malathion manufacturers, holding that a malathion manufacturer has no duty to warn people who might be harmed of possible risks of the malathion spraying, even if the manufacturer is aware the pesticide is being used without proper warnings from the state.

On June 12, Judge Zebrowski was scheduled to hear oral argument on demurrers filed by the State of California, the County of Los Angeles, and one helicopter company involved in aerial malathion spraying.

FUTURE MEETINGS:

The State Board of Food and Agriculture usually meets on the first Thursday of each month in Sacramento.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (CAL-EPA)

AIR RESOURCES BOARD

Executive Officer: James D. Boyd
Chair: Jana Sharpless
(916) 322-2990

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

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

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

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

In late January, Governor Wilson appointed Petaluma Mayor Patricia Hilligoss, 67, to ARB. Hilligoss is a member of the Bay Area Air Quality Management Board, and serves on the Association of Bay Area Governments.

MAJOR PROJECTS:

Consumer Product Regulations—Phase II. At its January 9 meeting, ARB adopted amendments to sections 94503.5, 94506, 94507–94513, and 94515, Title 17 of the CCR, to reduce volatile organic compound (VOC) emissions from consumer products. *[12:1 CRLR 142]* The amendments establish limits on VOC content for ten product categories: aerosol cooking sprays, automotive brake cleaners, carburetor-choke cleaners, charcoal lighter material, dusting aids, fabric protectants, household adhesives, insecticides, laundry starch products, and personal fragrance products. The standards for seven of the ten categories become effective on January 1, 1995. The effective date of the standard for charcoal lighter fluid is January 1, 1993; for insecticides, January 1, 1996; and for automotive brake cleaners, January 1, 1997. ARB will allow manufacturers a one-year grace period to bring their products into compliance.

About half of the 2,600 products affected already meet the new rules, but state officials said it will cost manufacturers somewhere between $13–$205 million per year to change those that do not comply. Although the regulations cover perfumes and colognes, those marketed in California before January 1994 will be exempted under a "grandparent clause." No other product category will be exempted. In some cases, product makers will simply replace aerosol cans with pump spray containers to meet the new regulations. But other manufacturers will have to reformulate their products, according to Board staff.

"All of these products have two things in common," said ARB official Jerry Martin. "Either they use a hydrocarbon propellant, which is essentially the same hydrocarbon that is exhausted from cars, or they use base products such as alcohol in their chemical formula, which can evaporate and also cause ozone problems." Ozone, which accounts for 95% of smog, is a health-threatening air pollutant that can lead to respiratory distress and illness.

ARB estimates that 200 tons of VOCs (*i.e.*, hydrocarbons) are emitted from consumer products in California per day. Emissions of VOCs from the ten product categories covered by the proposed amendments are estimated to be 24 tons per day. The potential emission reductions associated with the implementation of the proposed regulations are estimated to be eight tons per day by 1998. William Be-

cker, executive director of the Association of Local Air Pollution Control Officials, said the rules represent an effort by the state to go after smaller polluters after having already clamped down on major sources of pollution. A Sierra Club consultant commented that his organization had wanted earlier deadlines for carcinogenic ingredients as well as smog-forming compounds.

ARB staff presented the regulation with several modifications to the originally proposed language, reflecting information received during the 45-day public comment period. Aerosol disinfectants, for instance, were dropped as a targeted product category. The Board directed the staff to make specified modifications and to submit biennial reports detailing the progress made by industry in meeting the requirements of the regulation. The amendments were released for a 15-day comment period ending on April 30, and—at this writing—await review and approval by the Office of Administrative Law (OAL).

Exhaust Emission Standards and Test Procedures for Heavy-Duty Off-Road Engines. On January 10, the Board adopted—with some modifications—new sections 2420–2427, Title 13 of the CCR, which establish exhaust emission standards and test procedures for new 1996 and later heavy-duty off-road diesel cycle engines and equipment engines. Provisions of the California Clean Air Act (CCAA), Health and Safety Code sections 43013 and 43018, require ARB to consider the adoption of emission control regulations for construction and farm equipment. The CCAA also mandates a 5% per year reduction in ozone precursor emissions. As most heavy-duty off-road engines are diesel-powered and are major emitters of the ozone percursor oxides of nitrogen, these proposed sections are aimed at controlling emissions from such off-road equipment. If left uncontrolled, ARB estimates that by 2010 heavy-duty off-road vehicles will contribute approximately 11% of all mobile emissions of oxides of nitrogen.

Heavy-duty off-road engines are defined as those engines designed for, but not limited to, use in agricultural tractors, backhoes, excavators, dozers, log skidders, trenchers, motor graders, portable generators, and compressors. Certain engines are specifically excluded from these regulations, including locomotive engines, engines used to propel marine vessels, stationary internal combustion engines greater than 50 horsepower, and stationary or transportable gas turbines for power generators. Further, these regulations are limited to heavy-duty engines, which are defined as those of 175 horsepower and greater, because authority to regulate new construction and farm equipment less than 175 horsepower was given exclusively to the U.S. Environmental Protection Agency (EPA) in the federal Clean Air Act amendments of 1990.

