



Metropolitan Transportation Commission, et al., No. C89-2064-TEH, that while it failed to meet air quality standards for the San Francisco Bay Area as ordered, the Metropolitan Transportation Commission (MTC) could not be held in contempt of court. However, the court ordered MTC to demonstrate within 120 days the feasibility or infeasibility of additional transportation control measures (TCMs) for reducing emissions of carbon monoxide. (See CRLR Vol. 10, No. 4 (Fall 1990) pp. 144-45 and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 167 for extensive background information on this case.)

Under the 1982 Bay Area Air Quality Plan, MTC was required to implement a contingency plan if the San Francisco Bay Area had not made "reasonable further progress" toward the fulfillment of the National Ambient Air Quality Standards for carbon monoxide and ozone. In September 1989, the court ruled that the Bay Area had not made reasonable further progress in meeting ozone and carbon monoxide standards and that MTC had failed to implement a contingency plan. (*Citizens for a Better Environment v. Deukmejian*, 731 F. Supp. 1448 (N.D. Cal. 1990.) MTC was ordered to implement the contingency plan, and thereafter adopted sixteen additional transportation control measures. The plaintiff environmental groups contended that these additional measures did not sufficiently reduce the carbon monoxide and ozone emissions to bring the Bay Area in line with the 1982 Plan, and moved for a finding of contempt or for a summary judgment that MTC was in continuing violation of the contingency plan. MTC filed a cross-motion for partial summary judgment.

The court denied MTC's motion and granted plaintiffs' motions in part and denied in part. The court rejected MTC's argument that the 1990 amendments to the Clean Air Act relieved the Bay Area of compliance with the 1982 emission standards. The commitment to reasonable further progress contained in the 1982 plan would remain in force until replaced by a new EPA-approved plan, despite the fact that the 1987 deadline for compliance had long since passed. The court strongly rejected MTC's notion that a vacuum bereft of regulatory standards appeared after 1987. However, the court found that its 1989 order was insufficiently specific and definite to justify a civil contempt finding. Nor were available data regarding ozone levels and their relationship to TCMs sufficiently clear to justify a finding of non-compliance. But the record did support a finding that MTC had failed to com-

ply with carbon monoxide reduction standards in the transportation sector under the 1982 plan. The court directed MTC to demonstrate whether additional TCMs would be effective in meeting standards under the 1982 plan.

RECENT MEETINGS:

On August 27, the South Coast Air Quality Management District announced that Kingsford Products has developed low-polluting versions of its lighter fluid and fluid-soaked briquettes. The products meet new standards approved by the District in October 1990. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 118 for background information.) Shipment of the new lighter fluid to southern California stores began in September.

FUTURE MEETINGS:

April 9 in Sacramento.
April 30 in San Francisco.
May 14 in Sacramento.
May 28 in Sacramento.

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 repealed SB 5, thus abolishing CIWMB's predecessor, the California Waste Management Board (CWMB). (See CRLR Vol. 9, No. 4 (Fall 1989) pp. 110-11 for extensive background information.)

CIWMB reviews and issues permits for landfill disposal sites and oversees the operation of all existing landfill disposal sites. The Board is authorized to require counties and cities to prepare Countywide Integrated Waste Management Plans (CoIWMPs), upon which the Board will review, permit, inspect, and regulate 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).

The new 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 is chaired by Jesse Huff and includes Sam Egigian and Paul Relis. This 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 is chaired by Kathy Neal and includes Wes Chesbro and Michael Frost. This 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 chaired by Sam Egigian and includes Jesse Huff and Paul Relis. This 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 is chaired by Paul Relis and includes Kathy Neal and Sam Egigian. This Committee deals with the CoIWMPs and local waste reduction plans submitted by cities and counties, and helps cities and counties implement their plans.

The Administration Committee is chaired by Wes Chesbro and includes Jesse Huff and Michael Frost. This Committee is responsible for contracts entered into by the Board, and for issues that do not clearly belong to any other committee.

