



veloping an enforcement program once the market is in place, and the public controversy which has been generated among those who would be affected by the plan.

A market for trading emissions credits would be the first of its kind. The goal of RECLAIM is to force industries to cut their smog-producing emissions while giving them flexibility and financial incentives. RECLAIM has been billed by SCAQMD as a more economical and flexible way to combat industrial pollution than the traditional "command and control" method of adopting emissions standards, attempting to measure compliance, and sanctioning noncompliance with penalties. SCAQMD also contends it would be cheaper for businesses. The market plan for RECLAIM has been designed by SCAQMD utilizing the assistance of 20 economists, sociologists, business people and environmentalists, including economics experts from MIT, UCLA, the Pacific Stock Exchange, and Caltech.

Originally, RECLAIM was envisioned to cover 2,800 business facilities in the four-county Los Angeles Basin. That number has now been pared to approximately 400 as the emissions market plan has developed. The RECLAIM program will assign maximum volumes of two pollutants—nitrogen oxides and sulfur oxides—to each company covered in the plan in the form of pollution credits. Hydrocarbons, the region's most plentiful pollutant, have been eliminated from the plan because of the difficulty in measuring them, although they could be phased in later if RECLAIM is approved. Enforcement of the pollution limits would require participating businesses to perform substantial monitoring and reporting of their own pollution as well as traditional monitoring by SCAQMD. The potential size of these monitoring costs to businesses has been a source of intense controversy.

The potential success or failure of the RECLAIM program has broad repercussions for SCAQMD. The District suspended new smog rules in 1989 and reallocated staff from its enforcement office to develop the RECLAIM program. A recent ARB audit indicates that business compliance with clean air rules in the District has dropped since 1989, and the allocation of SCAQMD's resources to RECLAIM has been suggested as a cause for the District's poor enforcement record. As a result, two bills now pending in the legislature (*see* AB 1853 (Polanco) and SB 455 (Presley) in LEGISLATION) would give the legislature control over the SCAQMD's \$107 million budget.

In September, SCAQMD held a two-day hearing at which the RECLAIM pro-

posal was further discussed; SCAQMD decided to postpone its vote on the final draft of the RECLAIM program until October 15.

After a public hearing on July 27–28, ARB Executive Officer Jim Boyd approved variances from the requirements of section 2282, Title 13 of the CCR, for Ultramar, Chevron, and Unocal. This regulation limits the aromatic hydrocarbon content of California motor vehicle diesel fuel starting on October 1, 1993. The variances permit production of a specified amount of non-complying diesel fuel after October 1, contingent on the companies' adherence to compliance plans.

At ARB's August 12 meeting, staff presented an informational report on the feasibility of reducing oxides of nitrogen and particulate matter emissions from heavy-duty vehicles. Emissions from heavy-duty vehicles contribute significantly to California's air quality problems, and must be reduced if California is to continue to progress toward attaining air quality goals. Oxides of nitrogen emissions from diesel-powered heavy-duty vehicles represent approximately 20% of the total NOx emissions statewide; particulate matter emissions from diesel powered vehicles are also of concern due to their potential toxicity. Staff will return at a future meeting with proposed regulations that are intended to reduce emissions from heavy-duty vehicles and engines sold in California.

■ FUTURE MEETINGS

January 13–14 in Sacramento (tentative).

February 10–11 in Sacramento (tentative).

CALIFORNIA INTEGRATED WASTE MANAGEMENT AND RECYCLING BOARD

Executive Director:

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Chair: Michael Frost

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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 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 program for the safe collection, recycling, treatment, and disposal of hazardous wastes which are generated by households in the area and should be separated from the solid waste stream. The siting element describes the methods and criteria a jurisdiction will use in the process of siting a new or expanding an existing solid waste disposal and transformation facility. The nondisposal facility element must include a description of new facilities or expansion of existing facilities that will be needed to reach AB 939's mandated disposal reduction goals, and must identify transfer stations to be used by the local jurisdiction.

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 includes two Board members and is chaired by a third. The Permitting and Enforcement Committee handles all matters pertaining to the issuance and enforcement of solid waste facilities permits and state standards for solid waste. The Legislation and Public Affairs Committee recommends positions to the Board regarding relevant legislation, and oversees Board involvement in public affairs activities. The Policy, Research, and Technical Assistance Committee is responsible for all issues and policy development regarding research, development, and special wastes activities. The term "special wastes" refers to those wastes which require unique collection, handling, or disposal methods, such as HHW, sludge, and medical wastes. The Integrated Waste Management Planning Committee deals with the CoIWMPs and local waste reduction plans submitted by cities and counties, and helps cities and counties implement their plans. The Market Development Committee is responsible for developing new markets for recycled materials. The Administration Committee is responsible for contracts entered into by the Board, and for issues that do not clearly belong to any other committee.

MAJOR PROJECTS

Required Contents of and Procedures for Adopting CoIWMPs, RAIWMPs, and Elements Thereof. Although CIWMB and its CoIWMP requirement have been in existence since 1990, the Board has never adopted regulations defining the precise required contents of a CoIWMP. Further, AB 2494 (Sher) (Chapter 1292, Statutes of 1992) now enables local governments to join together to form regional agencies which may file a Regional Integrated Waste Management Plan (RAIWMP) [12:4 CRLR 176-77]; the Board's regulations do not specify the contents of a RAIWMP. With AB 440 (Sher) pending in the legislature (see

LEGISLATION), CIWMB recently initiated several rulemaking proceedings to further flesh out the contents of and procedures for completing and adopting a CoIWMP, RAIWMP, and the siting and nondisposal facility elements thereof.

• **Required Contents of a CoIWMP and RAIWMP.** On June 18, CIWMB published notice of its intent to adopt new sections 18757-18758.1, Title 14 of the CCR, to fully describe the required contents of a CoIWMP and RAIWMP. The proposed regulations would require counties and regional agencies to identify existing and proposed solid waste management facilities, waste management programs, SRR programs in the area and its jurisdictions, regional and countywide integrated approaches to solid waste management, and alternatives to long-range waste reduction and disposal. The public comment period on these proposed regulatory changes ended on August 2; no public hearing was held. However, staff is expected to hold two workshops in late October or early November; exact dates and locations have not yet been determined.

• **Siting Element Contents and Procedures.** The siting element of a CoIWMP or RAIWMP must describe the methods and the criteria that a jurisdiction will use in the process of siting a new or expanding an existing solid waste disposal and transformation facility. On June 18, CIWMB published notice of its intent to adopt new sections 18755-18756.7, Title 14 of the CCR, to fully describe the required contents of the siting element. The proposed regulations would require counties and regional agencies to identify existing and proposed solid waste management facilities and alternatives to either expanding existing facilities or constructing new facilities. They also require counties and regional agencies to identify criteria to be used in locating new facilities, identify the socioeconomic and environmental impacts, and assure that any expanded or new facilities are consistent with local general plans. The public comment period on these proposed regulatory changes ended on August 2; no public hearing was held. However, staff is expected to hold two workshops on the proposal in late October or early November; exact dates and locations have not yet been determined.

On September 3, CIWMB published notice of its intent to amend sections 18776-18790, Title 14 of the CCR; the proposed amendments would describe the procedures which must be followed in preparing and revising a countywide siting element in a CoIWMP and a regional sit-

ing element in a RAIWMP. As a result of the passage of AB 2494 (Sher) (Chapter 1292, Statutes of 1992) [12:4 CRLR 176-77], CIWMB's existing regulations required modification to address when counties and cities may form regional agencies and the type of siting element the regional agencies must prepare and adopt as part of a RAIWMP. The Board's proposed changes to the regulations would also eliminate redundant reviews and streamline the local jurisdiction's review and adoption process. The public comment period ends on October 18; CIWMB is also expected to conduct two public workshops after that date to receive further input. At this writing, the dates and locations of the workshops have not yet been determined.

• **Contents of Nondisposal Facility Element.** On August 6, CIWMB published notice of its intent to adopt new sections 18752-18754.5, Title 14 of the CCR, to specify the type of information which must be provided in the nondisposal facility element (NDFE) of a CoIWMP or RAIWMP; PRC sections 41730-36 require local jurisdictions to prepare and adopt a NDFE which identifies the facilities a jurisdiction is using to reach AB 939's disposal reduction goals. The NDFE should also identify new facilities or the expansion of existing facilities a jurisdiction will need in order to reach the mandated goals. The proposed regulations would require the NDFE to specify the type of facility involved; the estimated amount of waste sent to the facility; diversion rate or expected diversion rate; the participating jurisdictions; location of the facility; and a description of the general area, including a land use map, zoning map, or other type of planning map.