In addition to establishing emission standards, the new sections require that alternate-fueled diesel cycle engines and naturally-aspirated diesel cycle engines emit no crankcase emissions; require that diesel cycle engines be subject to smoke opacity limits; and set forth procedures for enforcement of the emission standards, including certification of engines and a quality-audit test program. The testing includes ARB's random selection of new engines from a manufacturing facility, distributor, or dealer and testing at either ARB's own facility, a contracted laboratory, or the manufacturer's facility, all at the manufacturer's expense. These sections also require emission control labels on all new 1996 and later engines which identify such engines as California-certified.

After its adoption of the new sections with some modifications, the Board gave its staff three directives. After EPA promulgates regulations affecting new engines under 175 horsepower, staff is to report back to the Board with a comparison of the two sets of rules. Staff is also to study in greater depth means of enforcing the regulations, especially with regard to non-California engines entering California. Finally, staff was directed to expand its efforts to inform interested parties about its program.

At this writing, ARB expects to issue a 15-day notice of the modified language this summer.

1992–93 "Hot Spots" Fees. ARB staff has prepared a preliminary draft of its "Air Toxics Hot Spots" fee regulations for fiscal year 1992–93, which were discussed at workshops on March 4–5. *[11:4 CRLR 153–54]* Annual amendments in the fees are necessary to reflect changing program costs, as well as changes in the inventory of facilities which are assessed fees.

The term "air toxic hot spots" refers to concentrations of toxic pollutants that may be directly harmful to humans, such as perchloroethylene, or indirectly hazardous as in the case of ozone-damaging chlorofluorocarbons (CFCs). Until passage of the Air Toxics "Hot Spots" Information and Assessment Act of 1987, Health and Safety Code section 44300 *et seq.*, toxic pollutants were unregulated and unmonitored. The fees cover costs of the current program, which consists of an emissions inventory and risk assessment.

Revisions were proposed to the amount that each APCD must remit to cover the state's cost of implementing the "Hot Spots" Program. The proposed revisions reflect an anticipated $509,000 increase in state "Hot Spots" Program costs, which represents an increase of approximately 15% over current state expenditures for this program. The proposed expenditures, which are subject to final budget approval, would increase the state's data storage capability for toxic substances emissions and health effects, and the assistance available to districts and facilities complying with risk assessment and risk notification requirements. The anticipated changes in each district's share of state costs also reflect changes in each district's contribution to statewide criteria pollution emissions.

Under current "Hot Spots" Program emission reporting requirements, some facilities are required to submit only a one-time Facility Description form and an "S-UP" form pertaining to the production, use, or other presence of a listed toxic substance at the facility. These facilities, which are in a facility class listed in Appendix E-II to ARB's Emission Inventory Criteria and Guidelines Regulation, are now required to pay annual "Hot Spot" fees. The proposed amendment would give local districts the discretion to exempt Appendix E-II facilities from further "Hot Spots" fees.

As required by Health and Safety Code section 44380, staff proposed new fee schedules for APCDs and AQMDs that submit district program costs to ARB on an annual basis. These fee schedules reflect each district's share of state costs, as calculated by ARB, and district "Hot Spots" Program costs that have been approved by the governing board of the local air district at a noticed public hearing. For facilities located in districts that are not included in ARB's fee regulations, fees will be adopted by local air districts. The "Hot Spots" fee regulations will specify only each district's share of state costs for the districts that will be adopting district fee rules. Any district that adopts a district "Hot Spots" fee rule must do so at a duly noticed public hearing.

Staff does not anticipate revising the "Hot Spots" Program list of substances or emission reporting requirements, contained in the Emission Inventory Criteria and Guidelines Regulation, for fiscal year 1992–93.

Formaldehyde Identified as a Toxic Air Contaminant (TAC). Following a March 12 public hearing, ARB amended section 93000, Titles 17 and 26 of the

CCR, to identify formaldehyde as a TAC with no identified threshold exposure level below which no significant adverse health effects are anticipated.

Formaldehyde is a colorless, flammable gas with a pungent, irritating order. The gas is emitted directly into the atmosphere and also forms there as a result of the photochemical oxidation of reactive organic gases in polluted environments containing ozone and nitrogen oxides. The largest sources of directly emitted formaldehyde are fuel combustion from mobile sources (80%) and process emissions from oil refineries. Indoor formaldehyde sources include such diverse products as building materials, clothing, furniture, draperies, paper products, and fingernail hardeners. The largest indoor source of formaldehyde is pressed wood products made with urea-formaldehyde resins. Formaldehyde is also emitted from indoor combustion sources, including cigarettes and gas stoves. ARB staff estimates that approximately 150,000 tons per year of formaldehyde are produced in California from photochemical oxidation processes. Total direct outdoor formaldehyde emissions from mobile, stationary, and area sources, based on ARB's emission inventory in California, are estimated to be approximately 18,000 tons per year. Perhaps ironically, formaldehyde is a direct pollutant of methane-fueled transitional low-emission vehicles.

