# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (CAL-EPA)

## AIR RESOURCES BOARD

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

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

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

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

### ■ MAJOR PROJECTS

**Board Revises Test Procedure for Qualifying Substitute or New Clean Fuels.** In 1990, ARB adopted its landmark low-emission vehicles and clean fuels regulations, which require the phase-in of motor vehicles meeting increasingly stringent emission standards and the introduction of alternative clean fuels to power these vehicles. *[11:1 CRLR 113]* The Board included in these regulations a test procedure for qualifying fuels as a "new clean fuel" or as a "substitute fuel." This test procedure must be followed by anyone wishing to introduce a new clean fuel for the certification testing of low-emission vehicles. The procedure must also be followed in qualifying a substitute fuel for use at service stations in place of designated clean fuels.

On November 12, the Board amended sections 2317 and 1960.1(k), Title 13 of the CCR, to revise existing test procedures for qualifying a fuel as a substitute or new clean fuel. At the meeting, ARB stated that the revisions are necessary to ensure the disapproval of a substitute or new clean fuel that would increase emissions from vehicles using it instead of customary fuels. At the same time, the new procedures should increase the chances for approval of an alternative fuel that would not increase those emissions. ARB reported that these improvements would adhere to the Board's policy of "fuel neutrality" by removing potential barriers to the use of acceptable fuels.

The regulatory amendments will introduce several important changes to existing test procedures. These changes include the use of a more accurate statistical test for determining fuel acceptability, guidance for demonstrating that the alternative fuel will not increase deterioration of emission control systems, and a requirement that the alternative fuel be reapproved every five years. As an incentive to automakers, ARB stated that the above changes should reduce the costs involved in qualifying a substitute or new clean fuel. ARB also reported that the changes in the test procedures should have no harmful environmental effects; in fact, the revisions should better protect the environment by more accurately detecting fuels which increase emissions and deteriorate emission control systems.

At this writing, ARB has not submitted these regulatory changes to the Office of Administrative Law (OAL) for review and approval.

**ARB Commits to an Enhanced Vehicle Inspection and Maintenance Program.** Current law requires all motor vehicles registered in California to undergo a vehicle inspection and maintenance program (I&M), more commonly known as a "smog check," every two years. Under the current program, vehicle emissions are generally checked at the tailpipe, potentially missing emissions which escape from the engine itself. In addition, the existing program allows the testing of car emissions, and any needed repairs indicated by those tests, to be completed at the same facility. Recent amendments to the federal Clean Air Act (CAA), however, now require that an "enhanced" I&M program be adopted in areas that are classified as "serious" to "extreme nonattainment" for ozone levels, and that are classified as "nonattainment" for carbon monoxide levels. The enhanced I&M program must comply with guidelines published by the federal Environmental Protection Agency (EPA). *[12:4 CRLR 59]*

On November 5, EPA published its final rules that California must follow in restructuring its I&M program. In particular, the state's most polluted areas must arrange for enhanced testing equipment, including treadmill devices called dynamometers. The dynamometer works by placing the vehicle on a treadmill, and then driving it at both high and low speeds to simulate driving conditions. Technicians will then monitor emissions not only at the tailpipe, but also at the engine and fuel tank. While EPA estimates that the more accurate testing procedures might require repair work on one out of every five vehicles, it asserts that higher repair costs should be offset by greater fuel savings. The new EPA guidelines also recommend separate testing and repair facilities for I&M programs, since combined facilities may encourage technicians to fail vehicles in order to repair them. This recommendation may require a substantial overhaul of the state's current Smog Check Program. (*See supra* agency report on BUREAU OF AUTOMOTIVE REPAIR for related discussion.)

At its November 13 meeting, the Board formally committed itself to establishing an enhanced I&M program when it approved a revision to California's State Implementation Plan (SIP). The SIP outlines how California will meet and maintain national ambient air quality standards established by the EPA. An enhanced I&M program qualifies as one method for meeting these emissions standards. While the revised SIP does not contain specifics on how the Board plans to structure the enhanced I&M program, it does contain a formal commitment from ARB to develop legislation that will improve performance

of the current program consistent with the EPA guidelines.

