



September 8 (Chapter 612, Statutes of 1992).

AB 3790 (Gotch) requires 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. This bill was signed by the Governor on September 28 (Chapter 1126, Statutes of 1992).

AB 1054 (Sher) requires APCDs, in adopting any program for the use of market-based incentives to improve air quality, to meet prescribed criteria, including specific criteria applicable to the South Coast Air Quality Management District. This bill was signed by the Governor on September 29 (Chapter 1160, Statutes of 1992).

SB 1211 (Committee on Energy and Public Utilities) requires ARB to adopt regulations requiring clean fuel producers, suppliers, distributors, and retailers to supply ARB with cost and price information, which it must then report to the legislature. This bill was signed by the Governor on May 27 (Chapter 67, Statutes of 1992).

AB 598 (Elder) was substantially amended and is no longer relevant to ARB.

The following bills died in committee: **AB 2419 (Quackenbush)**, which would have exempted LEVs, as defined, from local registration fees imposed on or after January 1, 1993, and before January 1, 1996, and provided other tax incentives for the sale and use of LEVs and certain other fuels; **AB 2489 (Hayden)**, which would have required 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; and **AB 280 (Moore)**, which would have limited 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 imposed a \$25 civil penalty in other cases.

RECENT MEETINGS

On September 10, ARB approved an attainment plan for the Monterey Bay Unified Air Pollution Control District. The California Clean Air Act of 1988 requires local and regional air pollution control districts that are not attaining one or more of the state ambient air quality standards for ozone, carbon monoxide, sulfur dioxide, or nitrogen oxide to adopt plans for attaining those standards as expeditiously as practicable (Health and

Safety Code sections 40910-26). The plan drew considerable public comment from small communities and local business employers, who are concerned about possible economic repercussions. Commenters urged flexibility in the attainment plan so that towns with low contributions to overall pollution are not made to bear a disproportionate burden.

FUTURE MEETINGS

December 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 requires counties and cities to prepare Countywide Integrated Waste Management Plans (CoIWMPs), upon which the Board reviews, permits, inspects, and regulates solid waste handling and disposal facilities. A CoIWMP submitted by a local government must outline the means by which its locality will meet AB 939's requirements of a 25% waste stream reduction by 1995 and a 50% waste stream reduction by 2000. Under AB 939, the primary components of waste stream reduction are recycling, source reduction, and composting.

A CoIWMP is comprised of several elements. Each city initially produces a source reduction and recycling (SRR) element, which describes the constituent materials which compose solid waste within the area affected by the element, and identifies the methods the city will use to divert a sufficient amount of solid waste through recycling, source reduction, and composting to comply with the requirements of AB 939. Each city must also produce a household hazardous waste

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

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

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

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

During fiscal year 1992-93, the Board is operating on a \$63 million budget, and employs a staff of approximately 437 in meeting the solid waste management needs of the state.

MAJOR PROJECTS

CIWMB to Propose Major Changes in the Integrated Waste Management Act of 1989. At its July 16 meeting, CIWMB voted to adopt in principle staff's proposal which claims to strengthen the Integrated Waste Management Act of 1989, also known as AB 939 (Sher).

Since passage of the Act, concern has developed among local jurisdictions, the environmental community, the legislature, and the Board about the complexity of the integrated waste management planning process required under AB 939, including the difficulty in obtaining accurate information on quantities and types of wastes recycled or otherwise diverted and in calculating source reduction, local jurisdiction costs of performing waste management planning and monitoring, the need to identify wastesheds and markets for waste materials, and the need to develop markets for waste materials. In addition, concern has been expressed that solid waste generation studies and planning activities have been very costly for many jurisdictions; measurement of waste diversion has been the most expensive and

perhaps the most difficult part of AB 939's requirements. In light of these concerns, the Board directed staff to define, analyze, and present its preferred option for changing the existing diversion calculation system.