Staff of Cal-EPA's Office of Environmental Health Hazard Assessment agreed with the International Agency for Research on Cancer and the EPA's classification of formaldehyde as a probable human carcinogen. Formaldehyde has been identified as a hazardous air pollutant in the federal Clean Air Act, 42 U.S.C. section 7412, and is subject to control by the EPA. The Board is required by law to identify substances set forth in this section as toxic air contaminants.

No control measures for formaldehyde were proposed for adoption at ARB's March meeting. A report on the necessity and type of control measures to reduce formaldehyde emissions will be developed in accordance with Health and Safety Code sections 39665 and 39666. At this writing, this amendment has not yet been submitted to OAL.

Specifications for Alternative Fuels. On March 12, the Board considered a regulatory package which would adopt new sections 2290–2292.7 and amend sections 1960.1(k), 1956.8(b), and 1956.8(d), Title 13 of the CCR, to establish specifications for alternative fuels sold or supplied for use in motor vehicles and for alternative fuels used during the certification testing of motor vehicles to determine compliance with California emission standards.

In 1990, ARB adopted a low-emission vehicles/clean fuels program that requires phasing in new types of vehicles that meet stringent exhaust emission standards and mandates alternative fuels to power them. *[11:1 CRLR 113]* These fuels, unlike gasoline and diesel, have not been subject to standardized content specifications.

After discussion, ARB decided to adopt sections 2292.1 and 2292.2, which would establish specifications, beginning on January 1, 1993, for M-100 methanol (100% methanol) and M-85 methanol (85% methanol, 15% gasoline). The specifications would help assure that motorists driving vehicles powered by alternative fuels have fuels available that are of consistent quality and result in the expected emission benefits.

The Board declined to adopt proposed specifications for E-100 ethanol (100% ethanol), E-85 ethanol (85% ethanol, 15% gasoline), compressed and liquefied natural gas, liquefied petroleum gas, and hydrogen, and postponed their consideration indefinitely due to an absence of interest by motor vehicle manufacturers and lack of necessary data.

The proposed regulations also include revisions in the currently established alternative fuel specifications used in motor vehicle certification testing for the above-named fuels (sections 1960.1(k), 1956.8(b), and 1956.8(d)), with the exception of hydrogen and the ethanol fuels. Certification specifications were not proposed for the latter, because ARB does not currently have emission test procedures for these fuels.

At this writing, the methanol fuel specifications have not been submitted to OAL for review and approval.

ARB Approves Staff Report Concerning Fuel Blending. At its April 9 meeting, ARB approved a staff report which recommended that ARB be given legislative authority to adopt regulations prohibiting the sale of unfinished fuels and fuel blending components, except to refineries. The staff report was drafted pursuant to the mandate of SB 351 (Davis) (Chapter 770, Statutes of 1991), which required ARB on or before May 1, 1992, to report the legislature on the nature, types, and extent of unfinished fuels and fuel blending components sold or blended at locations other than refineries, including recommendations concerning the need for appropriate legislation.

In response to SB 351, ARB conducted a fuel survey of California refiners, suppliers, and blenders of fuel products, and discovered that 157 million gallons of unfinished fuels and fuel blending components were sold in 1991 and available for use outside the refinery. Significant tax avoidance is involved since taxes are applied at the point at which finished fuels (gasoline and diesel) are produced.

The Board feels the sale of these unfinished fuels and fuel blending components has at least four negative results. First, it increases air pollution through the combustion of nonconforming fuels. Second, it places legitimate, conforming distributors at a serious economic disadvantage, as the untaxed fuels may be sold for substantially less than conforming products. Third, it favors the growth of a criminal infrastructure based upon noncompliance. Finally, it represents a substantial loss of state and federal revenues derived from fuel taxes.

ARB believes the best way to avoid these problems is to make it illegal to sell unfinished fuels, fuel blending components, and transmix, except to other refineries. ARB presently lacks authority to adopt the necessary regulations; therefore, the Board approved the report which recommends that the legislature delegate it such authority.