The Market Development Committee is chaired by Wes Chesbro and includes Jesse Huff and Paul Relis; this Committee is responsible for developing new markets for recycled materials.

The Board is operating on a \$58 million budget during fiscal year 1991-92, and employs a staff of approximately 250 in meeting the solid waste management needs of the state. The Board expects to add up to 70 new personnel after it completes the move to its new office this winter.

MAJOR PROJECTS:

Board Readopts Emergency Diversion/Planning Requirement Regulation. On November 26, the Office of Administrative Law (OAL) approved CIWMB's emergency re-adoption of section 18775, Title 14 of the CCR, concerning reductions in diversion requirements for those cities and counties for which it is not feasible to meet AB 939's mandated diversion and planning requirements due to population density,

small geographic size, and/or the small quantity of waste generated; CIWMB originally adopted the emergency regulation on July 29. (See CRLR Vol. 11, No. 4 (Fall 1991) pp. 158-59 for background information.) PRC section 41782 authorizes CIWMB to grant reductions in the diversion goals specified in PRC section 41780; however, the PRC does not adequately define all of the criteria needed for a jurisdiction to qualify, nor does it describe the procedure for petitioning the reductions in planning or diversion requirements.

On December 6, CIWMB published notice of its intent to permanently adopt section 18775, which would define additional qualifying criteria and the necessary procedure to petition the Board. This proposed regulation would require preparers of SRR elements who seek reductions in diversion or planning requirements to demonstrate the need for the reduction. CIWMB was scheduled to conduct a public hearing on this proposed regulation on February 4.

Countywide Siting Element Regulations. PRC section 41700 *et seq.* requires each county to prepare and submit a countywide siting element as part of its CoIWMP. The countywide siting element describes the methods and the criteria that a jurisdiction must use in the process of siting a new or expanding an existing solid waste facility. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 146 for background information.)

On December 6, CIWMB published notice of its intent to adopt sections 18755-18756.7, Title 14 of the CCR, to describe the required contents of the countywide siting element. The proposed regulations would require counties to identify existing and proposed solid waste management facilities and alternatives to either expanding existing facilities or constructing new facilities, and the criteria used in locating the preferred new facilities; identify the socioeconomic and environmental impacts; and assure that any expanded or new facilities are consistent with local general plans. At this writing, no public hearing is scheduled; CIWMB accepted comments on the proposal until January 24.

Waste Tire Storage/Disposal Regulations. PRC section 42800 *et seq.* requires the Board to develop regulations dealing with the storage, transport, and disposal of waste tires. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 146 for background information.) On December 30, CIWMB submitted proposed new sections 17225.701, 17225.705, 17225.715, 17225.735, 17350-17356, 18420-18435, 18440,

18441, 18443, 18445, 18447, 18448, 18470-18482, and 18485-18499, Title 14 of the CCR, to OAL for approval on an emergency basis. The proposed emergency regulations set forth standards for the storage and disposal of waste tires and the permit process for major and minor waste tire facilities. At this writing, OAL is reviewing the proposed emergency regulations.

Architect-Engineer Contract Regulations. At its October 30 meeting, CIWMB formally adopted sections 17020-17029, Article 2, Title 14 of the CCR, to guide its procurement of architectural, engineering, environmental, land surveying, and construction project management services. The regulations were promulgated pursuant to Government Code section 4525 *et seq.* and, among other things, describe the process regarding the Board's publication of its Request for Qualifications; set forth selection criteria which the Board must follow in selecting firms with which to contract; state the process to be followed in negotiating contracts and emergency contracts; and specify certain types of unlawful activities and conflicts of interest which are prohibited. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 159 for background information.) On December 22, OAL approved the regulations.

