



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



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the individual city plans' elements plus a county-prepared plan for unincorporated areas of the county, as well as a countywide siting element which provides a description of the areas to be used for development of adequate transformation or disposal capacity concurrent and consistent with the development and implementation of the county and city SRR elements and the applicable city or county general plan.

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

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

Issues before the Board are delegated to any of six committees; each committee 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 will employ a staff of approximately 270 in meeting the solid waste management needs of the state.

MAJOR PROJECTS:

Required Contents of CoIWMPs. Although existing CIWMB regulations contain procedures for preparing and revising CoIWMPs, the regulations do not contain provisions governing the content of the CoIWMPs. On January 3, CIWMB published notice of its intent to adopt sections 18757, 18757.1, 18757.3, 18757.5, 18757.7, 18758, 18758.1, and 18758.3, Title 14 of the CCR, which would describe the required content of the CoIWMPs. The proposed regulations would require counties to identify their existing and proposed solid waste management facilities, waste management programs, SRR and HHW programs in the county and its jurisdictions, regional and countywide integrated approaches to solid waste management, and alternatives to long-range waste reduction and disposal.

As originally proposed, section 18757 would specify general requirements of each CoIWMP. For example, every CoIWMP shall include an Integration Summary Plan, which shall (1) include the solid waste management goals and objectives identified by the local task force (LTF); (2) summarize significant waste management issues and problems identified by the LTF within the incorporated and unincorporated areas of the county; (3) summarize the proposed waste management programs and facilities identified as necessary in the city and county SRR and HHW elements, and provide an

overview of specific steps that will be taken to achieve the goals outlined in the SRR and HHW elements by the county and cities; (4) be consistent with AB 939's hierarchy of solid waste management in incorporating methods which emphasize source reduction, reuse, recycling, composting, environmentally safe transformation, and land disposal; and (5) include other specified items.

Proposed section 18757.1 would require a statement of the goals, objectives, and policies of the CoIWMP, as determined by the LTF, for the short-term and medium-term planning periods.

Proposed section 18757.3 would provide that the Plan shall include a general, narrative description of the county, including but not limited to topography, major roadways, city and county boundaries, and climate; a summary of important demographic data of the county; a description of the county government's solid waste management infrastructure, all local jurisdiction waste management entities within the county, and any other regional agencies responsible for waste handling and/or disposal within the county; indicate who is responsible for specified Plan-related functions; and identify the organizational structure for administering the Plan.

Proposed section 18757.5 would require the Plan to include a description of the county's current solid waste management practices, such as collection procedures, service areas, and ultimate destination of collected wastes. Among other things, the section would also require that the Plan identify all permitted solid waste facilities located within the county.

Proposed section 18757.7 would provide that the Plan shall include a summary of the programs planned in the SRR elements from all the jurisdictions within the county, and a summary of all the county jurisdictions' HHW elements.

Proposed section 18758 would address future countywide diversion, storage, and disposal strategies, and would require each Plan to discuss the county's short- and medium-term plans for providing additional solid waste disposal capacity.

Proposed section 18758.1 would require each Plan to include a solid waste management educational and public information program with specified elements.

Finally, proposed section 18758.3 would require each Plan to include a section which provides short- and medium-term planning period cost estimates for the countywide programs and facilities scheduled for implementation and use; demonstrate that there is sufficient funding and allocation of revenues for all program and facility planning and implemen-



tation identified in the Plan; identify revenue sources sufficient to support the county-sponsored and countywide programs identified in the Plan; and identify sources of contingency financing for the county-sponsored and countywide programs identified in the Plan.

CIWMB did not schedule a public hearing regarding these proposed sections. However, due to the substantial number of responses received during the public comment period, CIWMB made several changes to the regulations and expected to release the modified proposal for additional public comment in June.

Recycling Market Development Zone Low-Interest Loan Program. PRC section 42145(c)-(g) authorizes CIWMB to make low-interest loans to local governments and private businesses located within designated Recycling Market Development Zones; such loans are to be made from the Recycling Market Development Revolving Loan Account which is created from the Integrated Waste Management Fund for the purpose of assisting the Board and local agencies in achieving the market development goals set forth in the SRR elements and Zone plans of applicant jurisdictions, and to foster recycling-based business development within the Zones. Because this is a new program, no existing regulations govern the loan program.