Fee Regulation Pursuant to the Atmospheric Acidity Protection Act. On April 9, ARB adopted new section 90621.3, Title 17 of the CCR, requiring local APCDs and AQMDs to collect permit fees from major nonvehicular sources of sulfur oxides and nitrogen oxides to fund, in part, the Board's Atmospheric Acidity Protection Program for fiscal year 1992–93. *[11:3 CRLR 152]* Section 90621.3 specifies that permit fees shall be collected from sources that have emitted 500 tons per year or more of sulfur oxides or nitrogen oxides during the period from January 1, 1990 through December 31, 1990. Districts affected by the proposed fee regulations would be required to adopt regulations to implement ARB's fee regulations. The maximum amount of fees to be collected for fiscal year 1992–93 is 1.5 million. The proposed fee rate is approximately $8 per ton emitted. At this writing, the new section has not yet been submitted to OAL for review and approval.

1992–93 Permit Fee Regulations for Nonvehicular Sources. On April 9, the Board adopted section 90800.3 and amended section 90803, Title 17 of the CCR, pertaining to the recovery of costs incurred to implement those provisions of the CCAA related to nonvehicular sources. Besides requiring attainment of state ambient air quality standards by the earliest practicable date, the CCAA imposes

various requirements on the Board, APCDs, and AQMDs, and provides mechanisms to help defray the state costs of implementing the Act. One such mechanism was codified in section 39612 of the Health and Safety Code, which authorizes the Board, beginning July 1, 1989, to require districts to collect fees from holders of permits for facilities which emit 500 tons or more per year of any nonattainment pollutant or its precursors. ARB has adopted rules each year since 1989 to specify the fee rate and amounts to be remitted to ARB. The current adoption of section 90800.3 and amendment to section 90803 pertaining to fiscal year 1992–93 is the fourth consecutive year such rules have been adopted.

The total amount of fees collected, exclusive of district administrative costs, may not exceed $3 million in any fiscal year. Districts may then recover the administrative costs of collecting the fees. This additional fee amount is not included in the total fees subject to the $3 million cap. Fees collected by the districts are then transferred to ARB to be deposited into the Air Pollution Control Fund.

In formulating the proper fees to collect for 1992–93, ARB used a 10% adjustment over the $3 million cap to ensure that nonpayment of fees by individual facilities due to business closings or other reasons does not result in any shortfall of fees collected. Any excess fees collected in a given year will lead to a reduction of fees collected in the following year. The fees for fiscal year 1992–93 are computed based on the estimated 1990 emissions from each facility as determined on or before April 9, 1992. Section 90800.3 establishes a rate of $13.16 per ton of a pollutant to be paid to the district.

At this writing, this rulemaking package has not been submitted to OAL for review and approval.

Bay Area Clean Air Plan Adopted. At its April 30 meeting, the Board approved the Bay Area Air Quality Management District (BAAQMD) 1991 Clean Air Plan. This plan was promulgated pursuant to the CCAA's requirement that local and regional APCDs that are not attaining one or more of the state ambient air quality standards for ozone, carbon monoxide, sulfur dioxide, or nitrogen dioxide adopt plans for meeting those standards as expeditiously as practicable (Health and Safety Code sections 40910–40926). Each plan must be designed to achieve an annual 5% reduction in district-wide emissions of each nonattainment pollutant or its precursors, and must be submitted to ARB for approval. The BAAQMD plan was adopted by the District on October 30, 1991 and submitted to the Board, which must determine the adequacy of each plan within 12 months, on November 13, 1991. Although BAAQMD has not attained four of the state's 12 ambient air quality standards, the District's plan addresses only ozone and carbon monoxide because planning for its other two nonattainment standards, particulate matter and visibility reducing particles, is not required by the CCAA.

This plan will not achieve 5% annual emission reductions for carbon monoxide, hydrocarbons, or oxides of nitrogen. However, the CCAA permits the 5% requirement to be waived if the plan includes all feasible measures. The Act leaves it to the Board to define "feasible." With minor exceptions, ARB accepted the District's plan, finding the plan contained all feasible measures and that the District was implementing those measures expeditiously. The Board found the plan's transportation strategies only partially acceptable, and approved these portions of the plan only on the condition that needed changes will be submitted to ARB.

The plan includes 50 measures for stationary and area sources, 21 of which are to be fully adopted by 1994, and 23 transportation control measure to be implemented in various stages by various agencies throughout the decade. The plan predicts attainment of the state carbon monoxide standards by 1995 and expresses the expectation that federal ozone standards will be attained by 1997. The plan indicates, however, that population exposure to unhealthful ozone levels will be halved by 1994.

Amendments to Test Procedures for Alternative Fuel Retrofit Systems. On May 14, ARB adopted amendments to sections 2030 and 2031, Title 13 of the CCR, relating to the establishment of procedures for approval of systems designed to convert motor vehicles to use alternative fuels, such as liquified petroleum gas (LPG), natural gas, alcohol, and alcohol/gasoline fuels. The Board's modifications to the amendments require a 15-day notice, which was expected in June. Back in 1975, ARB first adopted measures designed to assure that a converted motor vehicle has emissions no higher than the original vehicle operating on conventional fuel, and has made subsequent amendments to these measures. Surveillance testing by ARB has indicated that poor installation and insufficient durability have prevented many retrofitted vehicles from delivering in-use compliance with applicable emissions standards. The current amendments would replace and strengthen the existing procedures for approving alternative fuel retrofit systems, beginning with the 1994 model year.