HHW Regulations. At its October 30 meeting, CIWMB formally adopted sections 18750-18751.88, Article 6.3, and sections 18762-18775, Article 7, Title 14 of the CCR, to assist local jurisdictions in preparing the required HHW element in their CoIWMPs. The regulations, mandated by AB 2707 (LaFollette) (Chapter 1406, Statutes of 1990), require HHW elements to identify programs for the safe collection, recycling, treatment, and disposal of hazardous wastes generated by households. In addition, the regulations address the diversion of HHW, funding for preparing and implementing the HHW element, and public HHW education. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 159 and Vol. 11, No. 3 (Summer 1991) p. 160 for background information.) CIWMB expected to submit the proposed regulations to OAL for approval by February.

Local Enforcement Agency Regulations. On December 17, OAL approved CIWMB's adoption of new sections 18070-18077 and 18080-18084; amendments to sections 18010, 18011, 18020, 18050, 18051, 18052, 18054, 18055, 18056, and 18060; and repeal of section 18053, Title 14 of the CCR, regarding certification criteria for local enforcement agencies (LEAs).



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CIWMB originally submitted the regulations to OAL in early September; however, OAL disapproved that regulatory package on September 30, due to CIWMB's inadequate summary of and response to public comment. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 159 and Vol. 11, No. 3 (Summer 1991) pp. 160-61 for background information.)

In addition to approving the regulations, OAL also granted CIWMB's request to waive the usual 30-day waiting period, which enabled the regulations to go into effect on December 17 rather than January 16. Because PRC section 43200 requires LEAs to be certified by August 1, 1992, CIWMB wants to provide LEAs with as much time as possible to comply with the regulations which, among other things, describe the procedure for applying for LEA certification; state minimum components of an LEA's enforcement program plan; and prescribe LEA performance standards, evaluation criteria, duties, and responsibilities.

Financial Responsibility Regulations. At its December 11 meeting, CIWMB formally adopted new sections 18230-18244, Title 14 of the CCR, requiring operators of solid waste disposal facilities to provide assurance of adequate financial ability to respond to personal injury claims and public or private damage claims resulting from the operations of such facilities which occur before closure. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 159; Vol. 11, No. 3 (Summer 1991) p. 160; and Vol. 11, No. 2 (Spring 1991) p. 146 for background information.) CIWMB expected to adopt the regulations earlier in the year, but the incorporation of a series of amendments made in response to public comments postponed such action. The most recent amendments provide for an additional financial assurance mechanism which combines comprehensive general liability coverage with an environmental liability trust fund built up over a maximum of five years. This amendment was included primarily to assist small facilities, otherwise unable to procure environmental liability coverage, in meeting the financial responsibility requirements. CIWMB expected to submit the regulations to OAL for approval in early January.

Recycled-Content Newsprint Regulations. At its October 30 meeting, CIWMB formally adopted new sections 17950-17968, Article 1, Title 14 of the CCR, which define terms and reporting requirements, and establish a system of fines and penalties with respect to PRC sections 42750-42791. These statutes require all consumers of newsprint to

ensure (and so report to the Board) that by January 1994, at least 30% of all newsprint used is made from recycled-content newsprint. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 160 and Vol. 11, No. 3 (Summer 1991) p. 161 for background information.) CIWMB was concerned with the timely adoption of these regulations, as the first newsprint consumer certifications—which will be based on the information required by the regulations—are due to the Board by March 1. At this writing, OAL is reviewing the rulemaking file on this proposal.

Workshops. On December 3 and 5, CIWMB conducted workshops regarding its Recycling Market Development Zone program. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 160 and Vol. 11, No. 3 (Summer 1991) p. 160 for background information.) Board staff provided prospective applicants with information on how to prepare applications for the first eight zones to be selected. CIWMB will work within those zones to stimulate the market for recycled materials. In addition, CIWMB held a workshop in December 17 on composting regulations. Members of the public spoke regarding issues related to the regulation of solid waste composting.