On January 24, CIWMB published notice of its intent to adopt sections 17930-17935.5, Title 14 of the CCR, which would clarify the purpose, eligibility criteria, and priorities for making low-interest loans within the Zones. The regulations would also describe the loan terms, application contents, review procedures, and other related requirements pertaining to the lending of money from the Account. CIWMB did not conduct a public hearing on this proposal, but received a number of comments during the public comment period, which expired on March 10; as a result, CIWMB was expected to make minor revisions to the language and release the modified text for an additional fifteen-day comment period in June.

Emergency Regulations for the Used Oil Collection Demonstration Grant Program. SB 1200 (Petris) (Chapter 1657, Statutes of 1990) mandated the Board to establish the Used Oil Collection Demonstration Grant Program, which would provide grant funds to eligible cities and counties for a one-year period; SB 1200 requires CIWMB to develop regulations and grant applications for the administration of the grant program. At its January 15 meeting, CIWMB adopted as

emergency regulations sections 18550-18561, Title 14 of the CCR, which describe the eligibility requirements, application process, and terms and conditions of the grant program. On March 6, the Office of Administrative Law (OAL) approved the emergency regulations, which—among other things—provide that used oil collection programs eligible for funding include, but are not limited to, activities involving the integrating of used oil collection into existing curbside collection programs; the collection, recycling, and proper disposal of used oil generated at households; the retrofitting of solid waste collection equipment to promote used oil curbside collection programs; and providing a public education and awareness program to promote opportunities for and to educate the public as to the benefits of recycling used oil.

The regulations also specify that the Board shall award a grant to a local agency responsible for a proposed used oil collection project established on or before January 1, 1991, if the local agency meets the following eligibility criteria: the grant funds will be utilized for the capital outlay of a used oil collection project, as defined; there was a need to expand and upgrade existing used oil projects; the grant funds will not replace the current funding source of its used oil curbside collection projects; and the local agency shall demonstrate the ability to provide for 50% of the amount of the grant award requested. Under the regulations, a local agency shall receive no more than one grant from the Fund, which will not exceed \$75,000; a local agency may not use more than 5% of the grants for administrative costs.

CIWMB to Propose Oil Recycling Enhancement Program Emergency Regulations. AB 2076 (Sher) (Chapter 817, Statutes of 1991) enacted the California Oil Recycling Enhancement Act, which seeks to discourage the illegal disposal of used oil. [11:4 CRLR 161] Among other things, the Act requires oil manufacturers to pay \$0.04 for each quart of lubricating oil sold in California; an oil recycling incentive fee will then be paid to persons returning used oil to certified collection centers. Oil manufacturers, used oil haulers, and used oil recyclers are subject to the specified reporting requirements of the Act, some of which began on May 1, 1992.

On March 4, CIWMB announced its intention to adopt emergency regulations implementing certain aspects of the Act, such as clarifying the reporting requirements and clarifying the definition of the term "lubricating oil." On March 19, the Board held a workshop on the issue in

Sacramento, and subsequently drafted proposed amendments to sections 18600-18642, Title 14 of the CCR; the Board was scheduled to consider adoption of these amendments at its May 28 meeting.

Recycling Investment Tax Credit Program Amendment. Revenue and Taxation Code sections 17052.14 and 23612.5 allow for a 40% tax credit for specific machinery or equipment which manufactures a marketable finished product composed of postconsumer and secondary waste; PRC section 40502 authorizes CIWMB to establish requirements implementing that tax credit. Currently, section 17941(a)-(m), Title 14 of the CCR, details the requirements for receiving certification of qualified property or equipment for purposes of receiving the tax credit. On February 28, CIWMB published notice of its intent to amend section 17941 to clarify the information needed on the tax credit application, and to provide that information regarding prior year input and output capacity is necessary in order for CIWMB to make an eligibility determination. CIWMB received few comments regarding the amendments during the 45-day comment period; no public hearing was conducted. CIWMB was scheduled to consider the formal adoption of the amendments at its May 28 meeting.