The public comment period ended on September 20; no public hearing was held. However, staff is expected to hold a public workshop on the proposal on November 8 in Whittier; a second workshop may be held in northern California during December.

CIWMB Adopts Emergency Regulations to Comply with Federal Subtitle D Requirements. In February, California submitted its formal application under Subtitle D, the new U.S. Environmental Protection Agency (EPA) regulations for municipal solid waste (MSW) landfills which become effective on October 9. The application, prepared jointly by CIWMB and the state Water Resources Control Board (WRCB), sought EPA approval of California's existing criteria for MSW landfills. A state whose MSW regulations are approved by EPA may operate its own solid waste management program and ex-



ercise flexibility in several areas permitted by Subtitle D. Although California's program for regulating MSW landfills is not identical to all provisions of Subtitle D, CIWMB believed its regulations and those of WRCB ensure adequate protection of public health and the environment. [13:2&3 CRLR 162, 12:1 CRLR 146]

In a May 7 analysis, however, EPA found that California's current regulations are not completely consistent with the federal regulations, and therefore denied the state's request for full approval. Among other things, EPA found that California's MSW landfill permit program is not adequate to ensure compliance with federal provisions because it does not include a ban on siting a landfill in wetlands; it does not require the closure of existing landfills which cannot comply with the location restrictions for airports, floodplains, and unstable areas by October 9, 1996; there is no Federal Aviation Administration notification requirement for new units and lateral expansions within five miles of airports; there is no requirement to establish a program for detecting and preventing disposal of hazardous wastes in MSW landfills; there is no requirement to maintain records of inspections; there is no ban on open burning; WRCB's regional water quality control boards may grant exemptions to precipitation and drainage control requirements; and there is no substantive requirement for financial assurance for corrective action.

On May 17 and June 9, CIWMB and WRCB submitted revisions to the application. Among other things, CIWMB agreed to incorporate into AB 1827 (Sher) proposed statutory changes needed to address several of EPA's concerns (see LEGISLATION); CIWMB also agreed to adopt emergency regulatory amendments to Title 14 of the CCR to implement those changes. On June 16, EPA Regional Administrator John Wise signed a Notice of Tentative Determination which concluded that California needs to revise aspects of its permit program to ensure compliance with the Subtitle D criteria, and that the proposed emergency regulations and statutory changes specified in CIWMB's June 9 letter would be adequate to ensure compliance with the federal criteria. Further, on June 29, EPA published in the *Notice Register* its tentative decision to fully approve California's application to be designated an approved state under Subtitle D.

Accordingly, at its June 30 meeting, CIWMB adopted—on an emergency basis—proposed amendments to sections 17225, 17601, 18250, 18266, and 18280 and new sections 17258.1, 17258.2, 17258.10, 17258.16, 17258.20, 17258.21,

17258.23, 17258.24, 17258.29, 17258.60, 17258.61, 17258.73, and 17258.74, Title 14 of the CCR. These changes correct the deficiencies noted by EPA and conform California's MSW landfill permit program to the requirements of Subtitle D. On July 12, these changes were approved by the Office of Administrative Law (OAL). On July 30, CIWMB published notice of its intent to adopt the revisions on a permanent basis. On September 15, the Board conducted a public hearing to receive comments on the rulemaking action; at this writing, the proposed changes await formal adoption by CIWMB and review and approval by OAL.

At its September 22 meeting, CIWMB staff reported that, under Subtitle D, an approved state is able to approve alternatives for compliance with the new federal regulations in 21 specific areas. In anticipation of full approval of California's application, CIWMB staff developed policies and procedures for implementing the areas of flexibility afforded to an approved state. According to CIWMB staff, of the 21 total specified areas, ten fall under the exclusive jurisdiction of WRCB; seven fall under the exclusive jurisdiction of CIWMB; and four fall under the joint jurisdiction of both CIWMB and WRCB. Accordingly, staff developed a standardized form for use by applicants who are applying for flexibility in any of the eleven areas within CIWMB's jurisdiction; the form will be used to track the progress of each application and is designed to interface with the Board's computer database.

Board Approves Statewide Waste Prevention Plan. PRC section 40507(f) requires CIWMB to report to the legislature, on or before March 31, 1993, on actions which have been taken, or will be taken, to promote waste prevention (also known as source reduction); CIWMB is also required to make recommendations regarding legislation to promote waste prevention, improve packaging and product durability standards, and reducing toxicity of packaging and products.

At its May 26 meeting, CIWMB approved a draft *Statewide Waste Prevention Plan*, the purpose of which is to foster waste prevention and create a statewide infrastructure to reduce the generation and toxicity of solid waste. According to CIWMB, the Plan is intended to conserve natural resources and promote a sustainable economy by achieving several important goals, such as creating awareness and encouraging waste prevention in daily activities; acquiring basic information about the effectiveness of waste prevention (source reduction); building or ex-

panding communication networks within and across CIWMB, local governments, and business; assisting local governments in achieving AB 939's waste diversion mandate through waste prevention; and developing incentives and assistance to encourage design, manufacture, distribution, sale, and reuse of products and packaging that decrease the amount or toxicity of waste generated.

CIWMB Approves Rigid Plastic Packaging Container Recycling Rate Report. SB 235 (Hart) (Chapter 769, Statutes of 1991), the Rigid Plastic Packaging Container Act of 1991, states the legislature's finding that the recycling of rigid plastic packaging containers (RPPCs) saves landfill space, reduces energy consumption, and preserves natural resources, and its intent to spur markets for plastic materials collected for recycling by requiring manufacturers to utilize increasing amounts of postconsumer recycled material in their RPPCs and to achieve high recycling rates for RPPCs. SB 235 also specifies that every RPPC sold or offered for sale in California after January 1, 1995, must meet on average one of the following criteria: (1) it is made from 25% postconsumer material; (2) it has a recycling rate of 25% if its primary material is not polyethylene terephthalate (PETE), or a recycling rate of 55% if its primary material is PETE, based on annual reports published by CIWMB on and after January 1, 1993; (3) it is reusable or refillable; or (4) it is a source reduced container, as defined.

Among other things, SB 235 requires CIWMB to publish annual reports documenting the recycling rates for RPPCs made of PETE and non-PETE. At its June 30 meeting, CIWMB approved a draft *Rigid Plastic Packaging Container Recycling Rate Report*. According to CIWMB staff, no data sources currently exist which track recycling and generation of RPPCs as defined by SB 235. Thus, staff developed a range of rates and proposed a recommended rate based on existing data sources; to obtain the recommended rate, staff applied various assumptions and performed complex extrapolations of existing data sources. Staff acknowledged the inaccuracy associated with this method, and recommended the development of new methodologies to obtain more accurate RPPC recycling rates for future reports. However, staff suggested that, in the meantime, the draft report could be used by product manufacturers to determine the degree of progress necessary to meet SB 235's 1995 recycling rate provisions.

Also at its June 30 meeting, the Board approved a draft *Conceptual Plan to Implement the Rigid Plastic Packaging Con-*



tainer Act (SB 235). While it is a pre-regulatory document, this Conceptual Plan makes specific recommendations regarding program implementation and administration and statutory modifications. According to CIWMB, staff maintained an open process and solicited input from affected parties throughout the development of the Plan; sectors represented on the Board's Technical Advisory Committee (TAC) include resin container and product manufacturers, plastic re-processors, distributors, retailers, local government officials, and environmental groups. The Plan provides analyses and recommendations of alternative methods for implementing SB 235; among other things, the recommendations define an RPPC and specify the entities which must comply with the law, methods for measuring compliance, the role of CIWMB in administering this law, and the staffing and funding requirements for CIWMB. The Plan also suggests modifications to the Act's statutory language to clarify the intent and requirements of the law.