Currently, the Act provides for a generation-based waste reporting system, which requires local jurisdictions to quantify all waste disposal at landfill and transformation facilities, and all waste diversion accomplished by public or private source reduction, recycling, and composting programs or activities. These disposal and diversion amounts are both used to determine compliance with the 25% and 50% diversion mandates of AB 939. Although the generation-based quantification system theoretically produces very detailed information for use in monitoring waste generation, it is complex and extremely expensive, and there is considerable doubt as to the accuracy of the data obtained. Staff recommended changing to a disposal-based reporting system that would require disposal facility operators to report disposal tonnages by jurisdiction in periodic reports to the county, which would then forward a report to the Board. The Board would continue to use the existing source reduction and recycling element (SRRE) to determine the diversion tonnage required to meet AB 939's 1995 and 2000 diversion goals, and as well as a guide to programs to be implemented. Waste disposal characterization studies, currently required when there is a lack of accurate information, would be required only when a jurisdiction or waste management planning region fails to meet statutory diversion mandates or SRRE projections.

The proposal also allows for the formation of voluntary regional groups, called waste management planning regions, which could include two or more cities within the same county, an entire county including all of its cities, or two or more counties. Formation of a waste management planning region and the allocation of duties and responsibilities would be delineated in a "Waste Management Planning Region Contract," which would specify how any Board-imposed fines for failure to meet AB 939's diversion requirements would be allocated among the jurisdictions in the waste management planning region. Because the disposal (and, therefore, the diversion tonnages) required to meet the goals for the region would be the same as the sum of the individual jurisdiction tonnages required under the current system, the amount of additional required diversion would be the same. By using the solid waste generation

projections in the SRREs of the individual jurisdictions to determine the target disposal amounts in 1995 and 2000, jurisdictions could not share any existing diversion credit that is over their diversion goals. If all regions and remaining individual jurisdictions meet their diversion goals, the amount being disposed statewide will be reduced by the same amount as if all individual jurisdictions met the goals under the existing system. Each disposal region, not individual jurisdictions, would be responsible for meeting the 25% and 50% diversion goals of AB 939 and submitting the annual reports. If diversion goals are not met and the disposal region fails to be a viable entity, ultimate responsibility for paying fines would still reside in individual jurisdictions in the disposal regions.

Under staff's proposal, Board assistance to local jurisdictions would continue at an enhanced level and would include the development of model source reduction and education programs, market development activities, and other planned programs. In keeping with the philosophy of local control, local jurisdictions would still have the primary responsibility for market development activities that can best be accomplished at the local level. However, the Board would exercise leadership in promoting market development and the availability of diverted materials on a statewide basis. The Board would prepare annual reports using diversion information reported by private recyclers, composting facilities, and the disposal tonnages reported by disposal facility operators.

The changes contained in staff's proposal would not require a new planning effort or revision of the SRRE; SRRE diversion programs could be implemented immediately. However, they do require substantial statutory changes to landmark legislation which is only three years old; if and when the legislature agrees to amend AB 939, the Board would need an additional 12-18 months to adopt implementing regulations, allowing time for staff work, public review, hearings, and Office of Administrative Law (OAL) approval.

Asbestos-Containing Waste Disposal Regulations. Asbestos-containing waste (ACW) in its friable form (greater than 1% friable asbestos by weight) is a hazardous waste. Under current law, CIWMB lacks jurisdiction over ACW disposal. Nevertheless, section 25143.7 of the Health and Safety Code allows disposal of ACW at any landfill that has waste discharge requirements issued by the applicable Regional Water Quality



Control Board (RWQCB) that allow the disposal of such waste, provided that the waste is handled and disposed of in accordance with applicable law. Because RWQCBs may regulate some ACW disposal under their jurisdiction, the Department of Toxic Substances Control (DTSC) has chosen not to regulate non-hazardous waste disposal sites containing ACW. This condition has left a regulatory void for non-water related issues at such disposal sites. [12:1 CRLR 147-48] Earlier this year, the Board directed staff to initiate discussions with DTSC regarding the dilemma. The outcome of these discussions was a memorandum of understanding between CIWMB and DTSC, expressing agreement to regulate the disposal of ACW more efficiently.