CIWMB Proposes HHW Grant Program Amendments. PRC sections 46000 and 46001 authorize CIWMB to give grants to local agencies to initiate and implement waste separation programs to ensure that hazardous waste, including but not limited to HHW, is not improperly disposed in solid waste landfills in this state. Through the Solid Waste Disposal Site Clean-up and Maintenance Account, \$4 million is made available annually for this grant program. Currently, sections 18500-18536.1, Title 14 of the CCR, govern the distribution of grant funds for HHW collection programs; the regulations contain criteria and procedures to apply for a HHW grant. [10:4 CRLR 147]

On March 20, CIWMB published notice of its intent to amend sections 18502, 18510, 18511, 18512, 18515, 18530, 18531, 18533, 18533.1, 18534.1, Title 14 of the CCR, regarding the HHW grant program. Among other things, the proposed amendments would clarify information contained within the regulations; change a mechanism for disbursement of funds for a reimbursement program from the amount of solid waste generated into the account to the per capita distribution of funds; change formulas used by CIWMB to disburse the funds; and clarify grant eligibility and the proce-



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dure involved in selecting grant recipients. CIWMB conducted a public hearing on the proposed amendments on May 6 in Sacramento; the Board was scheduled to consider the formal adoption of the amendments at its May 28 meeting.

Financial Responsibility Regulations. On April 2, OAL approved CIWMB's adoption of 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 of the facility. [12:1 CRLR 146]

However, since the adoption of those regulations, CIWMB has received a substantial number of comments regarding the required level of coverage for operators with only one facility. Section 18232 currently provides that the minimum acceptable level of liability coverage that any one solid waste facility operator is required to demonstrate to the Board is \$1 million per occurrence and \$2 million annual aggregate; this level of coverage is placed on operators equally, whether they operate one facility or two. If a single operator has three facilities, section 18232 increases the aggregate coverage requirement to \$3 million; single operators with four facilities must meet a \$4 million aggregate coverage level; and for operators with five or more facilities, the required aggregate coverage is \$5 million. The consensus of the comments received by CIWMB is that the majority of the single facility operators will be significantly impacted if faced with the requirement of securing and demonstrating liability coverage for \$2 million.

According to CIWMB, the effects of this impact vary from operator to operator. The similarities are that disposal costs will increase dramatically, the public served by the landfill will very likely increase illegal dumping because of the increased disposal costs, and at least one operator may be forced to close his facility, leaving no nearby location for the public to dispose of its waste.

As a result, CIWMB proposed emergency amendments to sections 18232 and 18240, Title 14 of the CCR, which would decrease the minimum coverage limit for single facility operators. At its April 29 meeting, CIWMB adopted those emergency amendments; on May 13, OAL approved the proposed amendments.

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

-Diversion/Planning Requirement Regulation Approved. At its February 4 meeting, CIWMB formally adopted—subject to minor modifications—proposed section 18775, Title 14 of the CCR, regarding reductions in diversion and planning 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. [12:1 CRLR 145] On February 7, CIWMB released the modified text for an additional fifteen-day public comment period; on May 4, OAL approved section 18775.

-Waste Tire Storage/Disposal Regulations. On January 9, OAL disapproved CIWMB's proposed emergency adoption of new sections 17225.701, 17225.705, 17225.715, 17225.735, 17350-17356, 18420-18435, 18440, 18441, 18443, 18445, 19447, 19448, 18470-18482, and 18485-18499, Title 14 of the CCR, which would set forth standards for the storage and disposal of waste tires and the permit process for major and minor waste tire facilities. [12:1 CRLR 145] According to OAL, the regulatory package did not comply with the consistency standard of Government Code section 11349.1(a). Government Code section 11110 requires the specified form of all bonds required by CIWMB to be approved by the Attorney General. Because CIWMB's regulatory action referred to two forms regarding surety bonds that had not been approved by the Attorney General, OAL determined that the proposed emergency regulations were inconsistent with Government Code section 11110. CIWMB subsequently corrected the oversight and resubmitted the rulemaking file to OAL; on February 10, OAL approved the emergency regulations.