Public Education Campaign Update. PRC section 42600 requires CIWMB to establish a statewide public information and education program to encourage consumers to reduce waste and businesses to reduce excess packaging. On March 2, the Board announced plans to ask every California household to reduce the amount of trash it produces in order to save landfill space and conserve resources; CIWMB investigations have shown that nearly half of the state's waste is produced by the residential sector. The campaign—"Leave Less Behind for the Future"—will include television, radio, and other promotional techniques to motivate Californians to take personal responsibility for their own garbage. Other aspects of the campaign include a hotline number to help consumers in their efforts and the distribution of informational kits to cities, counties, and consumers. On September 22, the Public Affairs Committee commented on the initial findings and results of the newly-initiated public education campaign. Although the Committee found that overall citizen awareness of waste reduction and excess packaging in California is generally low, it reported increases in public awareness in every area that the campaign pilots were aired, including Sacramento and Bakersfield. CIWMB's public education campaign has already received numerous awards, such as "Best Public Service Spot in the West," "Best Video on the Topic of Waste Reduction," and the national award for "Single Best Education Control." The Board generally agreed that the campaign is a success and expressed a desire to have it reach a larger portion of the public in the future.

Recycling Market Development Zone Program Activity. On July 2, CIWMB published notice of its intent to amend section 17901 and add new section 17914, Title 14 of the CCR, regarding its Recycling Market Development Zone Program. SB 1322 (Bergeson) (Chapter 1096, Statutes of 1989) created the Program and granted CIWMB authority to designate and redesignate recycling market development zones (RMDZs), which are geographic areas established by jurisdictions that are specifically designed to develop new and stabilize existing businesses that utilize secondary materials in the production and manufacture of finished products. SB 1322 also directed the Board to adopt regulations and guidelines concerning the required information and procedures to apply for the designation and redesignation of an area as a RMDZ. [9:4 CRLR 112] CIWMB's current regulations do not include provisions allowing the Board to redesignate recycling market development zones; the proposed regulatory action would so provide and clarify the specific information needed and procedures for submitting a redesignation application to the Board. No public hearing was held on the proposal; on September 22, CIWMB adopted the proposed changes, which await review and approval by OAL.

CIWMB's RMDZ Low-Interest Revolving Loan program provides low-interest loans to local governments and private businesses located within designated RMDZs. [13:2&3 CRLR 163-64] On June 3, CIWMB's Market Development Committee held a workshop on financing options for recycling-based manufacturers; at the workshop, staff received direction to consider ways to enhance the existing RMDZ loan program through a guaranty program and/or a secondary market structure. The direction was premised by the immediate need to raise additional financing for recycling-based manufacturers with no additional program funding available. At its July 28-29 meeting, the Board agreed to seek legislation authorizing it to sell loans made pursuant to the program, with a specified exception, on the secondary market and to pool its loans, as specified; this proposal was amended into AB 1909 (O'Connell), which was signed by the Governor on October 2 (Chapter 733, Statutes of 1993) (*see* LEGISLATION).

At its August 25 meeting, CIWMB adopted the interest rate to be charged on RMDZ loans; section 17935(a), Title 14 of the CCR, requires the Board to announce the annual interest rate on September 1 of each year. As required by PRC section 42145, the interest rate to be charged on the loans must be based on the

rate of return for money in the State Pooled Money Investment Account (SPMIA). Currently, the annual SPMIA rate is 4.55%; the average rate over the last quarter was 4.5%. Based on this information, CIWMB set the loan program interest rate at 4.5%.

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

• **Waste Tire Facilities.** On June 22, OAL disapproved the Board's proposed regulations relating to procedures and requirements for obtaining waste tire facility permits and technical standards for storage and disposal of waste tires. OAL disapproved the proposed action, which would adopt new sections 17225.701-18499 (nonconsecutive), Title 14 of the CCR, on the basis that the proposed regulations did not comply with the clarity and consistency standards contained in Government Code section 11349.1, and did not comply with the procedural requirements of the Administrative Procedure Act.

As a result of OAL's disapproval, CIWMB readopted its existing emergency regulations on June 22; these regulations were originally adopted on an emergency basis in February 1992, and have since been readopted four times on an emergency basis. [13:2&3 CRLR 165] On July 7, CIWMB revised the proposed permanent regulations in response to OAL's comments and published them for an additional fifteen-day public comment period. At its August 25-26 meeting, CIWMB adopted the revised permanent regulations and submitted the rulemaking file to OAL for review on September 23.

• **Used Oil Recycling Enhancement Program.** On July 6, OAL approved CIWMB's amendment and adoption of sections 18601-18659.6 (nonconsecutive), Title 14 of the CCR, which implement certain aspects of the California Oil Recycling Enhancement Act of 1991 (Chapter 817, Statutes of 1991). [13:2&3 CRLR 165] The changes describe procedures for certifying used oil collection centers and recycling facilities, and procedures for registration of industrial generators, curbside collection programs, and electric utilities. In addition, the regulatory changes address procedures for claiming recycling incentive payments and grants to local governments, and provide for an enforcement program and formulas for calculating used oil recycling rates.

• **Recycled Content Trash Bags.** At this writing, OAL is reviewing CIWMB's proposed adoption of new sections 17975-17985, Title 14 of the CCR, which would define terms, reporting require-



ments, and certification procedures for the recycled content trash bag program. [13:2&3 CRLR 164]

• **Recycling Market Development Zone Low-Interest Loan Program.** On June 14, OAL approved CIWMB's adoption of section 17932.1 and amendments to section 17934.3, Title 14 of the CCR, which authorize the Board to set points and fees for recycling market development zone loans to cover the administrative costs of making the loans. [13:2&3 CRLR 164]

• **Composting Facility Regulations.** On July 15, OAL approved CIWMB's adoption of new sections 17851-17895 and 18220 and amendments to sections 18207, 18208, 18213, and 18215, Title 14 of the CCR, which establish minimum standards for the design, operation, and permitting of green materials composting facilities. [13:2&3 CRLR 165]

• **Household Hazardous Waste.** On June 14, OAL approved CIWMB's amendments to sections 18751.2(a)(1) and 18751.4(b)(1) to revise Form CIWMB-303, which is used in conjunction with the HHW element of the CoIWMP. [13:1 CRLR 102] The purpose of the form is to provide the Board with information pertaining to the volume and type of HHW received at HHW collection programs statewide; this information is then used to assist local jurisdictions in refining their public information and education programs by targeting specific HHWs which are received in large volumes at the jurisdiction's HHW collection programs. The revised form will provide instructions which the original form lacked, and is now compatible with current HHW reporting forms required by the Department of Toxic Substance Control.

• **Conflict of Interest Code.** On September 16, the Fair Political Practices Commission approved the Board's amendments to section 18419, Title 14 of the CCR, which is part of CIWMB's conflict of interest code; the amendments reflect position changes for designated CIWMB employees subject to reporting requirements and reflect changes caused by the Board's reorganization. [13:2&3 CRLR 163] At this writing, the changes await review and approval by OAL.

LEGISLATION

AB 440 (Sher). The California Integrated Waste Management Act of 1989 requires a county to prepare a CoIWMP and a regional agency to prepare a RAIWMP consisting of specified elements, including SRR and nondisposal facility elements; requires CIWMB to review and approve or disapprove the plans; and requires the Board to adopt rules and

regulations, as necessary, to carry out the Act. As amended September 8, this bill requires CIWMB to adopt emergency regulations governing the preparation and submission of city, county, and regional agency SRR and nondisposal facility elements, and prescribes related matters.

The Act authorizes a city or county to form a regional agency with another city or county for the purpose of complying with specified requirements of the Act; and provides that the regional agency, and not the cities or counties which are member agencies of the regional agency, is responsible for compliance with specified requirements of the Act, if the cities or counties which form the regional agency are located in a rural area with a combined population of 250,000 or less. This bill deletes the requirement that the member agencies of such a regional agency be located in a rural area with a population of 250,000 or less, and instead authorizes the regional agency and not the member agencies of the regional agency to assume responsibility for compliance with specified requirements of the Act if so specified in the agreement pursuant to which the regional agency is formed. The bill also specifies that a city, county, or regional agency may enter into a memorandum of understanding with another city, county, or regional planning agency, agency formed under a joint exercise of powers agreement, or district established to manage solid waste for the purpose of preparing and implementing SRR elements, HHW elements, a CoIWMP, or a RAIWMP.