ARB plans to participate in legislation during the 1993–94 session to restructure California's I&M program, and plans to introduce a second, more detailed SIP to EPA by November 15.

**Board Amends Designation Criteria Classifying Areas in California as Nonattainment-Transitional.** California's Health and Safety Code requires ARB to adopt designation criteria for classifying a geographical area as attainment, nonattainment, or unclassified for ambient air quality standards determined by the federal EPA. In determining these classifications, several types of pollutants are considered: ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, suspended particulate matter, sulfates, lead, hydrogen sulfide, and visibility reducing particulates. For each of these nine pollutants, the Board must designate areas of California as having attained the required pollutant levels (attainment) or not attained the required levels (nonattainment). If ARB cannot collect data sufficient to establish an area as attainment or nonattainment, the Board must designate the area as unclassified. An area may receive a rating of nonattainment-transitional if it has not yet reached attainment but is close to reaching specified levels.

At its December 10 meeting, ARB adopted new section 70303.5 and amendments to sections 60200–60209 and 70303, Title 17 of the CCR, changing the designation criteria for the nonattainment-transitional area air pollution classification, in compliance with AB 2783 (Sher) (Chapter 945, Statutes of 1992). *[12:4 CRLR 172]* AB 2783 requires ARB to classify an area as nonattainment-transitional for ozone if, during a single calendar year, the area does not exceed mandated ozone levels more than three times at any monitoring location within the air basin. Thus, ARB amended section 70303 to remove ozone from consideration under the current nonattainment-transitional criteria, and added section 70303.5 to clarify guidelines the Board will use to evaluate the extent of ozone nonattainment-transitional redesignations compelled by AB 2783. Additionally, ARB proposed changes in some of the area designations around the state for specific pollutants.

At this writing, ARB has not yet submitted these regulatory amendments to OAL for review and approval.

**Board to Consider Control Measure for Emissions of Toxic Metals from Non-Ferrous Metal Melting.** ARB was scheduled to hold a December 10 public hearing to adopt new section 93107, Titles 17 and 26 of the CCR, establishing an airborne toxic control measure (ATCM) for hazardous emissions resulting from non-ferrous metal melting. These emissions include cadmium, inorganic arsenic, and nickel, which have been identified by ARB as toxic air contaminants (TACs), and other metals, such as lead, which may be potential contaminants. However, ARB postponed the hearing on the proposed ATCM until January 14.

In melting and producing metals and alloys, many manufacturers add cadmium, arsenic, nickel, and lead to impart desirable properties to non-ferrous (non-iron and steel) metals; these metals may also be present in the manufacturing process as contaminants. Because these metals are processed at high temperatures, many of them vaporize and escape from the molten metal as gases or fumes. Once the gases or fumes cool in the air, they become solid and form what is known as particulate matter. According to Cal-EPA's Office of Environmental Health Hazard Assessment, metals forming this particulate matter may cause cancer or have other serious health effects. In children, for example, lead exposure may damage the central nervous system or damage the body's ability to reproduce red blood cells. ARB found that these carcinogenic metals may be emitted from facilities, such as galvanizers or foundries, which melt copper, zinc, aluminum, or their alloys, in a high-temperature furnace.