-HHW Regulations. On April 30, OAL approved CIWMB's adoption of sections 18750-18751.88, Article 6.3, and sections 18762-18775, Article 7, Title 14 of the CCR, which assist local jurisdictions in preparing the required HHW element in their CoIWMPs. [12:1 CRLR 145] Among other things, the regulations require HHW elements to identify programs for the safe collection, recycling, treatment, and disposal of hazardous wastes generated by households.

-Recycled-Content Newsprint Regulations. On January 15, OAL disapproved CIWMB's proposed adoption of sections 17950-17968, 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, which require all

consumers of newsprint to ensure (and so report to CIWMB) that by January 1994, at least 30% of all newsprint used is made from recycled-content newsprint. [12:1 CRLR 146] According to OAL, CIWMB's rulemaking file did not satisfy the clarity and consistency standards of Government Code section 11349(a), and did not comply with procedural requirements of the Administrative Procedure Act (APA). According to OAL, the proposed regulations contained ambiguous or confusing terms or phrases and created an exemption for small printers and publishers while the authorizing statute creates no such exemption. OAL also found that CIWMB failed to summarize and/or respond adequately to several comments and suggestions regarding the proposed rulemaking, as is required by the APA. CIWMB modified the rulemaking file in response to OAL's findings and subsequently resubmitted the proposed action; on April 7, OAL approved the regulatory action.

-Countywide Siting Elements Regulations. At this writing, CIWMB's proposed adoption of section 18755-18756.7, Title 14 of the CCR, which would describe the required contents of the countywide siting element which must be part of each county's CoIWMP, await adoption by the Board and review and approval by OAL. [12:1 CRLR 145] Among other things, 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. The Board conducted January and February workshops on these proposed rules, and hopes to release a modified version of the regulations by mid-August.

Statewide Objectives for Second Recycling Market Development Zone Cycle. At its March 25 meeting, CIWMB adopted statewide objectives and scoring procedures for the 1992-93 Recycling Market Development Zone Designation Cycle, which started on July 31. The Zones are created by CIWMB in order to stimulate the use of postconsumer waste materials as the feedstock in manufacturing processes by private business, industry, and commerce. [11:3 CRLR 160] In reviewing Zone applications for the 1992-93 cycle, CIWMB will have three objectives: (1) to select Zones that have the greatest regional effect and are distributed geographically in a way which will stimulate statewide market development; (2) to select Zones that utilize innovative recycling technologies and utilize secondary materials to manufacture



and produce value added products; and (3) to select Zones that extend regional landfill capacity. CIWMB is expected to select eight Zones for the 1992-93 cycle by the end of December.

CIWMB Reviews Facilities Evaluation Reports. PRC section 43219(b) requires that, in addition to inspections conducted by local enforcement agencies (LEA), CIWMB 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 inspections 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). [12:1 CRLR 146] Also, PRC section 44104 requires CIWMB to maintain an Inventory of Solid Waste Facilities Which Violate State Minimum Standards.

In February, CIWMB reviewed facilities evaluation reports for the LEAs of Yolo, San Diego, San Luis Obispo, and Santa Cruz counties. For Yolo County, staff noted that the LEA generally fulfilled its duties and responsibilities; further, staff recommended that no facilities in Yolo County be placed on the Inventory.

Although staff found no significant violations of state minimum requirements in San Diego County, it criticized the LEA's slow response time in resolving solid waste facilities permit violations once they are identified; staff also noted a limited number of cases where the LEA did not identify and resolve all minimum standards violations prior to the Board's annual inspections. According to staff, the LEA has since implemented necessary monitoring and enforcement activities. However, staff recommended that three San Diego County landfills—Borrego Springs Sanitary Landfill, San Onofre Sanitary Landfill, and Las Pulgas Sanitary Landfill—be placed on the Inventory as they were found to be in violation of one or more state minimum standards, unless all violations of state minimum standards are corrected within 90 days of Board notice.