The Act authorizes CIWMB to reduce specified solid waste diversion requirements of the Act if a city or county, or a portion of a county, that consists of a desert and mountain region demonstrates, and the Board concurs, that achievement of the diversion requirements is not feasible because of the small geographic size or low population density of the city or county and because of the small quantity of solid waste generated within the city or county. This bill makes any reduction in diversion requirements granted by the Board inapplicable to a city or county which is or becomes a member agency of a regional agency for the purpose of complying with those diversion requirements. The bill deletes that authorization regarding a portion of a county that consists of a desert and mountain region, and instead authorizes CIWMB to grant the reduction in diversion requirements for a portion of the unincorporated part of a county of the 7th class, as defined by statute.

The Act requires each CoIWMP or RAIWMP, and the elements thereof, to be reviewed, revised, and, if necessary, sub-

mitted to CIWMB every five years, in accordance with a specified schedule. This bill authorizes a city, county, or regional agency to amend its SRR element or HHW element at any time to incorporate new or revised data, to give descriptions of new or revised SRR or composting programs, or to make other changes that are necessary to meet the Act's solid waste diversion requirements.

The Act requires that, if a city or county has less than eight years of remaining disposal site capacity, the CoIWMP be submitted to CIWMB within twelve months, and requires that, if a city or county has eight or more years of remaining disposal site capacity, the plan be submitted within eighteen months, after OAL formally approves regulations for the preparation of countywide siting elements and CoIWMPs. A RAIWMP is required to be submitted to the Board within eighteen months after OAL formally approves those regulations. This bill requires, notwithstanding those provisions, that any city, county, or regional agency with less than eight years of remaining disposal site capacity submit its SRR element and its nondisposal facility element to the Board by April 30, 1994; that any city, county, or regional agency with eight or more years, but less than fifteen years of disposal site capacity, submit those elements to the Board by August 31, 1994; and that any city, county, or regional agency with 15 or more years of disposal site capacity submit those elements to the Board by December 31, 1994. The bill requires, upon submission of the SRR element or by October 1, 1994, that each city, county, or regional agency report to the Board on its progress in achieving AB 939's diversion requirements. The Board is required to report to the Governor and the legislature by January 1, 1995, summarizing information from the city, or county, or regional agency reports describing city, county, regional agency, and statewide progress in meeting those diversion requirements.

The Act requires any person owning or operating a solid waste landfill, when applying to become an operator, to certify to CIWMB and the local enforcement agency that the person has established a trust fund or equivalent financial arrangement acceptable to CIWMB and will deposit annually into the fund or arrangement sufficient amounts to meet closure and postclosure maintenance costs, as specified. The owner or operator is required to submit to the Board, with the person's closure plan and postclosure maintenance plan, evidence of financial ability to provide for those costs in an amount equal to the estimated cost of clo-



sure and 15 years of postclosure maintenance in accordance with the plan. This bill increases from 15 to 30 the number of years for which an owner or operator must demonstrate financial ability for postclosure maintenance, upon the effective date of Subtitle D, and makes related changes for purposes of conforming with RCRA (see MAJOR PROJECTS). This bill was signed by the Governor on October 11 (Chapter 1169, Statutes of 1993).

AB 1827 (Sher). RCRA regulates, among other things, the design and operation of solid waste landfills, and the California Integrated Waste Management Act of 1989 is, among other things, intended to implement and enforce RCRA. The state Act requires any person owning or operating a solid waste landfill, when applying to become an operator, to certify to CIWMB and the local enforcement agency that the person has established a trust fund or equivalent financial arrangement acceptable to the Board and will deposit annually into the fund or arrangement sufficient amounts to meet closure and postclosure maintenance costs, as specified, and prescribes related matters. The owner or operator is required to submit to the Board, with the person's closure plan and postclosure maintenance plan, evidence of financial ability to provide for those costs in an amount equal to the estimated cost of closure and 15 years of postclosure maintenance in accordance with the plan. As amended June 18, this bill increases from 15 to 30 the number of years for which an owner or operator must demonstrate financial ability for postclosure maintenance, and makes related changes for purposes of conforming with RCRA. This bill also prohibits, on and after the effective date of Subtitle D (see MAJOR PROJECTS), the open burning of solid waste at any solid waste facility, except for the infrequent burning of agricultural wastes, silvicultural wastes, landclearing debris, diseased trees, or debris from emergency cleanup operations. The bill also declares that it is to take effect immediately as an urgency statute. This bill was signed by the Governor on July 30 (Chapter 289, Statutes of 1993).

AB 1220 (Eastin), as amended September 2, implements recommendations made in a joint report by CIWMB and WRCB to eliminate areas of regulatory overlap, duplication, and conflict. [13:2&3 CRLR 163] Specifically, the bill enacts the Solid Waste Disposal Regulatory Reform Act of 1993, which makes a statement of legislative intent and requires CIWMB and WRCB to develop an implementation plan by July 1, 1994, to implement the bill and to adopt emergency

regulations for implementation of the bill. This bill also prohibits CIWMB's regulations from including aspects of solid waste handling or disposal which are solely within the jurisdiction of the state Air Resources Board, WRCB, or a California regional water quality control board (RWQCB), and provides that, if an owner or operator of a solid waste landfill is in compliance with certain air pollution requirements, the owner or operator is deemed to be in compliance with CIWMB's landfill gas migration regulations. The bill requires CIWMB and WRCB to develop, by January 1, 1994, a work plan for combining specified financial assurance requirements.

The bill deletes the requirement that CIWMB annually inspect each solid waste facility and instead requires the Board to inspect the types and numbers of facilities determined necessary by the Board. The bill requires CIWMB, in conjunction with an inspection conducted by the local enforcement agency, to conduct at least one inspection every 18 months of each solid waste landfill and transformation facility in the state. The bill revises the manner of review for closure plans and postclosure maintenance plans for solid waste landfills and deems a solid waste landfill owner or operator which meets the Board's closure and postclosure maintenance regulations to meet all state requirements for the adoption of a closure plan and postclosure maintenance plan. The bill requires CIWMB and WRCB to revise certain regulations, by June 30, 1994, to consolidate the closure and postclosure maintenance requirements of CIWMB and WRCB. The bill revises the Act's enforcement requirements with regard to the issuance of solid waste facilities permits, the inventory of solid waste facilities which violate state minimum standards, the referral of violations, and the taking of specified enforcement actions by CIWMB.

The bill decreases the quarterly fee for solid waste disposal to \$0.75 per ton of solid waste disposed of at each disposal site for the 1993-94 fiscal year, and requires, beginning October 1, 1993, each disposal facility to forward \$0.18 per ton of that fee to BOE and to apply the remaining \$0.57 toward specified purposes. For the 1994-95 fiscal year, the bill requires the fee for solid waste disposed of to be \$1.34 per ton, and, commencing with the 1995-96 fiscal year, requires the amount of the fee established by the Board to be an amount that would generate sufficient revenues, as specified, but in an amount not to exceed \$1.40 per ton. The bill requires CIWMB to expend the funds in the Integrated Waste Management Account, upon appropriation by the legislature, to

issue grants to local enforcement agencies to carry out solid waste landfill permit and inspection programs and to cities, counties, or other local agencies for specified purposes with regard to the disposal of hazardous waste at solid waste disposal sites. CIWMB is required, upon appropriation by the legislature, to allocate an amount of up to \$60,000 to the Department of Toxic Substances Control from the account for expenditure for the 1993-94 fiscal year to develop and maintain a database of HHW collection events, and requires CIWMB to annually allocate up to \$16,300 thereafter. The bill additionally authorizes the money in the account to be used for costs incurred by WRCB and its RWQCBs to regulate solid waste landfills and makes a declaration of legislative intent in that regard.

The Solid Waste Disposal Site Hazardous Reduction Act of 1989 requires operators of solid waste landfills to pay an annual fee to BOE, for deposit in the Solid Waste Disposal Site Clean-up and Maintenance Account in the Integrated Waste Management Fund. The money in that account is available, upon appropriation by the legislature, for entering into loan guarantee agreements with owners and operators of solid waste landfills and making grants to cities, counties, or other local agencies for specified local programs and for an annual grant to WRCB to assist in solid waste landfill permit and inspection programs, including for the taking of emergency corrective action. This bill repeals that Act, thereby abolishing that account, and requires CIWMB to offset the amount of the quarterly fee deposited in the Integrated Waste Management Account by the amount of funds appropriated by the legislature in the Budget Act of 1993 from the abolished Solid Waste Disposal Site Clean-up and Maintenance Account. The bill requires any funds remaining in the abolished Solid Waste Disposal Site Clean-up and Maintenance Account to be transferred to the Integrated Waste Management Account in the Integrated Waste Management Fund.