Permits. The Board has approved eight solid waste facilities permits (SWFP) since its September meeting. At its October 30 meeting, the Board approved the issuance of SWFPs for the Pine Grove Transfer Station in Amador County and the Santa Rosa Geothermal Company Solid Disposal Facility in Sonoma County; the Board also approved the issuance of a revised SWFP for Guadalupe Disposal Site in Santa Clara County. At its November 20 meeting, CIWMB approved the issuance of a new SWFP for Anderson Solid Waste, Inc., in Shasta County, and approved a revised SWFP for Elsinore Sanitary Landfill in Riverside County. At its December 11 meeting, CIWMB approved the issuance of a revised SWFP for Newport Beach Transfer Station in Orange County, and new SWFPs for Richard Avenue Recycling Facility in Santa Clara County and Bertolotti Transfer Station in Stanislaus County.

CIWMB Reviews Facilities Evaluation Reports. PRC section 43219(b) requires that, in addition to inspections conducted by local enforcement agencies (LEA), the Board shall conduct at least one annual inspection of each solid waste facility in the state. Section 43219 also states that if the Board identifies significant violations of state minimum requirements that were not identified and resolved through previous inspec-

tions by an LEA, the Board shall conduct a performance review of the LEA within 120 days, issue a written performance report within 60 days of the review, and require the submission of a plan of correction by the LEA within 90 days of the report. These steps are intended to ensure that LEAs satisfactorily perform their duties, including properly addressing the special limitations placed on older permits (those prepared prior to 1988). (See CRLR Vol. 11, No. 4 (Fall 1991) p. 160; Vol. 11, No. 1 (Winter 1991) p. 121; and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 170-71 for background information.)

From October through December, CIWMB reviewed facilities evaluation reports for the LEAs of Tehama, Napa, Sonoma, and Sacramento counties. Although the Board called the LEAs' performance "generally acceptable," it decided to initiate a performance review of the Sacramento LEA because four facilities in that jurisdiction fail to meet state minimum standards. Further, CIWMB will notify the four facilities that it intends to list them on its Inventory of Solid Waste Facilities Which Violate State Minimum Standards; if the facilities do not correct all violations within 90 days of CIWMB's notice of intent, they will be included in the Inventory.

CIWMB to Participate in RCRA Trial Approval Program. On September 11, the U.S. Environmental Protection Agency (EPA) finalized its regulations for solid waste landfills in accordance with the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act (RCRA). The federal regulations include very specific requirements relating to, among other things, landfill location restrictions, design criteria, operational criteria, control of landfill gases, groundwater monitoring and control, and closure and postclosure maintenance. In the near future, EPA is expected to promulgate a proposed companion rule which will specify the requirements which states must meet in order to have their programs approved by EPA. If a state's program is approved, that state will be entitled to flexibility in the application of the new federal requirements. However, if a state's plan is not approved, that state must implement the federal requirements in strict compliance with the regulations as published in the *Federal Register*. Because the federal requirements are very technical, most state boards, including CIWMB, would prefer to be entitled to a flexible implementation of the requirements.



At CIWMB's October 30 meeting, staff reported that the EPA has invited the Board to participate in the "Trial Approval Program." The purpose of the Program is to work with participating states (there are currently five) to evaluate EPA's proposed technical compatibility criteria used to determine if state programs will be accepted. CIWMB staff are working with EPA Region 9 staff to develop the "compatibility criteria" and better understand the flexibility each EPA regional office will have in evaluating and approving state programs. CIWMB believes that it was chosen because California's landfill regulations are thorough and modern.

LEGISLATION:

SB 610 (Calderon). Under existing law, evidence of financial ability submitted to CIWMB with closure and postclosure maintenance plans is required to be in a specified form. As amended July 8, this bill would specify the permitted forms for these documents, and require that when financial assurance is provided by means of excess or surplus lines insurance, the insurer meets specified requirements. This two-year bill is pending in the Assembly Natural Resources Committee.

AB 2213 (Sher), as amended June 17, would require CIWMB to establish and assess at the first point of sale a recycling incentive fee for any material which has a scrap value less than the sum of (1) the average weighted cost to recyclers and processors of receiving, collecting, handling, processing, storing, transporting, and maintaining equipment for each type of material sold, and (2) a reasonable financial return for recyclers and processors; the bill would require the fee to be at least equal to the difference between the scrap value paid by an end user and the sum of the above. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 148 for background information on this issue.) This two-year bill is pending in the Assembly Ways and Means Committee.