By the terms of the agreement, CIWMB will regulate the disposal of ACW at Class II, Class III, and unclassified disposal sites in accordance with section 25143.7 of the Health and Safety Code and all applicable regulations. DTSC will continue to regulate the disposal of ACW at Class I disposal sites and all transportation and handling of ACW prior to disposal. Disposal sites to be regulated by CIWMB will be issued solid waste facilities permits with provisions for ACW regulation incorporated into the permit. At sites CIWMB regulates, CIWMB will perform ACW permitting, inspection, and enforcement duties. In addition, CIWMB will coordinate permitting and inspections with applicable RWQCBs and Cal-OSHA. Finally, CIWMB and DTSC agreed to work jointly to promulgate regulations in Title 22 of the CCR setting forth disposal standards for ACW.

Composting Facility Regulations. On September 11, the Board published notice of its intent to adopt new sections 17851-17895 and 18220, and amend sections 18207, 18208, 18213, and 18215, Division 7, Title 14 of the CCR. The new regulations will establish minimum standards for the design, operation, and permitting of solid waste facilities which include green materials composting facilities. The Board is taking the regulatory action to ensure that composting facilities, including those using green materials, are designed and operated in a manner which protects public health and safety and the environment. This regulatory action allows the Board or a local enforcement agency (LEA) to grant a "registration permit" to a green materials composting facility when the operator has met the minimum standards. The regulatory changes would also streamline the permitting process for solid waste facilities. The

public comment period was scheduled to close on October 26, and the Board scheduled a public hearing on the proposed regulatory action for October 27.

Emergency Earthquake Regulations. On May 28, the Board submitted sections 17000-17006, Division 7, Title 14 of the CCR, to OAL for approval as emergency regulations. The regulations grant certain operators with valid solid waste facilities permits a waiver of any standard imposed by Division 7, Title 14 of the CCR, or any term or condition of a solid waste facilities permit issued pursuant to Division 7 that is related to origin of waste, rate of inflow for storage, transfer, or disposal, types of solid waste, and hours of operation. The waiver is limited to receipt of waste originating within the geographical area of the April 25 Humboldt County earthquake and aftershocks or the area designated by the Governor's Declaration of Emergency. The emergency regulations set forth the conditions of the waiver and other requirements to be met in order for an operator to qualify for the waiver. OAL approved the emergency regulations on June 8.

Financial Responsibility for Landfills on Federal Land. Pursuant to PRC sections 43500-43610, the Board is authorized to adopt regulations requiring owners and operators of solid waste disposal facilities to provide financial assurance for the closure and postclosure maintenance costs of their facilities. On July 31, CIWMB published notice of proposed amendments to sections 18281 and 18283, and the addition of new section 18292, Title 14 of the CCR. The proposed regulations relate to financial responsibility for closure and postclosure maintenance of landfills located on federal land.

Currently, federal entities that operate landfills are required to demonstrate financial assurance for closure and postclosure maintenance costs. However, none of the mechanisms that are available to other landfill operators are available to federal entities, since they are not legally able to obtain assurances such as surety bonds and trusts. The proposed regulations provide an additional demonstration mechanism that is available only to federal entities that takes into account the structure and budgetary processes of the federal government.

No comments were received by the Board during the public comment period, which closed on September 14. The Board was expected to adopt the proposed regulations at its October 29 meeting.

Rulemaking Update. The following

is a status update on CIWMB regulatory proposals discussed in detail in recent issues of the *Reporter*:

• **Used Oil Collection Demonstration Grant Program.** SB 1200 (Petris) (Chapter 1657, Statutes of 1990) mandates the establishment of the Used Oil Collection Demonstration Grant Program, under which CIWMB will provide approximately \$1 million in grant funds to eligible cities and counties on a one-time basis. The funding was received by the state from federal oil overcharge funds. SB 1200 requires CIWMB to develop regulations and grant applications for the administration of the grant program. On January 15, the Board adopted as emergency regulations sections 18550-18561; OAL approved them on March 6. [12:2&3 CRLR 205] At its August 5 meeting, the Policy, Research and Technical Assistance Committee endorsed staff's recommendation that 19 of 23 grant applications totaling \$840,057 be approved. On August 27, the Board approved the grants.