First, manufacturers will be required to certify retrofit system designs that are specific to a given engine family and to ensure that, with the exception of idle speed control and throttle position sensor, no component or calibration of the fuel system that could affect emission may be adjusted by the system installer or vehicle user. Second, these retrofit systems will be subjected to durability bench testing to verify that emission performance will not deteriorate excessively. No specific bench-test procedure is identified. Instead, the applicant must submit a plan prior to the start of testing that is subject to the approval of ARB's Executive Officer.

These new retrofit procedures will be implemented on a phase-in schedule. In 1994, 15% of all converted cars will be subject to the new procedures. That figure increases to 50% in 1995, and 100% in 1996. All cars that are low-emission vehicles (LEVs) or are being converted into LEVs will be subject to the new procedures in 1994.

These proposals also require manufacturers to warrant that their retrofit system is designed, manufactured, and installed properly. The warranty would be for three years or 50,000 miles, except for those parts which cost more than $300 to replace, which would be subject to a seven-year, 70,000-mile warranty. Installers would have to warranty their work and agree to indemnify customers for any tampering fines imposed as a result of installation for three years or 50,000 miles. Installers would also be required to submit retrofitted vehicles for smog inspection and testing prior to their release to customers.

The proposed regulatory action will also specifically permit modifications to on-board diagnostic (OBD) systems as part of the retrofit system in order to prevent OBD malfunction when the vehicle is converted to an alternative fuel. Manufacturers of retrofit systems will be required to demonstrate, at their expense, in-use compliance of their systems as installed. Upon order by the Executive Officer, manufacturers would be required to test up to 20% of their systems certified by engine family per year.

Because the Board approved several modifications to staff's original proposal, ARB must release this regulatory action for an additional 15-day public comment period.

Revision of Criteria for Designating Areas of California as Nonattainment,

Attainment, or Unclassified for State Ambient Air Quality Standards. On May 15, ARB adopted—with modifications—amendments to sections 70303 and 70304, Title 17 of the CCR, and Appendices 2–4, thereof. The CCAA requires the Board to establish criteria for designating an air basin as attainment or nonattainment for any state ambient air quality standard. State standards are specified for nine pollutants, including ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, suspended particulate matter (PM10), sulfates, lead, hydrogen sulfide, and visibility reducing particles.

The Board adopted on June 8, 1989, and amended on June 14, 1990, criteria for designating areas pursuant to the requirements of the Act. *[10:4 CRLR 139; 9:4 CRLR 108]* During and after the June 1990 hearing, representatives from industry groups, APCDs, and AQMDs expressed concern that the designation criteria (in particular, the test for attainment) are overly restrictive. They argued that the current test for attainment—zero violations in three years, excluding exceedances caused by highly irregular or infrequent events—cannot be reasonably achieved. These groups contended that the test for attainment should be changed to allow more frequent exceedances in attainment areas. Furthermore, they contended that allowing more frequent exceedances will not adversely impact public health.

In contrast, representatives from other government agencies, environmental organizations, and public interest groups have stated that the current test for attainment has not been in effect long enough to assess whether it is reasonable. In addition, these groups are concerned that allowing more frequent exceedances in attainment areas will adversely impact public health, agricultural crops, and forests.

Concerns have also been raised about several other provisions in the designation criteria, including the test for nonattainment/transitional designation; the screening procedure for lead attainment designations; the use of historical air quality data for making attainment designations; and the required sampling hours for visibility reducing particles.

The amendments adopted on May 15 address five areas of the designation criteria. The first amendment addresses the test for attainment, changing the recurrence rate for extreme concentration events specified in Appendix 2 from the current rate of 1-in-7 years to a rate of 1-in-2 years, as determined using the "exponential tail method." This change allows more exceedances to be excluded from the designation process. The amendment also separates and specifically defines the steps for identifying an exceptional event or an extreme concentration event.

The second amendment adds subsection (d) to section 70303 to provide a general definition of the nonattainment/transitional designation and sets out the planning implications of that designation. Other changes include (1) changing the "violation day" requirement from no more than three violation days in the area to no more than two violation days at each site in the area during the period year; (2) simplifying the required evaluation of meteorological, air quality, and emission data; (3) limiting the designation to areas expected to reach attainment within three years; (4) requiring continuous sampling data; and (5) requiring complete and representative air quality data.