As to the San Luis Obispo County LEA, CIWMB staff stated that, while the LEA has generally implemented its enforcement program at an acceptable level, the

LEA has not taken appropriate enforcement action with respect to the Valenta Illegal Disposal Site and the Chicago Grade Landfill, a permitted active landfill with numerous longstanding violations. Also, the LEA failed to perform regular monthly inspections at four sites within its jurisdiction. However, because of subsequent remedial actions taken by the LEA, staff did not recommend that the Board initiate further review of the LEA. Board staff did document at least one violation of applicable state laws and regulations at each of the County's seven active landfills. Because two of those landfills corrected their violations prior to the completion of the evaluation, CIWMB staff recommended that only the other five facilities—the City of Paso Robles Landfill, Camp Roberts Landfill, Cold Canyon Landfill, Chicago Grade Landfill, and California Valley C.S.D. Landfill—be included on the Inventory unless all violations are corrected within 90 days of Board notice.

As to the Santa Cruz County LEA, CIWMB staff found that no significant violations of state minimum requirements were identified during the evaluation. However, CIWMB staff recommended that four solid waste facilities—City of Santa Cruz Landfill, City of Watsonville Landfill, Ben Lomond Landfill, and Buena Vista Landfill—be placed on the Inventory unless all violations noted by CIWMB staff are corrected within 90 days of Board notice.

LEGISLATION:

AB 2696 (Wright). The California Integrated Waste Management Act of 1989 prohibits LEAs and CIWMB, upon the request of any person who furnishes information required by provisions establishing the local waste facilities permit and inspection program, from disclosing information which contains trade secrets. As amended April 1, this bill would require any person furnishing any such information to the enforcement agency or the Board to identify, at the time of submission, all information which the person believes is a trade secret; the bill would authorize CIWMB to determine whether information identified as a trade secret is such. [S. GO]

AB 2661 (Chandler). The California Integrated Waste Management Act of 1989 requires CIWMB to evaluate compost, co-compost, and chemically fixed sewage sludge for use as solid waste landfill cover materials or for use as extenders for currently used cover material. As amended April 21, this bill would also require CIWMB to make that evaluation

with regard to rice straw. [A. Floor]

AB 2920 (Lee), as amended March 31, would require the Office of Emergency Services, in cooperation with CIWMB, to develop a solid waste management disaster plan to assist in diverting from landfills debris resulting from a natural disaster in California. [A. Floor]

AB 2923 (Hauser). For purposes of provisions regulating waste tires, AB 939 defines the term "minor waste tire facility" to mean a waste tire facility where, at any time, more than 500 but less than 5,000 waste tires are or will be stored, stockpiled, accumulated, or discarded. The Act requires CIWMB to issue minor waste tire facility permits. As introduced February 19, this bill would exclude from the definition of the term "minor waste tire facility" a tire dealer or an automobile dismantler who stores tires on the premises for less than 90 days if not more than 1,500 waste tires are ever accumulated on the premises. [S. GO]

AB 3001 (Cortese). Existing law prohibits the establishment of a site for solid waste disposal, a transfer station, waste processing, or resource recovery that does not conform to the CoIWMP approved by CIWMB. As introduced February 19, this bill would delete those provisions and instead prohibit the establishment of a site for solid waste disposal or transformation in an area that is not identified in the countywide siting element of the CoIWMP. [S. GO]

AB 3073 (Sher). The California Oil Recycling Enhancement Act requires, beginning October 1, 1992, every oil manufacturer, defined as a person or entity who packages, distributes, or sells lubricating or industrial oil, 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 for that quarter, except as specified. As amended April 1, this bill would revise the definition of oil manufacturer to include any person or entity who imports lubricating oil into the state in bulk for use rather than sale. This bill would also prohibit CIWMB from raising the recycling incentive amount for lubricating oil unless it finds that the raise will not adversely affect specified required funding. [S. GO]

AB 3322 (Sher), as introduced February 20, would require CIWMB to establish, by regulation, a program to be implemented by the Board and by LEAs that would expedite the review of permits to operate solid waste facilities in order to reduce unnecessary delay and to protect the public health and environment. [A. Floor]



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AB 3348 (Eastin), as amended April 27, would—among other things—repeal provisions of law establishing the Solid Waste Clean-up and Maintenance Advisory Committee in CIWMB.