The Solid Waste Disposal Site Clean-up and Maintenance Fee Law specifies procedures for the collection of the fees imposed upon the disposal of solid waste. This bill renames the law the Integrated Waste Management Fee Law and makes revisions to that law with regard to the repeal of the annual solid waste disposal fee, as specified above.

The bill amends the Budget Act of 1993 to revise amounts appropriated for support of CIWMB; the bill requires the Board to expend \$5.750 million from specified appropriations for a specified



program for source reduction, public education, and market development programs. The bill also appropriates \$75,000 to CIWMB from the California Used Oil Recycling Fund for expenditure during the 1993-94 fiscal year for the purpose of implementing a pilot program for funding claims submitted by state agencies for providing price preferences for the purchase of recycled products. This bill was signed by the Governor on October 1 (Chapter 656, Statutes of 1993).

AB 1769 (Margolin). Existing law requires CIWMB to conduct a study regarding the recycling and disposal of household batteries. As amended August 30, this bill repeals those provisions and prohibits, on and after January 1, 1995, the sale or offering for sale of any rechargeable consumer product, as defined, unless the product meets specified requirements relating to labeling of the rechargeable battery, battery pack, or product, and removal of the battery or battery pack. The bill authorizes the manufacturer or a manufacturer trade organization to apply to CIWMB for, and CIWMB to grant, a two-year exemption or extension of the exemption. The bill prohibits any political subdivision of the state from enacting or enforcing a nonidentical environmental labeling requirement. This bill was signed by the Governor on October 3 (Chapter 816, Statutes of 1993).

SB 1091 (Killea). Existing law requires operators and owners of hazardous waste facilities to obtain a hazardous waste facilities permit or grant of authorization from the Department of Toxic Substances Control and exempts from these requirements a HHW collection facility operated by a public agency, or by any person under an agreement with a public agency, if the facility accepts only certain materials which are transported to and managed at the facility in a specified manner and in specified amounts. Existing law requires the Department to allow any city, county, or district which operates a HHW program, or any person operating a HHW collection program under an agreement with a public agency, to allow small quantity commercial sources which comply with specified criteria to participate in the program. Existing law requires any person transporting hazardous waste to have in his/her possession a manifest, as specified, and exempts persons transporting latex paint, antifreeze, small batteries, spent lead-acid batteries, or used oil to a HHW collection facility in a prescribed manner from that manifest requirement. Existing law imposes specified fees upon persons applying for various permits to manage hazardous waste and exempts

from these fees variances issued to a local government agency to transport wastes for purposes of operating a HHW facility or from a household hazardous waste facility receiving hazardous waste from small quantity commercial sources. Under existing law, a violation of any provision regulating hazardous waste is a crime.

As amended August 30, this bill revises and recasts the provisions regulating HHW; makes a statement of legislative intent, defines terms, and requires a public agency, or its contractor, that intends to operate a HHW collection facility, to submit specified information to the Department; authorizes the Department to allow any HHW collection facility to accept hazardous waste from conditionally exempt small quantity generators (CESQGs) and authorizes a public agency, or its contractor, that accepts hazardous waste from CESQGs to charge CESQGs a fee for the cost incurred in handling their hazardous waste; authorizes the Department to adopt and revise regulations for HHW collection facilities; exempts a person transporting HHW and a CESQG transporting hazardous waste to an authorized HHW collection facility from the requirements of registration as a hazardous waste transporter and possession of a manifest, if specified requirements are met, and imposes specified requirements upon the transportation of hazardous waste to a HHW collection facility and the operation of curbside and door-to-door HHW collection programs and HHW residential pickup services; and exempts from specified fees the hazardous waste generated or disposed of by the operator of a HHW collection facility, and additionally exempts from those fees the operation of such a facility. Additionally, the bill requires a hazardous waste facilities permit to be obtained for the operation of a HHW collection facility, except as specified, and requires the public agency, or its contractor, operating a HHW collection facility to submit a specified form to the Department on or before October 1 of each year. This bill was signed by the Governor on October 7 (Chapter 913, Statutes of 1993).

AB 2038 (Sher). Under existing law, both the Department of Conservation and CIWMB have responsibilities with regard to recycling programs. As amended August 17, this bill would have required CIWMB and the Department, by July 1, 1994, to prepare, adopt, and submit to the Governor and the legislature a memorandum of understanding including prescribed information related to improving coordination and implementation of recycling programs which the two agencies are responsible for administering, and

would have prescribed other related matters. This bill was vetoed by the Governor on October 9.

AB 2107 (Sher), as amended September 9, would have required designated regulatory agencies, including CIWMB, to each establish, by March 1, 1994, a program containing prescribed elements to provide for the expedited review of permits issued by that agency in order to reduce unnecessary delay in the issuance of those permits and to protect public health and safety and the environment. The bill also would have required, to the extent existing fiscal resources are available, each regulatory agency to prepare and submit to the Governor and the legislature, as soon as possible, a report that describes the status of the agency's implementation of the program. The bill would have created the Small Business Environmental Regulatory Assistance Center in the Department of Commerce to serve as a "one stop shop" and clearinghouse for information and assistance on environmental regulatory programs affecting small business, and would have prescribed the duties of the Center. This bill was vetoed by the Governor on October 10.

SB 919 (Dills). The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare an environmental impact report (EIR) on any project which it proposes to carry out or approve that may have a significant effect on the environment, with specified exemptions. As amended September 9, this bill provides that, in certain cases, an EIR is not required for specified activities relating to an existing facility. The bill requires an EIR to be prepared if there is substantial evidence in light of the whole record before the agency that the project may have a significant effect on the environment, and would prescribe related matters.

CEQA prohibits a public agency from carrying out or approving a project for which an EIR has been completed which identifies one or more significant effects on the environment unless the agency makes one or more of specified findings, which may include a finding that specific economic, social, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR. This bill includes legal and technological considerations and provides that those considerations include considerations for the provision of employment opportunities for highly trained workers.

CEQA requires the lead agency to determine whether a project may have a significant effect on the environment based



on substantial evidence in the record, and requires a court, in an action or proceeding challenging an action of a public agency on the grounds of noncompliance with the Act, to determine whether the action of the agency is supported by substantial evidence in light of the whole record. State guidelines adopted by the Secretary of the Resources Agency to implement CEQA require the preparation of an EIR if it can be fairly argued on the basis of substantial evidence that the proposed project may have a significant effect on the environment. This bill requires the lead agency to make its determination based on substantial evidence in light of the whole record, as specified.

The bill requires the court to make a specified finding before issuing an order requiring a public agency or real party in interest to suspend activity relating to a project in an action or proceeding under CEQA. The bill prohibits the bringing of an action or proceeding under CEQA unless the alleged grounds for noncompliance with CEQA were presented to the public agency, and unless the person bringing the action or proceeding objected during the public comment period, or prior to the close of the public hearing on the project.

Existing law prohibits a lead agency under CEQA, in establishing criteria for the completeness of an application for a development project, from requiring the informational equivalent of an EIR as a prerequisite for completeness of the application. This bill also applies that prohibition to a responsible agency, and prohibits the lead or responsible agency from otherwise requiring proof of compliance with CEQA as such a prerequisite.

The bill requires certain state agencies, including CIWMB, to perform an environmental analysis containing specified information at the time of adopting a specified rule or regulation, or performance standard, or treatment requirement. This bill was signed by the Governor on October 10 (Chapter 1131, Statutes of 1993).

AB 337 (Statham). The California Integrated Waste Management Act of 1989 requires, among other things, any person owning or operating a solid waste landfill to certify to CIWMB that the owner or operator has prepared an initial estimate of closure and postclosure maintenance costs, has established a trust fund or equivalent financial arrangement acceptable to the Board, and will deposit annually in the trust fund or equivalent financial arrangement amounts that will ensure adequate resources for the closure and postclosure maintenance of the landfill. As amended September 7, this bill provides that, if the

owner or operator is a county with a population of 200,000 or less, as determined by the 1990 decennial census, the county shall not be required to make annual deposits in excess of the amount required by federal law or by any Board-approved formula which meets the requirements of federal law. The bill requires CIWMB to adopt regulations that provide for an increase in the initial cost estimate, as prescribed.