• **Used Oil Recycling Enhancement Program.** On May 28, CIWMB adopted as emergency regulations sections 18600-18642, and repealed sections 18600, 18601, and 18611, Division 7, Title 14 of the CCR. This regulatory action implements certain aspects of the California Oil Recycling Act of 1991 (Chapter 817, Statutes of 1991), by setting forth reporting requirements for oil manufacturers, used oil haulers, and used oil recycling facilities. [12:2&3 CRLR 205; 11:4 CRLR 161] On August 20, OAL approved the emergency regulations.

On July 17, the Board published notice of its intent to adopt the emergency regulations on a permanent basis. After the public comment period closed on September 2, the Board made a few minor modifications to the language and due dates. The regulations were also modified to comply with the new definition of "oil manufacturer" specified in AB 3073 (Sher) (Chapter 1101, Statutes of 1992) (*see infra* LEGISLATION). The Board was expected to approve the regulations at its October 6 meeting.

• **HHW Grant Program Amendments.** On July 22, OAL approved the Board's amendments to sections 18502, 18510, 18511, 18512, 18515, 18530, 18531, 18533, 18533.1, and 18534.1, Title 14 of the CCR, which govern the disbursement of grant funds for HHW collection programs. Among other things, the amendments clarify grant eligibility requirements and procedures, alter the disbursement mechanism, and change the formula used by CIWMB to disburse funds. [12:2&3 CRLR 205-26; 10:4



REGULATORY AGENCY ACTION

CRLR 147]

• **Financial Responsibility for Operating Liability Claims.** On July 31, CIWMB published notice of its intent to permanently adopt its emergency amendments to sections 18232 and 18240, Title 14 of the CCR. The regulatory changes require 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 that result from the pre-closure operation of such facilities. [12:2&3 CRLR 206; 12:1 CRLR 146] The public comment period on CIWMB's permanent adoption of these amendments closed on September 14; the Board was expected to approve the permanent changes at its October 29 meeting. On September 16, OAL approved CIWMB's amendments to the two sections on an emergency basis for another 120-day period.

• **Waste Tire Storage/Disposal Regulations.** On June 19, CIWMB published notice of intent to permanently adopt its emergency regulations which set forth standards for waste tire facility (WTF) permits. OAL initially approved the emergency regulations on February 10 and re-approved them on May 9 and September 28. The regulatory action adds sections 17225.35, 17225.705, 17225.715, 17225.735, 17350-17356, 18420, 18422-18429, 18431-18434, 18440-18443, 18447-18448, 18470-18482, and 18485-18499, Division 7, Title 14 of the CCR. These regulations establish procedures and requirements necessary to obtain WTF permits, and technical standards for storage and disposal of waste tires at either WTFs or solid waste facilities that store or stockpile more than 500 waste tires at a specific location. [12:2&3 CRLR 206; 12:1 CRLR 145] The Board received numerous comments at a public hearing on August 19; at this writing, the Board is summarizing the comments and plans to present a modified version of the regulations for final approval by the end of the year.

• **Required Content of CoIWMPs.** CIWMB recently proposed the adoption of sections 18757, 18757.1, 18757.3, 18757.5, 18757.7, 18758, 18758.1, and 18758.3, Title 14 of the CCR, to describe the required content of 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, regional and countywide integrated approaches to solid waste management, and alternatives to long-range waste reduction and disposal. [12:2&3 CRLR 204] Due to the substan-

tial number of responses received during the public comment period, CIWMB made several changes to the regulations and was prepared to release a modified proposal in June. However, release of the modifications was postponed due to the expected enactment of AB 3001 (Cortese) (Chapter 1291, Statutes of 1992) and AB 2494 (Sher) (Chapter 1292, Statutes of 1992), which impact the subject matter of the regulations. The Board expects to rewrite the regulations and release a new proposal later this year.