The Solid Waste Disposal Site Hazard Reduction Act of 1989 authorizes CIWMB to provide grants to cities, counties, or local agencies with responsibility for waste management, for specified purposes relating to the safe operation, closure, and maintenance of solid waste landfills, and provides that these grants shall not exceed, in any one fiscal year, more than 20% of the total revenues deposited, or anticipated to be deposited, in the Solid Waste Disposal Site Clean-up and Maintenance Account in the Integrated Waste Management Fund. This bill would instead provide that those grants shall not exceed, in any one fiscal year, more than 35% of the revenues deposited or anticipated to be deposited into that Account. [A. Floor]

SB 1668 (Beverly). AB 939 requires, on or before July 1, 1991, each county and city to prepare and adopt a SRR element and a HHW element of a CoIWMP. As amended April 1, this bill would extend the deadlines for the preparation and adoption of those elements by one year.

AB 939 requires any county that has less than five years of remaining landfill capacity to submit its CoIWMP to CIWMB by January 1, 1992, any county that has between five and eight years of landfill capacity to submit its CoIWMP to CIWMB by January 1, 1993, and any city or county with more than eight years of landfill capacity to submit its Plan to CIWMB by January 1, 1994. This bill would delete the requirement that any county that has less than five years of remaining landfill capacity submit its Plan to CIWMB by January 1, 1992, and would instead require that any county with less than eight years of landfill capacity, rather than between five and eight years of landfill capacity, to submit its Plan to the Board by July 1, 1993, or twelve months after OAL formally approves regulations for the preparation of countywide siting elements and the Plans, whichever occurs later. The bill would require any city or county with more than eight years of landfill capacity to submit its Plan to CIWMB by January 1, 1994, or eighteen months after OAL formally approves regulations for the preparation of countywide siting elements and the Plans, whichever occurs later. [A. NatRes]

AB 3470 (O'Connell), as amended April 21, would require all state agencies and county agencies, when carrying out a public works contract or purchasing glass,

plastic, compost, motor oil, or rubberized asphalt products, to give a 10% preference for recycled products made by a company within California and, if the recycled products are not made by a company within California, to give a 5% preference for recycled products made by a company outside of California. [A. W&M]

AJR 70 (Eastin), as amended April 27, would request the federal government to "level the playing field" for recycled materials used in product manufacturing by phasing out tax subsidies to specified virgin materials, taxing specified virgin materials contained in selected items, providing tax advantages for recycled materials used in manufacturing products, or any combination of these measures. [S. Rev&Tax]

AB 2393 (Cortese), as amended April 1, would require CIWMB to conduct a study of heavy metals in product packaging, and to report the results of the study to the Governor and the legislature by January 1, 1995. [S. GO]

SB 2061 (Leslie). Existing law requires CIWMB to provide periodic training to LEAs regarding matters relating to enforcement of solid waste management regulation; existing law also requires CIWMB to provide ongoing technical assistance and guidance to LEAs to assist in their decisionmaking process. As amended April 6, this bill would require CIWMB, in providing the training and technical assistance and guidance, to pay particular attention to cities and counties which demonstrate to CIWMB, pursuant to specified provisions, their small geographic size or low population density and the small quantity of solid waste generated within the city or county. [A. NatRes]

SB 44 (Torres), as amended January 17, would specify that the term "transformation," as 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. [A. NatRes]

AB 2446 (Eastin), as amended April 21, would require CIWMB, in consultation with the Department of General Services and the Department of Transportation, to conduct an avoided-cost analysis, as defined, for recycled paper products and recycled paving materials, and to establish an avoided-cost deduction, as defined, for use in bidding for these products and materials. [A. W&M]

SB 1346 (McCorquodale), as amended April 29, would authorize CIWMB, in consultation with the Department of Toxic Substances Control, to con-

duct a study on the problems associated with, and improved methods of handling and disposing of, discarded fluorescent light bulbs; this bill would require CIWMB to conduct the study within the Board's existing budget and utilizing existing personnel. The bill would authorize the Board to report the results of the study to the legislature as part of its annual report on or before March 31, 1994. [A. NatRes]