The bill also authorizes, if not in conflict with federal law or regulations, a county or city, with regard to a solid waste landfill owned or operated by the county or city, to base its estimate of closure and postclosure maintenance costs on the costs of employing county or city employees or persons under contract with the county or city in performing closure and postclosure maintenance. The bill authorizes the county or city to employ its employees or persons under contract in the actual performance of closure and postclosure maintenance operations, to effect cost savings, even if, to meet federal requirements, the cost estimate is based on the most expensive costs of closure and postclosure maintenance performed by a third party.

The bill requires CIWMB, on or before January 1, 1995, to conduct and complete a study on Class III landfill closure and postclosure maintenance in counties with a population of 200,000 or less, as determined by the 1990 decennial census, and report the results of the study to the legislature. This bill was signed by the Governor on October 7 (Chapter 922, Statutes of 1993).

AB 1569 (Harvey), as amended May 6, requires CIWMB, by March 1, 1994, to review and revise its regulations to make its closure and postclosure maintenance and owner/operator financial responsibility regulations consistent with the financial assurance criteria specified in Subtitle D (*see* MAJOR PROJECTS). The bill also requires CIWMB to minimize the cost of compliance with those regulations with regard to public solid waste landfills, as specified. This bill was signed by the Governor on September 7 (Chapter 360, Statutes of 1993).

AB 712 (Sher). The California Oil Recycling Enhancement Act requires CIWMB to adopt a recycling program that promotes and develops alternatives to the illegal disposal of used oil. The Act requires the Board to establish reporting periods for the reporting of accumulated industrial and lubricating oil sales and used oil recycling rates, and requires the Board to issue a report on its determinations within 70 days of the end of each reporting period. As amended September 7, this bill

instead requires CIWMB to issue the report on its determinations within 120 days of the end of each reporting period.

The Act requires every oil manufacturer, as defined, to pay quarterly \$0.04 to CIWMB for each quart, or \$0.16 for each gallon, of lubricating oil sold or transferred in this state or imported into this state for use in the state in that quarter, unless exempt as specified, and prescribes civil and criminal penalties for violations of the Act. The Act requires the revenues of the payments and specified penalties and fines to be deposited in the California Used Oil Recycling Fund. The Act requires excess amounts in the Fund to be transferred to the Used Oil Market and Collection Promotion Account, to be available, upon appropriation by the legislature, to CIWMB for the used oil recycling program. This bill deletes the provisions creating the account and, after all required expenditures have been made, makes the balance remaining in the fund available to CIWMB for specified purposes.

This bill makes it a misdemeanor to make a false claim of exemption, as specified, punishable as prescribed. This bill was signed by the Governor on October 1 (Chapter 675, Statutes of 1993).

AB 1107 (Cortese). The California Integrated Waste Management Act of 1989 requires each county to prepare and submit to CIWMB a CoIWMP consisting of specified county and city elements. The Act requires the plan or any plan amendment to be approved by the county and a majority of cities within the county, as specified, except the SRR element. As introduced March 2, this bill also excepts from that approval process the HHW element and the nondisposal facility element. This bill was signed by the Governor on July 19 (Chapter 146, Statutes of 1993).

AB 54 (Sher), as amended August 27, requires the Board to include in its annual report information on its progress in developing model programs and materials to assist rural counties and cities in complying with specified requirements of AB 939, and recommendations for providing technical assistance to rural counties and cities. AB 54 also amends AB 939's provision requiring a CoIWMP and any plan amendment to be approved by the counties and by the cities within the counties, as specified, with the exception of the SRR element. This bill also excepts from that approval the HHW element and the nondisposal facility element. This bill was signed by the Governor on October 1 (Chapter 663, Statutes of 1993).

AB 1405 (Morrow). The California Integrated Waste Management Act of



1989 authorizes CIWMB to grant a one-year extension from AB 939's waste diversion requirements to any city or county if specified conditions are met. As amended April 19, this bill also authorizes CIWMB to grant an extension from the diversion requirements to a city that was incorporated after January 1, 1990, if specified conditions are met. This bill was signed by the Governor on July 26 (Chapter 183, Statutes of 1993).

AB 1751 (Solis), as amended July 8, would have prohibited the Los Angeles County LEA from revising the solid waste facilities permit for the La Puente Hills Landfill in Los Angeles County to allow expansion of the landfill if the expanded landfill would be located within 2,000 feet of property that is used for either single- or multiple-family residences, or for a hospital, school, child care facility, or retail business. This bill was vetoed by the Governor on October 8.

AB 1909 (O'Connell). The California Integrated Waste Management Act of 1989 authorizes CIWMB to assist local agencies in the development of markets for postconsumer waste materials by, among other things, making low-interest loans to local agencies for the purpose of developing markets for postconsumer waste material. As amended August 16, this bill repeals and recasts those provisions of law, and requires the Board, using existing resources, to develop a comprehensive market development plan that would stimulate market demand within the state for postconsumer waste material and secondary waste material. Until July 1, 1997, the bill provides for the designation of recycling market development zones, provides for a loan program, creates in the Integrated Waste Management Account a Recycling Market Development Revolving Loan Subaccount, and prescribes related matters. The bill requires the Board to report on its loan program and on its progress in developing and implementing the market development plan to the legislature on or before March 31, 1996.

The bill also authorizes CIWMB to sell loans made pursuant to the Act, with a specified exception, on the secondary market, and to pool its loans, as specified. The bill also limits the use of the proceeds resulting from the sale of the loans. This bill was signed by the Governor on October 2 (Chapter 733, Statutes of 1993).

AB 2136 (Eastin), as amended September 8, requires the Board to initiate a program on January 1, 1994 for the clean-up of solid waste disposal sites and solid waste at codisposal sites, as defined, where the responsible party either cannot

be identified or is unable or unwilling to pay for timely remediation, and where clean-up is needed to protect public health and safety and the environment. The bill requires the Board, in prioritizing sites for clean-up, to consider, among other things, the degree of risk posed to the public health and safety and the environment, the solvency of the owner of the site, and the ability of the Board to adequately clean up the site with available funds. The bill requires the Board, on or before March 31, 1995, and annually thereafter, in conjunction with the annual report required by the Act, to report to the Governor and the legislature on the program, and prescribes the contents of the report. The bill requires the Board to seek repayment of the funds expended pursuant to these provisions from the responsible parties.

The bill creates the Solid Waste Disposal Site Clean-up Trust Fund in the state treasury, and continuously appropriates the money in the Fund to CIWMB for purposes of carrying out the program. The bill limits, during the 1994-95 fiscal year and each fiscal year thereafter, to \$5 million the amount that may be expended by the Board from the Trust Fund. This bill was signed by the Governor on October 1 (Chapter 655, Statutes of 1993).

AJR 32 (Bornstein), as amended August 26, urges that the federal definition of solid waste facilities for purposes of tax treatment be modified to allow facilities utilizing recovered materials to be eligible for tax-exempt financing. This resolution was chaptered on September 3 (Chapter 80, Resolutions of 1993).

SB 744 (McCorquodale). Under the California Tire Recycling Act, within the California Integrated Waste Management Act of 1989, every person who leaves tires for disposal with a seller of new or used tires is required to pay a disposal fee, which is deposited in the California Tire Recycling Management Fund in the State Treasury. CIWMB is authorized to expend the money in the fund, upon appropriation in the annual Budget Act, for specified purposes concerning tire recycling and the disposal of used tires.

As amended August 19, this bill additionally authorizes CIWMB to expend the money in the fund, upon appropriation, to carry out a waste tire hauler registration program which this bill enacts; requires every person who engages in the transportation of waste tires on and after January 1, 1995, to hold a valid waste tire hauler registration, except as specified, and requires any person engaged in the transportation of waste tires on and after January 1, 1995, to follow specified requirements; specifies the information to be included in

the application for waste tire hauler registration and the application for renewal of registration; specifies grounds for the denial, suspension, or revocation of registration; requires CIWMB to develop a waste tire manifest system for registered waste tire haulers and requires the manifest to be maintained by all parties for three years; makes a statement of legislative intent regarding the need for a uniform statewide program for the regulation of waste tire haulers, and specifies that its provisions preempt any local laws regulating the transportation of waste tires; makes any person who violates the bill's requirements liable for a civil penalty of up to \$10,000; provides for administratively imposed civil penalties, as specified; and authorizes CIWMB to adopt regulations necessary to carry out the bill's requirements. This bill was signed by the Governor on September 26 (Chapter 511, Statutes of 1993).