• **Countywide Siting Elements.** At this writing, CIWMB's proposed adoption of sections 18755-18756.7, Title 14 of the CCR, which would describe the required contents of the countywide siting element aspect of each county's CoIWMP, awaits the possibility of further revision due to the impact of AB 3001 (Cortese) (Chapter 1291, Statutes of 1992) and AB 2494 (Sher) (Chapter 1292, Statutes of 1992) on the subject matter of the regulations. Among other things, the proposed regulations would require counties to identify existing and proposed solid waste management facilities, alternatives to either expanding existing facilities or constructing new facilities, and the criteria used in locating the preferred new facilities. [12:2&3 CRLR 206] The Board expects to rewrite the regulations and release a new proposal later this year.

• **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 that produces a marketable finished product composed of post-consumer and secondary waste. PRC section 40502 authorizes CIWMB to establish requirements implementing the 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 May 28, CIWMB amended 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. [12:2&3 CRLR 205] At this writing, the proposed rule has not been submitted to OAL for review.

• **Recycling Market Development Zone Low-Interest Loan Program.** In January 1992, CIWMB published notice of its intent to adopt sections 17930-17935.5, Title 14 of the CCR, to clarify its eligibility criteria and priorities for making low-interest loans to local governments and private businesses located

within designated Recycling Market Development Zones. [12:2&3 CRLR 205] Following a public comment period ending on March 10, the Board's Market Development Committee modified the regulatory proposal twice, and the full Board adopted it at its August 27 meeting. At this writing, CIWMB staff is preparing the rulemaking record for submission to OAL.

• **CIWMB to Develop Education Program on Waste Management.** At its September 23 meeting, the Board voted unanimously to adopt staff's proposal to work with DTSC and the California Department of Education (CDE) to produce and disseminate to all California schools a curriculum compendium on hazardous and non-hazardous waste management.

CDE has initiated a project that is intended to lead to the development of an environmental education framework. Using existing instructional frameworks, CDE has identified environmental concepts that all students should be taught, as well as methods to effectively teach them. To this end, CDE is creating a repository of existing information in each area of environmental concern. Two compendia have already been completed, one on energy and the other on water resources. Two others are under way: The Air Resources Board has contracted with CDE to complete a compendium on air quality, and CDE has initiated a partnership with the Department of Fish and Game, the Department of Forestry, and the U.S. Forest Service to complete a compendium on plant and animal communities. CDE has offered a similar partnership with the Board and DTSC to develop a curriculum compendium on waste management. CDE has expressly requested that the compendium project be comprehensive in focus, encompassing non-hazardous and hazardous waste management. It is anticipated that the curriculum compendium will be divided into three sections: integrated waste management, hazardous waste management, and a curriculum that encompasses both areas.

The Board approved a \$20,000 budget to cover all associated costs, with work commencing in October and completion expected by May 1993.

LEGISLATION

• **AB 2494 (Sher)** declares that it is the policy of the state to encourage local governments to minimize duplication of effort and the cost incurred in implementing the Integrated Waste Management Act of 1989, through regional cooperative efforts and other mechanisms that comply with the Act. The bill provides for the



formation of regional agencies, and requires the Board to develop a model countywide or regional siting element and a model countywide or regional agency integrated waste management plan that may be utilized by local agencies in complying with the Act.

AB 2494 also requires CIWMB to develop and implement a program to assist local agencies in the identification of markets for materials that are diverted from facilities through source reduction, recycling, and composting, and develop model programs and materials that assist rural counties in complying with the Act. This bill was signed by the Governor on September 30 (Chapter 1292, Statutes of 1992).