SB 1955 (Morgan), as introduced February 21, would establish procedures for local agencies to prepare and submit to CIWMB regional integrated waste management plans in lieu of countywide plans; require each city or county SRR element to include specified related information and meet other requirements; require, at the first revision of the countywide or regional integrated waste management plan, that the plan demonstrate how 80% by weight of each constituent material for which adequate statewide or regional markets have been identified by CIWMB shall be diverted from landfill or transformation facilities by January 1, 2000; and require CIWMB to make a determination whether statewide or regional markets are available for recyclable material which is required to be diverted from landfill or transformation facilities pursuant to the above provisions. [S. Appr]

AB 3117 (Bates), as amended May 11, would enact the Grocery Bag Recycling and Recovered Materials Market Development Act, and make legislative findings and declarations regarding the reduction in use, reuse, and recycling of paper bags. [A. Floor]

SB 1919 (Hart). Existing law requires each seller of trash bags, on and after January 1, 1993, to certify to CIWMB on or before March 1 of each year that it has complied with specified requirements pertaining to the percentage of recycled postconsumer material used in trash bags. As introduced February 21, this bill would require the initial certification to be on March 1, 1994. This bill would also require CIWMB on July 1, 1994, and annually thereafter, to publish a list of fines levied against persons in the preceding calendar year for failure to comply with the provisions pertaining to trash bags. [A. NatRes]

SB 1523 (Killea), as amended March 26, would prohibit the operation, on or after July 1, 1993, of a composting facility, as defined, without a solid waste facility permit issued as prescribed; the bill would require CIWMB, by an unspecified date, to adopt regulations prescribing minimum requirements for the permitting, opera-



tion, and closure of composting facilities. [*S. Appr*]

AB 3689 (Gotch), as amended April 21, would require each state agency to develop, in consultation with CIWMB, an integrated waste management program, as specified, by September 1, 1993; require each state agency to complete a waste audit by July 1, 1993, to determine the presence of solid wastes that can be recycled, source reduced, or reused under the program; require at least one waste reduction and recycling coordinator to be designated by each state agency who would be responsible for implementing the program within that agency and to serve as a liaison to other state agencies and coordinators; require CIWMB to provide technical assistance to state agencies, as specified; and require each state agency to divert at least 25% of the solid waste generated by the state agency from landfill or transformation facilities by January 1, 1996, and to divert at least 50% of that solid waste by January 1, 2000. The bill would require each state agency to determine the amount of solid waste that must be diverted, based on the amount of solid waste that the agency sent to those facilities in 1990. [*A. W&M*]

AB 3521 (Tanner). Existing law requires CIWMB to establish, implement, and maintain a recycling plan for legislative and state offices to carry out certain duties in connection with the state waste paper collection program. Existing law further provides that revenues received from this plan, or any other activity involving the collection and sale of recyclable materials in state and legislative offices located in state-owned and state-leased buildings, may be retained and used by state agencies, upon approval of CIWMB to offset recycling program costs. As amended April 21, this bill would, instead require that these revenues be deposited in the Integrated Waste Management Account and shall be made available to CIWMB upon appropriation by the legislature. [*A. W&M*]

The following is a status update on bills reported in detail in CRLR Vol. 12, No. 1 (Winter 1992) at page 147:

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. 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. [*A. NatRes*]

AB 2092 (Sher) would extend the date

by when the city and county SRR element of a CoIWMP is required to be prepared and adopted to July 1, 1992. This bill would also extend the date by when city and county HHW elements are required to be prepared to July 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. [*S. inactive file*]

AB 2211 (Sher) would—among other things—repeal the provisions of law which require CIWMB to conduct prescribed testing of co-compost products to determine whether certain requirements are met, and would authorize CIWMB to impose civil penalties on a city or county that fails to submit an adequate SRR element or CoIWMP. [*S. GO*]

AB 1388 (Horcher) 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. [*S. inactive file*]

SB 97 (Torres) has been substantially amended and is no longer relevant to CIWMB; the former contents of SB 97 have been amended into SB 44 (Torres) (*see supra*).