SB 466 (Boatwright). The California Integrated Waste Management Act of 1989 requires, except as specified, on and after January 1, 1995, every rigid plastic packaging container, as defined, which is sold or offered for sale in the state to meet on average at least one of five specified criteria (*see* MAJOR PROJECTS). As amended September 8, this bill exempts, until January 1, 1996, RPPCs which are manufactured for use in the shipment of hazardous materials from those requirements, and requires CIWMB to make a specified report relating to related federal regulations by January 1, 1995. The bill also exempts, until January 1, 1997, RPPCs which are manufactured for use with food or cosmetics from meeting those criteria, and imposes specified requirements on manufacturers of products packaged in those exempt RPPCs and on trade associations representing resin manufacturers. This bill was signed by the Governor on October 10 (Chapter 1062, Statutes of 1993).

SB 951 (Hart). The California Integrated Waste Management Act of 1989 requires each person who sells trash bags to a retailer, distributor, commercial or industrial user, or governmental entity, to ensure that a specified percentage of the material used in trash bags is recycled postconsumer material, and requires each such seller, on and after March 1, 1994, and annually thereafter, to certify to CIWMB that it has complied with those requirements. The Act requires CIWMB, if any seller of trash bags or recycled postconsumer material provides the Board with a false or misleading certificate of compliance with those requirements, within 30 days of making that determina-



tion, to refer the false or misleading certificate to the Attorney General for prosecution for fraud. The Act provides that specific information on material prices included in that certification is proprietary, and prohibits CIWMB from making that information available to the general public.

As amended July 1, this bill repeals those provisions and enacts similar provisions with regard to plastic trash bags, as defined, instead requiring a manufacturer to ensure those percentages of postconsumer material; defines a manufacturer as a person who manufactures plastic trash bags for sale in this state and a "wholesaler" as any person who purchases plastic trash bags from a manufacturer for resale in the state; requires each manufacturer, on or before March 1, 1994, and annually thereafter, to submit a report to CIWMB certifying that it has complied with the requirements to use the specified percentages of recycled plastic postconsumer material; requires each wholesaler, on or before March 1, 1994, and annually thereafter, to certify to CIWMB the name and physical location of each manufacturer from whom it purchased plastic trash bags; requires each manufacturer to obtain from its suppliers of recycled plastic postconsumer material for use in the manufacture of plastic trash bags a statement regarding the postconsumer material content and requires the manufacturer to annually certify the name and physical location of the suppliers and report specified information obtained from the suppliers regarding those supplies; and does not reenact the provisions prohibiting the disclosure of proprietary material price information. The bill requires CIWMB to refer any false or misleading information provided by a supplier or any false or misleading certification or information provided by a manufacturer or wholesaler to the Attorney General for prosecution for fraud.

The Act requires every rigid plastic container, as defined, that is sold or offered for sale in the state to meet specified criteria, commencing on January 1, 1995 (see MAJOR PROJECTS). This bill requires CIWMB to grant a one-year waiver from those criteria requirements for RPPCs that are introduced and sold in this state after January 1, 1995. The bill makes clarifying changes to those provisions and revises, for purposes of those provisions, the definition of "source reduced container." The bill also defines "curbside collection program" for those purposes. This bill was signed by the Governor on October 10 (Chapter 1076, Statutes of 1993).

AB 457 (Areias). AB 939 required CIWMB to prepare and adopt certification regulations for local enforcement agencies by August 1, 1991. As amended July 1, this bill deletes that deadline and requires CIWMB to adopt specified regulations regarding staff resources for a "specified enforcement agency," which is defined to mean a local enforcement agency which has a population of less than 50,000 persons. This bill was signed by the Governor on October 1 (Chapter 665, Statutes of 1993).

AB 11 (Eastin). The State Assistance for Recycling (STAR) Markets Act of 1989 requires government agencies to give purchasing preference to recycled products. Existing law also requires the legislature to give purchasing preference to recycled products. As amended September 7, this bill requires a state agency or contractor supplying materials, goods, or services to the state and the legislature, if a recycled product, as defined, costs more than the same product made with virgin material, to purchase fewer of those more costly products, if feasible, or to apply cost savings, if any, gained from buying other recycled products towards the purchase of those more costly products.

The Act requires the Department of General Services to give a preference to suppliers of recycled paper products, as defined, of up to 5% of the lowest bid or price quoted by suppliers offering non-recycled paper products. Existing law requires the legislature to give a purchasing preference if the recycled product meets all applicable standards and can be substituted for a comparable nonrecycled product. The Act and existing law require that, by January 1, 1992, at least 35%, and by January 1, 1994, at least 40% of the total dollar amount of paper products purchased or procured by the Department and the legislature be purchased as recycled paper product. This bill instead requires the Department to set goals for purchases made by state agencies which require that, by January 1, 1994, at least 40%, and by January 1, 1996, at least 50% of the total dollar amount of paper products purchased or procured by the Department be purchased as recycled paper product and makes a related statement of legislative intent. The bill also requires that, by January 1, 1994, at least 15%, and by January 1, 1996, at least 25% of the total purchased or procured fine writing and printing paper be a recycled paper product. The bill requires that, by January 1, 1995, at least 40%, and by January 1, 1997, at least 50% of the total dollar amount of paper products purchased or procured by the legisla-

ture be purchased as recycled paper product. The bill also requires that by January 1, 1995, at least 15%, and by January 1, 1997, at least 25% of the total fine writing and printing paper purchased or procured by the legislature be a recycled paper product. The bill requires all state agencies to give a purchase preference, not to exceed 10% for recycled paper products, if the product's fitness, quality, availability, and price meet specified requirements. The legislature, the Department, and state agencies are also required to give special consideration to purchasing certain products.

The Act requires procuring agencies, when purchasing materials, goods, or supplies, to give a purchasing preference to recycled products, including specified paving materials, when specified conditions are met. Existing law requires that at least 10% of those purchases be of recycled products by January 1, 1991, 20% by January 1, 1993, and 40% by January 1, 1995. This bill applies those provisions to all state agencies, deletes the inclusion of those paving materials, and requires the Department to set goals for purchases made by state agencies which are at least 20% by January 1, 1996, 30% by January 1, 1998, and 50% by January 1, 2000, if feasible.

The Act requires procuring agencies to require contractors to certify the recycled content of materials, goods, or supplies. This bill authorizes the Department, in consultation with CIWMB, to establish recycled-content disclosure, recycled product-only bids, if feasible, and cooperative purchasing arrangements, and to conduct an avoided-cost analysis to assist in meeting recycled product preference and purchasing requirements.

The bill requires CIWMB to implement a pilot program, if adequate funds are available, from January 1, 1994, to January 1, 1997, for funding claims submitted by state agencies for providing the price preferences required by the bill. This bill was signed by the Governor on October 9 (Chapter 960, Statutes of 1993).

AB 173 (V. Brown), as amended August 30, would limit the amount of salary paid to the chair and each member of CIWMB on or after July 1, 1994, to an amount no greater than the annual salary of members of the legislature, excluding the Speaker of the Assembly, President pro Tempore of the Senate, Assembly majority and minority floor leaders, and Senate majority and minority floor leaders. [*S. Inactive File*]

AB 315 (Hauser). The California Integrated Waste Management Act of 1989 requires, among other things, any person



owning or operating a solid waste landfill to certify to CIWMB that the owner or operator has prepared an initial estimate of closure and postclosure maintenance costs, has established a trust fund or equivalent financial arrangement acceptable to the Board, and will deposit annually in the trust fund or equivalent financial arrangement amounts that will ensure adequate resources for the closure and postclosure maintenance of the landfill. As amended August 19, this bill would provide, until January 1, 1997, that, if the owner or operator is a county with a population of 200,000 or less, as determined by the 1990 decennial census, the county shall not be required to make deposits in excess of the amount required in the 1992-93 fiscal year for a period of three years commencing July 1, 1993, if the county can demonstrate adequate financial assurances through other financial assurance mechanisms authorized by federal law. The bill would require CIWMB to adopt procedures for those counties, pursuant to which the county may utilize other financial assurance mechanisms authorized by federal law.