AB 2567 (Moore). The Integrated Waste Management Act of 1989 authorizes a city, county, or city and county to impose fees in amounts sufficient to pay the costs of preparing, adopting, and implementing a CoIWMF prepared pursuant to the Act, and imposes limitations and procedural requirements on local agencies with respect to the imposition of specified fees and service charges. This bill makes a city, county, or city and county that imposes fees for the purpose of paying the costs of preparing, adopting, and implementing such a plan subject to those limitations and procedural requirements. This bill was signed by the Governor on August 16 (Chapter 487, Statutes of 1992).

AB 260 (Epple). The Integrated Waste Management Act of 1989 requires cities and counties to divert 25% of all solid waste from landfills by January 1, 1995 and, with specified exceptions, to divert 50% of all solid waste from landfills by January 1, 2000, through source reduction, recycling, and composting activities. Existing law also authorizes CIWMB, notwithstanding these diversion requirements, to reduce the source reduction, recycling, and composting goals for any city or county which, on or before January 1, 1989, disposed of 75% or more of its solid waste by transformation, if two specified conditions exist. This bill instead authorizes the Board to reduce those goals for a city or county which, on or before January 1, 1990, disposed of 75% or more of its solid waste by transformation, if either of the two specified conditions are met. This bill was signed by the Governor on September 16 (Chapter 736, Statutes of 1992).

SB 1703 (Johnston). Existing law permits the board of supervisors of any county to annually establish a schedule of fees to be imposed upon land within the unincorporated area of the county; the revenue

from the fees is to be used for the acquisition, operation, and maintenance of county waste disposal sites and for financing waste collection, processing, reclamation, and disposal services. This bill additionally authorizes the board of supervisors to establish and impose these fees in incorporated areas of the county where cities do not provide their own waste disposal sites, requires the board to impose uniform fees for incorporated and unincorporated areas, and requires the board to obtain the consent of the legislative body of the city before imposing the fees. This bill was signed by the Governor on July 18 (Chapter 269, Statutes of 1992).

SB 1985 (Thompson). Under existing law, a public agency operating a hazardous waste collection program, a person operating such a program under an agreement with a public agency, and any person operating a certified used oil collection center are immune from liability in a cost recovery action brought pursuant to the Carpenter-Presley-Tanner Hazardous Substance Account Act, which imposes liability for hazardous substance clean-up, if specified conditions are met concerning the handling and transportation of the waste. Existing law further requires a potentially responsible party to pay various fees to the State Board of Equalization for costs incurred by the Department of Toxic Substances Control in connection with the oversight of removal and remedial actions. This bill defines the term "household hazardous waste collection program" and specifies that this immunity provision applies to public agencies operating these programs or persons operating these programs under a written agreement. The bill also provides that these public agencies and persons are also immune from liability for those oversight fees. This bill was signed by the Governor on July 24 (Chapter 363, Statutes of 1992).

The following is a status update on bills reported in detail in CRLR Vol. 12, Nos. 2 & 3 (Spring/Summer 1992) at pages 207-09:

AB 2696 (Wright). The 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. This bill requires 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 authorizes CIWMB to determine whether

information identified as a trade secret is such. This bill was signed by the Governor on July 22 (Chapter 301, Statutes of 1992).

AB 2661 (Chandler). The 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. This bill also requires CIWMB to make that evaluation with regard to rice straw. This bill was signed by the Governor on September 30 (Chapter 1207, Statutes of 1992).

AB 2920 (Lee) requires CIWMB, in cooperation with the Office of Emergency Services, to develop an integrated waste management disaster plan to provide for the handling, storage, processing, transportation, diversion from disposal sites, or disposal at a disposal site where absolutely necessary, of solid waste resulting from a state of emergency or local emergency. This bill was signed by the Governor on August 3 (Chapter 436, Statutes of 1992).

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, and requires CIWMB to issue minor waste tire facility permits. This bill excludes 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. This bill was signed by the Governor on July 13 (Chapter 199, Statutes of 1992).