Health and Safety Code section 39666 requires ARB to implement control measures designed to reduce the emissions of these types of toxic metals. For TACs such as cadmium, arsenic, and nickel, state law requires control measures designed to reduce emissions to the lowest possible level, utilizing the best available control technology. With this in mind, ARB published proposed regulations on October 23 that would require manufacturers' emission collection systems to conform to guidelines published by the American Conference of Governmental Industrial Hygienists and demonstrate at least a 99% removal efficiency for particulate matter. In addition, facilities should employ methods for storage, handling, and transfer of materials that prevent fugitive emissions to the air. However, manufacturing plants which produce metals containing very low concentrations of cadmium and arsenic, and facilities which melt specified quantities of certain types of metals, will be exempt from these requirements. While the proposed ATCM requires specified emissions reduction or control efficiencies that manufacturers must achieve, it does not dictate the type of control equipment that they must use. This allows flexibility to facility operators who can choose the control device best suited to their needs.

ARB estimates that approximately 2,000 pounds of cadmium, 480 pounds of arsenic, 2,100 pounds of nickel, and 300,000 pounds of lead are emitted to the air each year in California. Over the course of 70 years, 111 cancer cases are projected to result from these emissions. After implementation, the ATCM should reduce this number by 47%, or approximately 52 cases. In addition, the ATCM should decrease water pollution caused by airborne toxics settling on or washing into the state's water supply. ARB estimates that the total industry cost of this reduction in toxic emissions and potential cancer cases to be $17 million per year.

**Periodic Smoke Self-Inspection Program for Heavy-Duty Diesel Fleets.** At its December meeting, the Board approved proposed new sections 2190–2194, Title 13 of the CCR, which require owners of heavy-duty diesel-powered fleets to test their vehicles annually for excessive smoke emissions, and undertake repairs whenever tests reveal such problems. The regulations would apply generally to heavy-duty diesel-powered vehicles with gross vehicle weight ratings of 6,001 pounds or more that operate on streets or highways within the state. Smoke test and repair information must be recorded and maintained by vehicle owners in accordance with specified recordkeeping requirements. Vehicle owners would be required to keep smoke test and repair records for two years and permit an ARB inspector to review the records by appointment.

Several exemptions to the regulations are proposed. Heavy-duty diesel-powered vehicles that are not part of a fleet of two or more vehicles are exempt. In addition, heavy-duty diesel-powered vehicles are exempt if they belonged to fleets that are based outside of California and operate in California under any of several specified agreements, or if they operate in California under short-term vehicle registrations or permits of 90 days or less.

At this writing, the proposed regulations have not been submitted to OAL.

**Roadside Smoke and Emission Inspection Program.** Also in December, ARB adopted proposed amendments to its Heavy-Duty Vehicle Roadside Inspection Program, which is codified in sections 2180 through 2187, Title 13 of the CCR. The program was adopted pursuant to Health and Safety Code section 44011.6, which requires ARB to develop a test pro-

cedure for the detection of excessive smoke emissions from heavy-duty diesel motor vehicles; prohibit the use of heavy-duty motor vehicles that are determined to have excessive smoke emissions or other emissions-related defects; and develop an inspection program under which ARB and the California Highway Patrol inspect heavy-duty vehicles.

ARB's roadside smoke inspection program was adopted in 1990, and became effective in November 1991. The program applies to all heavy-duty vehicles of 6,001 pounds or more operating in California. ARB staff responsible for carrying out this program inspect these vehicles at highway weigh stations and urban roadside sites with assistance from the California Highway Patrol.

The existing regulations for the roadside smoke program set forth smoke opacity standards for specified categories of vehicles. These standards are used in determining whether vehicles emit excessive smoke when tested under the roadside program. This regulatory action would revise the smoke opacity standards for 1991 and subsequent model-year vehicles to account for a limited number of properly-certified vehicles in these model-years that cannot meet existing standards even when in good operating condition and properly adjusted to manufacturer's specifications. The revised standards would apply to only a limited number of engine families that may have federal peak smoke engine certification levels exceeding the program's original standards. Most 1991 and subsequent model-year vehicles will still be subject to the original standards.

In addition, these amendments would require engine manufacturers to submit smoke emissions data to the ARB within 60 calendar days after receiving federal or California engine certification approval. This is necessary to enable the ARB Executive Officer to make exemption determinations, and determinations of technologically appropriate higher opacity standards.

