 (Hart)**, which would have enacted the Zero-Emission Vehicle Development Incentive Program, to be administered by ARB; and **SB 1113 (Morgan)**, which would have, except as specified, prohibited any emission standard, rule, regulation, or other requirement from taking effect or being implemented prior to July 1, 1997, in specified districts to require the owner or operator of any stationary source, which is required to make vehicular fuel composition modifications, to make any capital expenditure to reduce NOx emissions.

LITIGATION

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

CBE alleges that ARB should not have approved RECLAIM because it will fail to achieve equivalent pollution reductions compared with the District's 1991 Air Quality Management Plan; it will delay, postpone, or hinder compliance with state ambient air quality standards; it fails to require the installation of the best available retrofit control technology at all existing sources; it fails to show expeditious progress toward attainment of state ambient air quality standards; it fails to assure the earliest practicable attainment date for ambient air quality standards; and it fails to maintain progress toward attainment of state ambient air quality standards. CBE's action is related to *Coalition for Clean Air, et al. v. Air Resources Board*, which was filed and dismissed prior to ARB's final approval of the RECLAIM program. *[14:1 CRLR 124–25; 13:4 CRLR 145]*

Despite the controversy surrounding RECLAIM, its implementation has already begun. Union Carbide Corporation's Torrance plant became the first major participant in the program shortly after CBE filed its new action. In mid-June, the plant sold 3.4 million credits (or $1.2 million worth) to Anchor Glass Container Corporation in Huntington Beach.

FUTURE MEETINGS

September 22–23 in Los Angeles.
October 27 in Sacramento.
November 9–10 in Sacramento.
December 8–9 in Sacramento.
January 26–27, 1995 in Sacramento (tentative).
February 23–24, 1995 in Sacramento (tentative).

CALIFORNIA INTEGRATED WASTE MANAGEMENT AND RECYCLING BOARD

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

The California Integrated Waste Management and Recycling Board (CIWMB) was created by AB 939 (Sher) (Chapter 1095, Statutes of 1989), the California Integrated Waste Management Act of 1989. The Act is codified in Public Resources Code (PRC) section 40000 *et seq.* AB 939 abolished CIWMB's predecessor, the California Waste Management Board. *[9:4 CRLR 110-11]* CIWMB is located within 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