The bill would require CIWMB, on or before January 1, 1995, to complete a study on landfill closure and postclosure maintenance of landfills in counties with a population of 200,000 or less, as determined by the 1990 decennial census, and report the results of the study to the legislature. [A. Floor]

AB 608 (Areias). The California Integrated Waste Management Act of 1989 provides for the designation of recycling market development zones, and makes related legislative declarations and findings. As introduced February 23, this bill would revise those declarations and findings. [A. Inactive File]

AB 1783 (Bowen), as introduced March 4, would revise the assessments against oil manufacturers under the California Oil Recycling Enhancement Act. This bill would require every oil manufacturer, if the lubricating oil is recycled oil, to instead pay to the Board two cents for every quart, or eight cents for every gallon, of that oil sold or transferred in the state, or imported into the state for use in the state that quarter, except as specified. [A. W&M]

SB 924 (Calderon). The California Integrated Waste Management Act of 1989 defines the term "solid waste" for purposes of the Act to mean all putrescible and nonputrescible solid, semisolid, and liquid waste, with specified exceptions. As amended April 29, this bill would specifically include source separated material within the definition of solid waste. The

bill would define the term "source separated material" for purposes of the Act to mean material that is (1) separated at the point of generation from material that is destined for solid waste disposal, and (2) destined for repair, reuse, or recycling. [S. GO]

SB 1089 (Killea). Under existing law, the Division of Recycling is in the Department of Conservation. As amended May 27, this bill would transfer the Division of Recycling and its functions from the Department of Conservation to CIWMB, make related changes in the California Beverage Container Recycling and Litter Reduction Act, in provisions pertaining to plastic waste, in the Fiberglass Recycled Content Act of 1991, and in the California Integrated Waste Management Act of 1989, and prescribe related matters.

The California Integrated Waste Management Act of 1989 establishes the Board as a six-member body, appointed as specified, including two members who are appointed by the Governor to represent the public. The Act requires the chair to be elected by a majority of the Board members. This bill would, effective January 1, 1996, reduce the membership of the Board to five members by eliminating one of the positions appointed by the Governor to represent the public, and would instead require the Governor to appoint the chair of the Board. [S. Appr]

SB 1090 (Killea), as amended May 27, would exclude compost that meets state and federal product quality standards from the definition of "solid waste." [A. NatRes]

SB 1132 (Leslie). The California Integrated Waste Management Act of 1989 requires each SRR element to include an implementation schedule that shows how the local agency will meet AB 939's waste diversion requirements. The Act requires each plan and the elements thereof to be reviewed, revised, and, if necessary, submitted to the Board every five years. As introduced March 5, this bill would instead require the revision of the plan and its elements, if the local agency determines, based on its progress in meeting the diversion requirements, that such a revision is necessary. [A. NatRes]

SB 799 (Presley), as amended April 12, would authorize each state agency, regional agency, and local agency concerned with the solid waste facility planning and siting process to involve the public, as specified, and would revise related legislative findings and declarations. [A. W&M]

AB 1829 (Sher), as amended August 17, would require CIWMB to establish a comprehensive research and development program designed to achieve specified

goals regarding innovative resource management and waste reduction programs.

The California Integrated Waste Management Act of 1989 requires CIWMB and certified local enforcement agencies to perform specified functions with regard to the regulation of solid waste management, including with regard to the issuance and enforcement of solid waste facilities permits. This bill would require each proposed local enforcement agency, as part of the certification process, to submit a proposed inspection program, as specified, to the Board.

The Act provides that CIWMB may designate and certify a local enforcement agency within each county to carry out specified powers and duties. The Act requires the Board, if a local enforcement agency is not designated and certified, in addition to its other powers and duties, to be the enforcement agency within the county. The Act authorizes CIWMB, when acting as the enforcement agency, to charge reasonable fees to the local governing body to recover its costs, in addition to other specified fee authority. This bill would require CIWMB, if it is the enforcement agency and a local enforcement agency is then designated and certified by the Board, to continue to act as the enforcement agency for the remainder of the fiscal year unless otherwise specified by the Board. The bill would require CIWMB, when it is the enforcement agency, to charge reasonable fees, as determined by the Board, to recover its costs of operation. The bill would also require, if CIWMB is the enforcement agency, the Board and the local governing body, with the exception of the local governing body for Stanislaus County, to enter into a specified agreement. The bill would prescribe other related matters.

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

The bill would require that, by July 1, 1994, CIWMB prepare and submit to the legislature a plan for the review of solid waste facilities at least once every five years.

The bill would repeal and recast provisions of the Act allowing an applicant to



request a hearing if the enforcement agency denies a permit or if the applicant determines that the permit is inappropriate. The bill would revise provisions pertaining to the denial, suspension, or revocation of permits, and provide for a temporary permit suspension where changed conditions at the solid waste facility necessitate a permit modification. The bill would also revise and recast provisions pertaining to corrective action and cease and desist orders, provide for civil penalties and compliance orders, and specify enforcement procedures.

The Act defines "solid waste" as excluding hazardous waste. This bill would require CIWMB to regulate the disposal of waste containing asbestos at any waste management unit which is classified under specified regulations, unless the waste management unit is subject to a hazardous waste facilities permit issued by the Department of Toxic Substances Control. [S. Floor]

RECENT MEETINGS

At CIWMB's September 22 meeting, staff asked for direction regarding the interpretation of Health and Safety Code section 24384.5, which provides that on and after July 1, 1981, or one year after CIWMB determines that degradable plastic connectors are commercially available, whichever date occurs later, no beverage shall be sold or offered for sale at retail in this state in beverage containers connected to each other with plastic rings or similar plastic devices which are not classified by CIWMB as degradable, with specified exceptions. For the purposes of section 24384.5, the term "degradable" means all of the following: degradation by biologic processes, photodegradation, chemodegradation, or degradation by other natural degrading processes; degradation at a rate which is equal to, or greater than, the degradation by the above processes of other commercially available plastic devices; and degradation which, as determined by the Board, will not produce or result in a residue or byproduct which, during or after such process of degrading, would be a hazardous or extremely hazardous waste, as specified. Pursuant to section 24384.5, any person who sells at wholesale or distributes to a retailer for sale at retail in this state a beverage in containers which are connected to each other in violation of the provisions of this section is guilty of an infraction and shall be punished by a fine not exceeding \$1,000.

Staff noted that in 1981, the Board determined that one degradable plastic beverage connector was commercially

available in compliance with the provisions of section 24384.5; however, since that time, the Board has taken no further action to classify other connectors as degradable. In response to public inquiries, staff has indicated that once the Board made the determination that degradable connectors were commercially available, it had no further responsibility under this statute.

However, in April, staff was contacted by Planet Polymer Technologies, Inc. (PPTI), requesting information on the Board's protocol for classifying plastic beverage connectors as degradable; according to PPTI, it has developed a product that degrades at a faster rate than other plastic connectors which are now commercially available. Because of the claimed faster degradation rate, PPTI asserts that its product should now become the standard against which other products are compared in accordance with section 24384.5. Staff requested that the Board provide guidance regarding what further responsibilities CIWMB has under section 24384.5; the Board is expected to discuss this matter at a future meeting.

FUTURE MEETINGS

January 26-27 in San Bernardino.

February 23-24 in Monterey.

March 30 in Sacramento.

April 27-28 in Orange County.

DEPARTMENT OF PESTICIDE REGULATION

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

With the creation of Cal-EPA, all jurisdiction over pesticide regulation and registration was removed from CDFG and transferred to DPR. Pest eradication activities (including aerial malathion spraying, quarantines, and other methods of eliminating and/or preventing pest infestations) remain with CDFG. The important statutes which DPR is now responsible for implementing and administering include

the Birth Defect Prevention Act (FAC section 13121 *et seq.*), the Pesticide Contamination Prevention Act (section 13141 *et seq.*), and laws relating to pesticide residue monitoring (section 12501 *et seq.*), registration of economic poisons (section 12811 *et seq.*), assessments against pesticide registrants (section 12841 *et seq.*), pesticide labeling (section 12851 *et seq.*), worker safety (section 12980 *et seq.*), restricted materials (section 14001 *et seq.*), and qualified pesticide applicator certificates (section 14151 *et seq.*).

DPR includes the following branches:

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

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

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

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

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

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

Also included in DPR are the Pesticide