At this writing, these regulatory changes have not been submitted to OAL for review and approval.

**ARB Amends Emissions Standards and Test Procedures for Heavy-Duty Diesel Engines and Vehicles.** At its December meeting, ARB adopted a proposed amendment to section 1956.8(b), which sets forth standards and test procedures for heavy-duty diesel engines and vehicles. The proposed amendment to this section would allow as an option the use of a low-sulfur diesel fuel specified in federal regulations for the certification of 1993 and subsequent model-year diesel engines.

California law generally prohibits the sale of vehicular diesel fuel which has a sulfur content exceeding 500 parts per million by weight on or after October 1. Therefore, 1993 and subsequent model-year diesel-powered vehicles will be operating in California on low-sulfur diesel fuel for most or all of their useful lives, and it is appropriate to permit the engines for these vehicles to be tested for exhaust emissions using a low-sulfur fuel. This amendment also updates a reference in the existing text to section 2256, Title 13 of the CCR, to reflect a recent renumbering of section 2256 to section 2282.

At this writing, the proposed change has not been submitted to OAL.

**Certification Requirements and Procedures for Low-Emission Passenger Cars, Light Duty Trucks, and Medium-Duty Vehicles.** At its November meeting, the Board was scheduled to consider proposed amendments to sections 1960.1, 1976, and 2061, Title 13 of the CCR. The Board proposal would establish test procedures and requirements for certifying hybrid electric vehicles, which are designed to run on some combination of energy supplied by batteries and an auxiliary power unit, which is likely to be a combustion engine. Also, based on the results of vehicle testing conducted in the fall of 1992, the Board intends to propose reactivity adjustment factors (RAFs) for Phase 2 gasoline transitional low-emission vehicles (TLEV) and low-emission vehicles (LEV). In addition, the Board is proposing the adoption of an RAF for methane emissions from compressed natural gas (CNG) TLEVs. Methane emissions from CNG vehicles can be significant if the vehicles are not properly controlled. The 50°F emission standard is also being modified to take into account recent developments indicating that manufacturers will be able to certify to LEV and TLEV standards using conventional technologies. The proposed amendments also include a number of additional changes to clarify the certification test procedures or to make their application to LEVs more practical. *[12:4 CRLR 170]* However, the Board postponed the public hearing on these proposed regulatory changes until January.

**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*:

- ARB's September 1992 adoption of section 2300, Title 13 of the CCR, to phase out the use of chlorofluorocarbon (CFC) refrigerants in air conditioner-equipped new passenger cars, light-duty trucks, medium-duty vehicles, and heavy-duty vehicles, has not been submitted to OAL at this writing. *[12:4 CRLR 170]*
- The Board's August 1992 amendments to sections 90700–90705, Titles 17 and 26 of the CCR, establishing new fee schedules which APCDs and AQMDs must adopt to cover the state's cost of implementing the "Air Toxic Hot Spots" program, have not been submitted to OAL at this writing. *[12:4 CRLR 169; 12:2&3 CRLR 198]*
- The Board's August 1992 amendments to sections 1960.1(k) and 1956.8(d), Title 13 of the CCR, adopting new specifications for gasoline used during the certification testing of motor vehicles, have not been submitted to OAL at this writing. *[12:4 CRLR 169]*
- ARB's July 1992 amendment to section 93000, Titles 17 and 26 of the CCR, designating 1,3-butadiene as a toxic air contaminant, has not been submitted to OAL for approval at this writing. *[12:4 CRLR 168]*
- The Board's May 1992 amendment to section 70500, Title 17 of the CCR, which identifies geographical areas that originate or receive transported air pollution, has not yet been submitted to OAL. *[12:4 CRLR 168]*
- ARB's May 1992 amendments to sections 2030 and 2031, Title 13 of the CCR, which strengthen existing procedures for approving alternative fuel retrofit systems for motor vehicles beginning with the 1994 model year, have not been submitted to OAL at this writing. *[12:2&3 CRLR 200]*
- The Board's May 1992 amendments to sections 70303 and 70304, Title 17 of the CCR, and Appendices 2–4 thereof, which revise the criteria used to designate areas in California as attainment, nonattainment, or unclassified for state ambient air quality standards, have not yet been submitted to OAL. *[12:2&3 CRLR 201]*
- The Board's March 1992 amendment to section 93000, Titles 17 and 26 of the CCR, identifying formaldehyde as a toxic air contaminant, has not been submitted to OAL for approval. *[12:2&3 CRLR 198–99]*
- ARB's March 1992 adoption of sections 2290–2292.7 and amendments to sections 1960.1(k), 1956.8(b), and 1956.8(d), Title 13 of the CCR, which establish commercial specifications, beginning on January 1, 1993, for alternative fuels M-100 methanol (100% methanol), M-85 methanol (85% methanol, 15% gasoline), E-100 (100% ethanol), E-85 (85% ethanol, 15% gasoline), compressed natural gas, liquified petroleum gas, and hydrogen, were approved by OAL on December 9. *[12:2&3 CRLR 199]*