AB 905 (Clute) would specify that nothing shall restrict the right to use any solid waste material found at any site to identify persons unlawfully disposing of solid waste. This two-year bill is pending in the Assembly Natural Resources Committee.

AB 2092 (Sher), as amended September 11, would extend the date by when the SRR element of a CoIWMP is required to be prepared and adopted to January 1, 1992. This bill would also extend the date by when city and county HHW elements are required to be prepared to January 1, 1992, and would

specify related duties if the city or county determines that it is unable to comply with the deadline and requirements of the California Environmental Quality Act. This two-year bill is pending in the Senate inactive file.

AB 2211 (Sher) would repeal the provisions of law which establish the State Source Reduction Program, the Recycled Market Development Commission, the Office Paper Recovery Program, the Los Angeles County Pilot Litter Program, and the Research and Development Program; and require CIWMB, to the extent of available resources, to provide technical assistance to the public and private sector in the form of government and business waste evaluations, if requested. This two-year bill is pending in the Assembly Natural Resources Committee.

AB 556 (Horcher) would require CIWMB to report to the legislature as to whether there are any landfills operating in the state which accept ash from a transformation facility in a manner which is not consistent with their solid waste facilities permit. This two-year bill is pending in the Assembly Natural Resources Committee.

AB 1388 (Horcher), as amended July 14, would, with respect to the Puente Hills Landfill in Los Angeles County only, prohibit an LEA from approving a revision of a solid waste facilities permit for the expansion of an existing solid waste facility or transformation facility unless the city or county in which the facility is located makes a specified finding after a public hearing, noticed as prescribed, concerning the distance between the outside perimeter of the disposal area and adjacent land uses. This bill is pending in the Senate inactive file.

SB 545 (Calderon) would prohibit a city which has not complied with specified testing or planning requirements from receiving any funds from the Solid Waste Disposal Site Clean-up and Maintenance Account in the Integrated Waste Management Fund or any loan guarantees. This two-year bill is pending in the Senate Governmental Organization Committee.

SB 576 (Royce) would permit a city or county to count toward AB 939's diversion goals the total weight of any cover material, other than clean soil, which is approved by CIWMB for use, if the alternative cover material is made of recycled solid wastes or compost, and the solid wastes from which the alternative cover materials are made were normally disposed in solid waste landfills used by the city or county on January 1, 1990. This two-year bill is

pending in the Senate Governmental Organization Committee.

SB 1051 (Vuich), as amended April 25, would, for the privilege of selling disposable diapers, impose an excise tax on the sale of every disposable diaper sold in this state by a distributor to a dealer. This two-year bill is pending in the Senate Revenue and Taxation Committee.

SB 1142 (Killea) would, among other things, repeal existing law which establishes the Source Reduction Advisory Committee in CIWMB and create, within the Board, an Office of Source Reduction and Office of Recycling Markets Development and Reusable Product Information Exchange, with specified duties related to waste reduction and reuse of materials. This two-year bill is pending in the Senate Governmental Organization Committee.

AB 130 (Hansen), which would require CIWMB to establish a labeling program to license the use of environmentally safe product labels, is a two-year bill pending in the Assembly Natural Resources Committee.

SB 97 (Torres), as amended July 10, would specify that "transformation," as that term is used in PRC section 41783, does not include the incineration of unprocessed municipal waste in a mass-burning facility, as specified, which begins operation after January 1, 1992. This bill passed both the Assembly and Senate; however, on September 9, the Senate refused to concur in Assembly amendments to the bill.

RECENT MEETINGS:

At its October 30 meeting, CIWMB requested its staff to prepare a report on the remaining disposal capacity in California. The report will be based upon the best available data as provided by the county local task forces and will define areas by county and region that are in critical need of disposal capacity. By identifying these areas, CIWMB believes it can develop strategies to assist local jurisdictions in providing for the safe and adequate disposal of solid wastes. The report is expected to be submitted to the Board by February.