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 CoIWMF approved by CIWMB. This bill repeals those provisions and instead prohibits a person from establishing or expanding a solid waste facility, after a CoIWMF has been approved, unless the facility meets at least one of two specified criteria. This bill was signed by the Governor on September 30 (Chapter 1291, Statutes of 1992).

AB 3073 (Sher). Beginning October 1, 1992, the California Oil Recycling Enhancement Act requires 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



REGULATORY AGENCY ACTION

sold or transferred in this state or imported into this state for use in the state for that quarter, except as specified. This bill—among other things—revises the definition of oil manufacturer to include the first person or entity who takes title to lubricating or industrial oil in the state for sale, use, or transfer in the state. This bill was signed by the Governor on September 28 (Chapter 1101, Statutes of 1992).

AB 3322 (Sher) requires CIWMB to establish, by regulation, a program to be implemented by the Board and by LEAs that would expedite the review of solid waste facilities permits in order to reduce unnecessary delay and to protect the public health and safety and the environment; delays until 1994 existing law which prohibits the directing or transportation of waste tires to a major waste tire facility or minor waste tire facility unless the operator has obtained a major or minor waste tire facility permit; authorizes LEAs to recover costs incurred in meeting specified requirements regarding the closure and postclosure of solid waste landfills by charging a fee; and requires specified civil penalties assessed and collected to be paid to CIWMB or the LEA, whichever is represented by the attorney bringing the action. This bill was signed by the Governor on September 30 (Chapter 1293, Statutes of 1992).

AB 3348 (Eastin), among other things, repeals provisions of law establishing the Solid Waste Clean-up and Maintenance Advisory Committee in CIWMB; provides that specified grants provided by CIWMB 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, shall not exceed, in any one fiscal year, more than 35% of the revenues deposited or anticipated to be deposited into the Solid Waste Disposal Site Clean-up and Maintenance Account; and deletes provisions which authorize CIWMB to make loan guarantees to the owner and operator of a solid waste landfill to implement a corrective action. This bill was signed by the Governor on September 29 (Chapter 1218, Statutes of 1992).

AJR 70 (Eastin) requests 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. This resolution was chaptered on July 15 (Chapter 79, Resolutions of

1992).

AB 2393 (Cortese) requires CIWMB to conduct a study of heavy metals in product packaging, and report the results of the study to the Governor and the legislature by January 1, 1995. This bill was signed by the Governor on July 24 (Chapter 357, Statutes of 1992).

SB 2061 (Leslie). Existing law requires CIWMB to provide periodic training to LEAs regarding matters relating to enforcement of solid waste management regulations; existing law also requires CIWMB to provide ongoing technical assistance and guidance to LEAs to assist in their decisionmaking process. This bill requires 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. This bill was signed by the Governor on September 27 (Chapter 1035, Statutes of 1992).

AB 2446 (Eastin) would have authorized the Department of General Services, in consultation with CIWMB, to establish price preferences, recycled content disclosure, recycled product only bids, and cooperative purchasing arrangements for paper products and for compost, glass, oil, plastic, solvents and paint, paving materials, and tires. This bill also would have required that at least 15% of the total fine writing and printing paper purchased by the Department be recycled paper products by January 1, 1994, and 25% by January 1, 1996. This bill was vetoed by the Governor on September 22.

SB 1346 (McCorquodale) would have authorized CIWMB, in consultation with the Department of Toxic Substances Control, to conduct a study on the problems associated with, and improved methods of handling and disposing of, discarded fluorescent light bulbs; required CIWMB to conduct the study within its existing budget and utilizing existing personnel; and authorized the Board to report the results of the study to the legislature as part of its annual report on or before March 31, 1994. This bill was vetoed by the Governor on July 14.

AB 3117 (Bates) would have enacted the Grocery Bag Recycling and Recovered Materials Market Development Act, and made legislative findings and declarations regarding the reduction in use, reuse, and recycling of paper bags. This bill was vetoed by the Governor on July 14.