• ARB's January 1992 adoption of sections 2420–2427, Title 13 of the CCR, establishing exhaust emission standards and test procedures for new 1996 and later heavy-duty off-road engines, was submitted to OAL on November 20. *[12:2&3 CRLR 198]*

• The Board's January 1992 amendments to sections 94503.5, 94506, 94507–94513, and 94515, Title 17 of the CCR, reducing volatile organic compound emissions from consumer products, were approved by OAL on December 7. *[12:2&3 CRLR 197–98]*

• On October 14, OAL approved ARB's wintertime oxygenated gasoline regulations. The regulatory action adds new sections 2258 and 2298 and amends sections 2251.5 and 2296, Title 13 of the CCR, requiring that all gasoline sold in California during the winter months contain between 1.8%–2.2% oxygen by weight. The addition of oxygen to gasoline reduces carbon monoxide emissions from automobile exhaust. *[12:1 CRLR 140]*

• In November 1991, the Board adopted new sections 2260–2272 and amended sections 2250, 2251.5, and 2252, Title 13 of the CCR, establishing specifications for "Phase 2 Reformulated Gasoline." These regulatory changes were approved by OAL on November 16. *[12:1 CRLR 139–40]*

• ARB's November 1991 amendments to section 1960.1, Title 13 of the CCR, adopting an ozone reactivity adjustment factor for TLEVs using 85% methane fuel (M-85), which corrects TLEV M-85 emission calculations to make the measurements for ozone-forming potential comparable to the measurements used for conventional gasoline-fueled vehicles, were approved by OAL on November 9. *[12:1 CRLR 140–41]*

• ARB's October 1991 amendment to section 93000, Titles 17 and 26 of the CCR, which identifies perchloroethylene as a TAC, was approved by OAL on October 22. *[12:1 CRLR 141]*

**Attorney General Opinion Issued on Vehicle Ridership Goals.** At the request of Assemblymember Charles W. Quackenbush, the California Attorney General issued Opinion No. 92-109 (Nov. 10, 1992) on the following two questions:

(1) May a regional air pollution control district require employers to charge parking fees as a means of achieving average vehicle ridership goals for purposes of the California Clean Air Act of 1988?

(2) May a regional air pollution control district impose civil penalties upon employers who fail to achieve average vehicle ridership goals?

The California Clean Air Act of 1988 amended Health and Safety Code sections 40716 and 40717 to provide for the adoption of regulations to "encourage or require the use of ridesharing, vanpooling, flexible work hours, or other measures which reduce the number of vehicle trips" (section 40716(a)(2)), and the adoption, implementation, and enforcement of "transportation control measures," including "any strategy to reduce vehicle trips, vehicle use, vehicle miles traveled, vehicle idling, or traffic congestion for the purpose of reducing motor vehicle emissions" (section 40717(a), (g)).