At CIWMB's November 20 meeting, during discussion regarding the approval of a solid waste facilities permit, the issue of asbestos disposal in landfills was raised. Waste material containing asbestos is referred to as asbestos containing waste (ACW); ACW is classified as a hazardous waste if it contains greater than 1% friable asbestos by weight. ACW is allowed to be disposed of at Class III or unclassified landfills under certain conditions, and



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at least 30 Class III landfills regulated by CIWMB accept ACW. However, the Board has no jurisdiction over hazardous waste activities at these landfills—a landfill which accepts both hazardous waste and other solid waste must obtain a hazardous waste facilities permit (HWFP) from the Department of Health Services (DHS) and a SWFP from CIWMB. PRC section 43211 states that DHS has regulatory authority for the disposal of hazardous wastes at landfills which accept both hazardous wastes and non-hazardous solid wastes, and that CIWMB has regulatory authority only over disposal of non-hazardous wastes at these facilities.

In a disturbing July 1991 report, CIWMB's Permitting and Enforcement Committee contends that—contrary to PRC section 44103(b)—DHS is no longer issuing HWFPs to landfills which accept both hazardous and non-hazardous waste; it is apparently leaving that task to CIWMB and the regional water quality control boards, which must find that hazardous waste disposal activities do not pose a significant threat to groundwater quality. However, under PRC 43211, CIWMB has no regulatory or enforcement over hazardous waste disposal activities. Worse yet, according to the Committee's report, "CIWMB has yet to develop and implement a respiratory protection program required by federal law for employees working in and around asbestos. For at least the past 3 years, CIWMB staff has therefore been directed not to inspect solid waste facilities which accept ACW. This has resulted in a situation where the CIWMB is concurring with LEAs in the issuance of SWFPs which allow ACW disposal (in violation of PRC section 44301(b) and 14 CCR 17742) while the CIWMB staff has been directed not to inspect these facilities."

The report also reveals the fact that due to DHS' failure to issue HWFPs under PRC section 44103(b), one asbestos disposal facility—Calaveras Asbestos Monofill near Copperopolis in Calaveras County—is operating without a HWFP or a SWFP. CIWMB's report concludes that DHS' abdication of its authority to manage hazardous waste disposal leaves a void in the enforcement of state and federal requirements, and that CIWMB should initiate discussion with DHS on the best way to deal with this issue.

FUTURE MEETINGS:

April 23 in Oakland.

DEPARTMENT OF PESTICIDE REGULATION

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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 section 11401 *et seq.*; its regulations are codified in Titles 3 and 26 of the California Code of Regulations (CCR).

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

ommends 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 is the Agricultural Pest Control Advisory Committee, established in Food and Agricultural Code section 12042 *et seq.*, which makes recommendations on how the state can improve its existing analytical methods for testing produce and processed foods for the presence of pesticide residues.

At this writing, the DPR Director has not yet been appointed by Governor Wilson. DPR's Interim Director is James Wells.

MAJOR PROJECTS:

Rulemaking Under the Pesticide Prevention Contamination Act. Last summer, DPR commenced two major rulemaking proceedings under the Pesticide Contamination Prevention Act of 1985 (PCPA), which was enacted to prevent pesticide pollution of the groundwater aquifers of the state. The PCPA provides mechanisms for identifying and tracking potential and actual groundwater contaminants. It also establishes procedures for reviewing chemicals found in groundwater or in soil as a result of legal agricultural use, and for modifying or cancelling use of such chemicals. The PCPA requires DPR to take specified actions which combine to form three major processes: (1) establishment of a data base of wells sampled for pesticides; (2) data collection and analysis, identification, and monitoring of potential contaminants; and (3) review of findings of pesticide contamination and imposition of necessary mitigation measures. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 164-65 for background information.)