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. This bill requires the initial certification to be on March 1, 1994, and expands the definition of a seller to include a governmental entity. This bill also requires CIWMB on July 1, 1994, and annually thereafter, to publish a list of persons who have failed to comply with the provisions pertaining to trash bags. This bill was signed by the Governor on September 12 (Chapter 688, Statutes of 1992).

SB 1523 (Killea) would have prohibited the operation of a composting facility, as defined, without a solid waste facility permit, and required CIWMB, on or before July 1, 1993, to adopt regulations prescribing minimum requirements for the permitting, operation, and closure of composting facilities. This bill was vetoed by the Governor on September 26.

AB 3689 (Gotch) would have required each state agency to develop, in consultation with CIWMB, an integrated waste management program, as specified, by December 1, 1993; required each state agency to complete a waste audit by September 1, 1993, to determine the presence of solid wastes that can be recycled, source reduced, or reused under the program; authorized 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; required CIWMB to provide technical assistance to state agencies, as specified; and required each state agency to divert at least 25% of the solid waste generated by the agency from landfill or transformation facilities by January 1, 1996, and to divert at least 50% of that solid waste by January 1, 2000. This bill was vetoed by the Governor on September 30.

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. This bill instead requires that these revenues be deposited in the Integrated



Waste Management Account and made available to CIWMB and, until June 30, 1994, continuously appropriates these funds to the Board for offsetting recycling program costs, but, after July 1, 1994, allows CIWMB to expend the funds in the Account only upon appropriation by the legislature. This bill was signed by the Governor on September 28 (Chapter 1116, Statutes of 1992).

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 specifies that the evidence of financial ability must be sufficient to meet the closure and postclosure maintenance costs when needed; allows owners and operators of disposal sites to provide evidence of financial ability through the use of mechanisms set forth in related federal regulations or any other mechanism approved by CIWMB; and authorizes CIWMB to adopt regulations which reasonably condition the use of one or more of these mechanisms to ensure adequate protection of the public health and safety of the environment. This bill was signed by the Governor on September 27 (Chapter 1062, Statutes of 1992).

AB 2092 (Sher) extends 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 also extends the date by when city and county HHW elements are required to be prepared to July 1, 1992, and specifies related duties if the city or county determines that it is unable to comply with the deadline and requirements of the California Environmental Quality Act. This bill was signed by the Governor on June 29 (Chapter 105, Statutes of 1992).

AB 2211 (Sher), among other things, repeals the provisions of law which require CIWMB to conduct prescribed testing of co-compost products to determine whether certain requirements are met, and authorizes CIWMB to impose civil penalties on a city or county that fails to submit an adequate SRR element or CoIWMP. This bill was signed by the Governor on July 21 (Chapter 280, Statutes of 1992).

The following bills died in committee: **SB 1668 (Beverly),** which would have extended by one year the deadline for the preparation and adoption by each county and city of a SRR element and a HHW element of a CoIWMP; **AB 3470 (O'Connell),** which would have required all state 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; **SB 44 (Torres),** which would have specified 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; **SB 1955 (Morgan),** which would have—among other things—established procedures for local agencies to prepare and submit to CIWMB integrated waste management plans for a local planning area, as defined, in lieu of countywide plans; and **AB 1388 (Horcher)** which would have, with respect to the Puente Hills Landfill in Los Angeles County only, prohibited 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.

■ FUTURE MEETINGS

December 16 in Sacramento.

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

With the creation of Cal-EPA, all jurisdiction over pesticide regulation and registration was removed from 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 (FAC section 13121 *et seq.*), the Pesticide Contamination Prevention Act (section 13141 *et seq.*), and laws relating to pesticide residue monitoring (section 12501 *et seq.*), registration of economic poisons (section 12811 *et seq.*), assessments against pesticide registrants (section 12841 *et seq.*), pesticide labeling (section 12851 *et seq.*), worker safety (section 12980 *et seq.*), restricted materials (section 14001 *et seq.*), and qualified pesticide applicator certificates (section 14151 *et seq.*).

DPR includes the following branches:

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

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

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

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

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

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