In response to the first question, the Attorney General opined that a regional APCD may not require employers to charge parking fees as a means of achieving these goals. Following a literal interpretation of the text of sections 40716 and 40717, the AG found that since the legislature made no express provision for the imposition of fees, it must not have intended the use of fees. The AG found that in other areas of state law, including other Clean Air Act provisions, it appears that "where the Legislature intended to authorize the imposition of fees, it so provided expressly and specifically with respect to their amount and uses....The failure of the Legislature to provide any restrictions, standards, or safeguards respecting the fundamental decision to directly affect the economic relationship between employer and employee raises serious doubt concerning the Legislature's intent to authorize the fees in question." Therefore the AG concluded that imposition of fees has not been authorized by mere implication in sections 40716 and 40717, and the fee requirement may not be imposed by APCDs on employers.

With respect to civil penalties imposed by a district for failure to achieve average vehicle ridership goals, and assuming that the district has made a lawful order which is reasonable under the circumstances, the AG concluded that "a regional air pollution control district may impose administrative civil penalties of not more than $500 pursuant to its own rules and regulations," and that it may "initiate judicial proceedings for civil penalties by a court upon an employer who fails to achieve average vehicle ridership goals mandated by lawful orders of the district, the achievement of which was within the reasonable control of the employer." The AG noted that, "unlike the absence of authority to impose or to order the imposition of parking fees,...the imposition of civil penalties for violation of a district order is expressly authorized and carefully constrained" in section 42402(a).

## LITIGATION

In *Coalition for Clean Air, et al. v. Air Resources Board*, No. 372697 (Sacramento County Superior Court), a coalition of environmental groups filed suit on November 19 against ARB, claiming the Board approved an illegal Air Quality Management District (AQMD) plan that fails to take strong measures in regulating the quality of the air found in the Los Angeles Basin. Specifically, the Coalition for Clean Air, the Sierra Club, and Citizens for a Better Environment all contend that many of the plan's measures are vague and unenforceable, especially those regarding traffic control. In addition, the suit alleges that the AQMD plan does not provide for proper review of air pollution sources such as highways, shopping centers, and new developments.

The environmental lawsuit also attacks the Board's conditional approval of the South Coast Air Quality Management District's (SCAQMD) proposed Regional Clean Air Incentives Market (RECLAIM) program. The program intends to reduce pollution from stationary sources, such as factories and power plants, by allowing companies to buy and sell "pollution credits" on the open market. Companies can create pollution credits only by developing new methods for reducing their emissions below quota levels set each year by the ARB. Thus, the market-based strategy could provide polluters with incentives to reduce emissions in the cheapest, most efficient manner possible. *[12:4 CRLR 168–69; 12:2&3 CRLR 10]* The Board conditionally approved the program in October 1992, requiring that SCAQMD return in July with specific details on how RECLAIM and the transportation control measures will work. (*See infra* RECENT MEETINGS.)

The environmental groups involved in the lawsuit argue that RECLAIM will add to California's smog problems, not reduce them. Their lawsuit asserts that the RECLAIM program fails to require the best retrofit technology possible, and that the AQMD plan, in general, does not contain all feasible control measures as required by law. They ask that the plan be remanded to SCAQMD for revisions within three months. If this does not happen, the suit requests that ARB take over responsibility for the plan and revise it accordingly.

## RECENT MEETINGS

At its October 15–16 meeting, ARB staff presented a plan for developing a small business assistance program. The 1990 federal Clean Air Act amendments require each state to develop and imple-

ment an assistance program for small businesses which are compelled to meet new requirements under the Act. The Act requires ARB to submit a small business assistance program plan to the EPA as a State Implementation Plan (SIP) revision by November 15, 1992. The small business assistance program must be fully implemented by November 15, 1994. The plan proposed by ARB staff includes: (1) appointment of a state small business commissioner within ARB; (2) creation of a seven-member Compliance Advisory Panel appointed by the Governor, the legislature, and the chair of ARB; and (3) a statewide outreach mechanism to provide technical assistance and to distribute information. The staff is to provide the Board with periodic updates on the development and implementation of the program. The Board approved the proposal by an 8–0 vote.