The third amendment addresses the screening procedure for making lead attainment designations, changing the emission screening value specified in Appendix 4 from the current 5 tons per year (t/y) from a single facility to 0.5 t/y. This change is supported by recent sampling data from the South Coast Air Basin that show violations of the state lead standard in the vicinity of sources whose emissions are less than 5 t/y. The fourth amendment addresses the use of historical air quality data for making attainment designations, adding subsection (b)(3) to section 70304 to indicate that any air quality data collected since the historical time period used for the attainment designation must show no violation of the state standard. The fifth amendment addresses the required sampling hours for visibility reducing particles, changing the required sampling hours specified in Appendix 3 from the current 9:00 a.m. to 5:00 p.m. Pacific Standard Time (PST), to 10:00 a.m. to 6:00 p.m. PST, consistent with the time period specified in the state standard for visibility reducing particles. These amendments have not yet been released for a 15-day public comment period.

Update on Other ARB Regulatory Changes. The following is a status update on regulatory changes approved by ARB and discussed in detail in previous issues of the *Reporter*:

–On March 6, ARB released a modified version of new sections 2258 and 2262.5, Title 13 of the CCR, which require the addition of oxygen to gasoline sold during the winter months starting in November 1992. These regulatory changes, which ARB adopted in December 1991 *[12:1 CRLR 140]*, have not been submitted to OAL at this writing.

–ARB's November 1991 adoption of sections 2258 and 2260–2271, and amendments to section 2250, 2251.5, and 2252, Title 13 of the CCR, establishing specifications for "Phase 2 Reformulated Gasoline," have not been submitted to OAL at this writing. *[12:1 CRLR 139–40]*

–The Board's November 1991 amendments to the area designations contained in sections 60200–60209, Title 17 of the CCR, which are revised annually based on collected air quality data, were scheduled to be submitted to OAL during the week of May 18. *[12:1 CRLR 142]*

–ARB's modifications to its November 1991 amendments to section 1960.1, Title 13 of the CCR, adopting an ozone reactivity adjustment factor for transitional low-emission vehicles (TLEVs) using 85% methane fuel (M-85), which corrects TLEV M-85 emissions to make the ozone-forming potential comparable to conventional gasoline-fueled vehicles, were released for a 15-day comment period ending on May 6. At this writing, the package has not yet been submitted to OAL. *[12:1 CRLR 140–41]*

–The Board's October 1991 amendment to section 93000, Titles 17 and 26 of the CCR, which identifies perchloroethylene as a TAC, has not yet been submitted to OAL for approval. *[12:1 CRLR 141]*

–ARB's October 1991 amendments to sections 70100(k) and 70200 and its repeal of section 70201, Title 17 of the CCR, which revise the 24-hour ambient air quality standard for sulfur dioxide, were scheduled to be submitted to OAL during the week of May 18. *[12:1 CRLR 141]*

–The Board's September 1991 amendments to sections 1968.1 and 1977, Title 13 of the CCR, requiring vehicle manufacturers to equip 1994 and later-model vehicles with advanced, computerized onboard diagnostic systems, has been submitted to OAL for review and approval. *[11:4 CRLR 154]*

–ARB's August 1991 amendment to section 93000, Titles 17 and 26 of the CCR, identifying nickel as a toxic air contaminant, was scheduled for submission to OAL during June. *[11:4 CRLR 154]*

–The Board's August 1991 amendments to sections 80130, 80150, 80250, 80260, and 80290, Title 17 of the CCR, which modify existing reporting requirements under ARB's agricultural burning guidelines, were scheduled for submission to OAL in late May. *[11:4 CRLR 154]*

–ARB's June 1991 amendments to sections 90700–90705 and 93334, Titles 17 and 26 of the CCR, which require local

APCDs to adopt rules assessing sufficient fees to cover state agency and district costs to implement the Air Toxics "Hot Spots" Identification and Assessment Act, were approved by OAL on January 30. *[12:1 CRLR 142]*

–The Board's February 1991 amendments to sections 94131, 94132, and 94142, Title 17 of the CCR, which expand existing ARB test methods for measuring air emissions from stationary sources to include gaseous fluoride, 1,3-butadiene, and acetaldehyde, were approved by OAL on January 21. *[11:2 CRLR 138–39]*

–ARB's December 1990 revisions to section 2400–2407, Title 13 of the CCR, setting new emission standards for small utility engines, were re-released for an additional 15-day public comment period, resubmitted to OAL, and approved by OAL on May 1. *[12:1 CRLR 143; 11:1 CRLR 115]*

LEGISLATION:

SB 1294 (Presley). Existing law establishes an Inspection/Maintenance (I/M) Review Committee to analyze the effect of the "Smog Check" motor vehicle inspection program on motor vehicle emissions and air quality; the I/M Review Committee is required to prepare and submit to the legislature on or before December 31, 1992, a report on the effect of existing cost limitations for repairs required under the program. As amended April 2, this bill would require the I/M Review Committee, in consultation with ARB and the Bureau of Automotive Repair (BAR), to include in that report its recommendations for improving the effectiveness and cost-effectiveness of the Smog Check Program, including prescribed information. (*See supra* agency report on BAR for related discussion.) This bill would also require the I/M Review Committee to seek comments from ARB before submitting its report to the legislature, and would require those comments to be published as an appendix to the report. *[A. Trans]*