The following bills died in committee: **AB 2213 (Sher)**, which would have required 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 have required 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; **AB 905 (Clute)**, which would have specified that nothing shall restrict the right to use any solid waste material found at any site to identify persons unlawfully disposing of solid waste; **AB 556 (Horcher)**, which would have required 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; **SB 545**

(**Calderon**), which would have prohibited 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; **SB 576 (Royce)**, which would have permitted 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; **SB 1051 (Vuich)**, which would have imposed an excise tax on the sale of every disposable diaper sold in this state by a distributor to a dealer; **SB 1142 (Killea)**, which would have, among other things, repealed existing law which establishes the Source Reduction Advisory Committee in CIWMB and created, 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; and **AB 130 (Hansen)**, which would have required CIWMB to establish a labeling program to license the use of environmentally safe product labels.

RECENT MEETINGS:

At its February 27 meeting, CIWMB announced that Governor Wilson has appointed Sam Egigian to another four-year term as the Board's member with experience in the solid waste industry.

At its March 25 meeting, CIWMB discussed its participation in the U.S. Environmental Protection Agency's (EPA) "Trial Approval Program" for compliance with new federal regulations for solid waste landfills. [*12:1 CRLR 146*] EPA invited California, along with Connecticut, Virginia, and Wisconsin, to participate in the Program. As part of that participation, California officials have reviewed EPA's proposed 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. EPA will grant "approved state" status to states whose solid waste landfill permitting programs are approved by EPA, thus entitling those states to flexibility in the application of these new federal requirements. At the March meet-



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ing, CIWMB approved its Program application, which seeks "approved state" status for California; the application was subsequently submitted to EPA Region IX officials for review.

At its April 29 meeting, CIWMB announced that it completed its report to the legislature regarding the number of tires recycled or diverted from landfill disposal and stockpiling. The report estimates that, of the 27 million used tires generated in 1990, approximately 9.5–11.5 million are used again for varying alternatives including reuse, retreading, and combustion.

FUTURE MEETINGS:

August 27–28 in Santa Barbara.
September 23–24 in Fresno.
October 29–30 in Santa Rosa.

DEPARTMENT OF PESTICIDE REGULATION

Director: James Wells
(916) 654-0551

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 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 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.

MAJOR PROJECTS:

DPR Enforces the Birth Defect Prevention Act. In February, DPR initiated suspension action against 57 pesticide active ingredients contained in more than 3,000 products sold in California, stating that the manufacturers of the chemicals failed to provide toxicity

studies needed to assess the health effects of their use, as mandated by the Birth Defect Prevention Act of 1985. Pursuant to SB 550 (Petris) (Chapter 1228, Statutes of 1991), which amended the Act, DPR must suspend the registration of any pesticide on its priority list for which registrants have not submitted all required chronic health effects studies as of December 31, 1991; these 57 chemicals are on that priority list.

According to DPR Director James Wells, "[a]lthough the word 'pesticide' is most often associated with chemicals that kill insects and weeds, disinfectants and other chemicals that kill bacteria and other microbes are also pesticides." The chemicals facing suspension include the following: the active ingredient in widely used household disinfectants, such as Lysol Brand Disinfectant, Pine-Sol Cleaner, and Extra Strength Vanish; deet, used in almost all human and many animal insect repellants; boric acid, a widely used insecticide; carbaryl, an insecticide used on most food crops against most insects; ethylene oxide, a low-heat sterilant for medical, dental, hospital, and museum uses; and sulfuryl fluoride, commonly known by the tradename Vikane, a chemical used as a structural fumigant to control termites and other wood-destroying insects.

If a pesticide is actually suspended, sales of the product in the channels of trade may continue for up to two years; however, wholesale sales by registrants would be prohibited. Deferrals from suspension may be granted if the data generator has submitted eight of the required ten studies, has initiated the other two by January 15, 1992, and has a record of timely and appropriate compliance with previous requests for data. Suspension may also be deferred while studies are being completed if the suspension would result in substantial economic hardship or impacts on public health would occur, and there are no feasible alternatives. If suspension is deferred, all studies for the active ingredient must be initiated by June 15, or registration will be suspended.

In support of DPR's actions, Cal-EPA Secretary James Strock noted that pesticide manufacturers have known since the 1984 passage of the Act that they would have to submit chronic health effects data on California-registered pesticides. According to Strock, in instigating suspension actions against companies which have not performed health effect studies, the state is "placing the burden for demonstrating safety where it should be: upon those who create the chemicals." Strock also stressed that the chemicals are