Also in October, ARB also considered approval of the South Coast Air Quality Management District's 1991 Air Quality Management Plan. Among other things, the plan contains an emissions credit program, called RECLAIM, which operates much like the commodities market—polluters may buy and sell emission credits on an open market. *[12:4 CRLR 168–69; 12:2&3 CRLR 10]* The Board conditionally approved the plan by an 8–1 vote; the approval contained a caveat that the RECLAIM program must achieve equivalent emission reductions, at a lower cost and with less job loss, than the so-called "command and control" approach. The District must have its RECLAIM rules and regulations in place by July 1, or it will be required to impose many of the pollution control regulations that it has put on hold pending the approval of the RECLAIM program. The Board also decided not to submit the plan to the EPA as a part of the state SIP at this time. (*See supra* LITIGATION.)

On November 12, the Board conditionally approved the 1991 Regional Air Quality Strategy (RAQS) developed by the San Diego Air Pollution Control District (SDAPCD) in order to reduce air pollution levels in San Diego County. The plan, which would cost $133–$338 million annually, would require businesses with more than 100 employees to create ride-sharing programs by 1994; colleges and universities to encourage ride-sharing among students; solar water heating in new home construction by 1994; and tighter controls on gasoline storage tanks, sterilizers, dry cleaners, and fiberglass and plastic makers.

While ARB felt that the anti-smog plan was substantially complete, the Board pointed to a number of deficiencies. For example, the required permitting program, which would set permit rules for stationary sources of pollution, has not yet been adopted by SDAPCD. In addition, SDAPCD did not plan to implement transportation control measures until the legislature or the Department of Motor Vehicles initiates action to include Mexican commuter vehicles in the smog check program.

Despite these deficiencies, ARB praised the plan for tackling San Diego's complex environmental situation, made more difficult by air pollution blown in from the Los Angeles area and from unregulated Mexican-owned vehicles. Thus, ARB voted to approve the plan in part, but required SDAPCD to correct the above deficiencies and provide the Board with a progress report within a year.

## FUTURE MEETINGS

June 10–11 in Sacramento.
July 8–9 in Sacramento.

# CALIFORNIA INTEGRATED WASTE MANAGEMENT AND RECYCLING BOARD

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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 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. A CoIWMP submitted by a local government must outline the means by which its locality will meet AB 939's requirements of a 25% waste stream reduction by 1995 and a 50% waste stream reduction by 2000. Under AB 939, the primary components of waste stream reduction are recycling, source reduction, and composting.

A CoIWMP is comprised of several elements. Each city initially produces 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 city must also produce a household hazardous waste (HHW) element which identifies a program for the safe collection, recycling, treatment, and disposal of hazardous wastes which are generated by households in the city and should be separated from the solid waste stream. After receiving each city's contribution, the county produces an overall CoIWMP, which includes all of the individual city plans' elements plus a county-prepared plan for unincorporated areas of the county, as well as a countywide siting element which provides a description of the areas to be used for development of adequate transformation or disposal capacity concurrent and consistent with the development and implementation of the county and city SRR elements and the applicable city or county general plan.

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

CIWMB is composed of six full-time salaried members: one member who has private sector experience in the solid waste industry (appointed by the Governor); one member who has served as an elected or appointed official of a nonprofit environmental protection organization whose principal purpose is to promote recycling and the protection of air and water quality (appointed by the Governor); two public members appointed by the Governor; one public member appointed by the Senate Rules Committee; and one public member appointed by the Speaker of the Assembly.

Issues before the Board are delegated to any of six committees; each committee