SB 1352 (Lewis), as introduced February 3, would prohibit APCDs and AQMDs from requiring any employer with less than 100 employees to submit a trip reduction plan as part of the districts' transportation control measures. *[A. Trans]*

SB 1378 (McCorquodale), as amended April 6, would require ARB regulations to require any district that has prepared or received an emissions inventory by August 1 of the preceding year to adopt a fee schedule which imposes on facility operators fees that are, to the maximum extent practicable, proportionate to the extent of the potential or actual releases identified in the emissions inventory and the level of priority assigned to that source by the district. *[A. EnvS&ToxM]*

SB 1395 (Rosenthal), as amended April 20, would authorize the issuance of special "Blue Sky" license plates to the owner or lessee of a clean fuel vehicle, as defined. SB 1395 would authorize the Department of Transportation and local authorities, with respect to highways under their respective jurisdictions, and every state agency and local authority that operates an offstreet parking facility, to establish a preferential parking program for clean fuel vehicles displaying "Blue Sky" license plates. *[S. Appr]*

SB 1404 (Hart), as amended March 24, would require ARB to adopt regulations specifying the amount and types of pollutants that identify a vehicle as a "gross polluter," as defined, and to establish standards and testing procedures for the use of remote sensor devices or other technologies to identify vehicles that qualify as gross polluters. *[S. Appr]*

SB 1731 (Calderon). Existing law establishes a program for the identification and evaluation of the health effects of toxic air contaminants, as defined. As amended May 11, this bill would incorporate all of the hazardous air pollutants listed in certain provisions of the federal Clean Air Act, and would require APCDs and AQMDs to submit to the EPA a program for compliance with the provisions of the Act applicable to hazardous air pollutants, and an operating permit program that complies with the Act. Further, the bill would require ARB and the districts to undertake control of TACs for risk reduction in accordance with prescribed levels of the state air toxics risk reduction program. *[S. Appr]*

AJR 72 (Polanco), as introduced February 21, would memorialize the President and Congress of the United States to secure prestige for America as a forerunner in the development of a clean fuel vehicle industry by providing consumer investment tax credits to stimulate a national market for the purchase of electronic and other alternative fuel vehicles. *[A. Floor]*

AB 2370 (Cannella), as amended March 17, would establish the California Dry Cleaning Industry Task Force, and would require it to prepare and submit to the legislature and the Governor by February 28, 1993, a report on prescribed matters relating to the effect of dry cleaning industry practices on the environment. *[S. T&PSM]*

AB 2419 (Quackenbush), as amended March 31, would exempt LEVs, as defined, from local registration fees imposed on or after January 1, 1993, and before January 1, 1996, for the support of APCDs, and would provide other tax incentives for the sale and use of LEVs and certain other fuels. *[A. W&M]*

AB 2489 (Hayden), as amended April 21, would require Cal-EPA to prepare a list of CFCs for which substitutes are available and the earliest feasible dates by which their use may be implemented. The bill would require Cal-EPA to develop programs to implement earlier phase-out dates for CFCs in applications with known, nonhazardous alternatives; restrict the use of chemicals with high infrared absorbing capabilities as substitutes for CFCs; regulate the safe recovery of CFCs contained in appliances, machinery, and other devices prior to disposal; and develop procurement policies for the state to ban the use of products containing CFCs. *[A. W&M]*

AB 2522 (Woodruff), as amended April 21, would create the Mojave Desert Air Quality Management District, which would assume the functions of the San Bernardino County Air Pollution Control District on July 1, 1993. *[A. Floor]*

AB 2728 (Tanner), as amended April 1, would make various statutory changes in provisions relating to TACs to conform statutes to the Governor's Reorganization Plan No. 1 of 1991, which took effect on July 17, 1991. This bill would require ARB to identify or designate various substances as TACs and to adopt airborne toxic control measures, with reference to federal law. The bill would also authorize ARB, APCDs, and AQMDs to take prescribed actions to regulate certain TACs. *[S. T&PSM]*

AB 2781 (Sher), as amended May 11, would require every APCD and AQMD to establish by regulation a program to provide for the expedited review of permits for certain activities, and would require ARB to assist districts in the issuance of permits. *[S. LGov]*

AB 2783 (Sher), as amended April 21, would—among other things—require ARB to periodically review criteria for designating an air basin attainment or nonattainment for any state ambient air quality standard.

Existing law requires ARB to evaluate, in consultation with APCDs and AQMDs, air quality-related indicators which may be used to measure or estimate the districts' progress in the attainment of state standards. This bill would impose certain additional reporting requirements on the districts regarding progress toward attainment. *[A. W&M]*

AB 2848 (Bentley), as amended April 23, would require APCDs and AQMDs to determine, prior to adopting any rule or regulation to reduce criteria pollutants, that there is a problem that the proposed rule or regulation will alleviate to a significant degree and that the rule or regulation will promote the attainment or maintenance of state of federal ambient air quality standards. *[A. W&M]*

AB 3050 (Polanco), as amended May 14, would require the Department of Commerce, in collaboration with the California Energy Commission, to establish and maintain, until December 31, 1996, a California Electric and Alternative Fuel Vehicle Interagency Consortium, with the objective of centralizing state planning with a focus on California-based production of electric and alternative fuel vehicles, components, and subsystems. *[A. W&M]*

AB 3290 (Tucker), as amended April 21, would make a legislative finding and declaration that the South Coast Air Quality Management District shall make reasonable efforts to incorporate solar energy technology into its air quality management plan where it can be shown to be cost-effective. *[S. Floor]*

AB 3400 (Costa), as amended April 29, would increase the membership of ARB to ten members by adding on a permanent basis a member of the governing board of the San Joaquin Valley Unified Air Pollution Control District. *[A. Floor]*

AB 3785 (Quackenbush), as amended May 12, would prescribe the circumstances when data used to calculate the costs of obtaining emissions offsets are, or are not, public records. The bill would require certain APCDs and AQMDs to annually publish the cost of emission offsets purchased. Further, the bill would require APCDs and AQMDs to adopt a system by which reductions in air contaminant emissions may be banked and used to offset future emission increases. *[A. NatRes]*

AB 3790 (Gotch), as amended April 21, would require the State Treasurer, the California Pollution Control Financing Authority, and the Department of Commerce to work with APCDs and AQMDs to increase opportunities for small businesses to comply with districts' rules and regulations. (*See supra* agency report on ASSEMBLY OFFICE OF RESEARCH for related discussion.) *[A. Floor]*

The following is a status update on bills reported in detail in CRLR Vol. 12, No. 1 (Winter 1992) at page 143:

AB 598 (Elder) would require ARB to prepare a list of models of motor vehicles that are significant sources of air pollution, and require the Department of Motor Vehicles (DMV) to develop and implement a program to acquire and scrap the designated vehicles. *[S. Trans]*

AB 1054 (Sher) would permit local air pollution districts to adopt emission control regulations relating to consumer products after January 1, 1992, rather than January 1, 1994. *[S. inactive file]*

AB 280 (Moore) would limit the existing $300 fine imposed on owners of heavy-duty motor vehicles determined to have excessive smoke emissions or other emissions-related defects only to those owners who fail to take corrective action, and imposes a $25 civil penalty in other cases. *[S. Trans]*

SB 1211 (Committee on Energy and Public Utilities) would require ARB to adopt regulations requiring clean fuel producers, suppliers, distributors, and retailers to supply ARB with cost and price information, which it would then report to the legislature. *[A. Floor]*

The following bills died in committee: ***SB 46 (Torres)***, which would have revised the definition of "toxic air contaminant" to delete an exclusion for pesticides; ***SB 431 (Hart)***, which would have enacted the Demand-based Reduction in Vehicle Emissions (Plus Reductions in Carbon Dioxide) (DRIVE) Program and applied sales tax credits and surcharges on the sale or lease of new vehicles on the basis of the level of specified pollutants emitted; ***AB 1419 (Lempert)***, which would have prohibited the import, delivery, purchase, receipt, or other acquisition for sale, rental, or lease of a used motor vehicle, unless the model of the vehicle has been certified by ARB as a new motor vehicle; ***SB 295 (Calderon)***, which would have limited charges for the Smog Check Program and added an additional $1 to certificate of compliance fees that would be used to fund a program to encourage individuals to report vehicles emitting unusual amounts of pollutants; ***AB 187 (Tanner)***, which would have classified substances listed in recently-enacted amendments to the federal Clean Air Act as TACs; ***SB 1213 (Killea)***, which would have authorized APCDs and AQMDs designated as nonattainment areas for state ambient air quality standards for ozone or carbon monoxide by ARB to adopt regulations to require operators of public and commercial light- and medium-duty fleet vehicles, except as specified, when adding or replacing vehicles or when purchasing vehicles to form a new motor vehicle fleet, to purchase LEVs and to require, to the maximum extent feasible, that those vehicles be operated on a cleaner burning alternative fuel; and ***AB 212 (Tanner)***, which would have made various findings and declarations relating to the need to develop a plan for state action to determine the risks posed by exposure to indoor air pollution.

FUTURE MEETINGS:

August 13–14 in Sacramento.
September 10–11 in Sacramento.

CALIFORNIA INTEGRATED WASTE MANAGEMENT AND RECYCLING BOARD

Executive Director: Ralph E. Chandler
Chair: Michael Frost
(916) 255-2200

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

CIWMB 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