



REGULATORY AGENCY ACTION

agencies to implement the Clean Air Act.

Federal military bases, which are major polluters in the southern California area, have previously rebelled against paying permit and clean-up fees dating back to 1986. The ruling requires at least ten military facilities to pay over \$1 million in previously assessed fees, plus undetermined penalties. Fee revenues provide a substantial portion of the District's budget and are used for enforcement and development of new regulations. ARB intervened in support of the Air Quality Management District.

The Barbecue Industry Association recently filed a petition for injunctive relief in Los Angeles County Superior Court against the South Coast Air Quality Management District to overturn a District ban on lighter fluids (*Barbecue Industry Association v. South Coast Air Quality Management District*, No. BS004212). The complaint alleges that the rule is arbitrary and capricious and the District violated the California Environmental Quality Act (CEQA) by failing to conduct an adequate environmental assessment. The rule sets forth stringent emissions requirements for lighter fluids and pre-soaked charcoal briquettes and bans the sale of fluids exceeding these limits starting in 1992. It was adopted by the District on October 25, 1990, after a year of analysis and six months of public review. District officials estimate that up to four tons of ozone-depleting hydrocarbon emissions enter the atmosphere from summer afternoon barbecues, an amount exceeding emissions from a major oil refinery.

FUTURE MEETINGS:

April 11-12 in Sacramento.

CALIFORNIA INTEGRATED WASTE MANAGEMENT AND RECYCLING BOARD

Executive Officer: George H. Larson

Chair: Sam Egigian

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The California Integrated Waste Management and Recycling Board (CIWMB) was created by AB 939 (Sher) (Chapter 1095, Statutes of 1989), the California Integrated Waste Management Act of 1989. The Act is codified in Public Resources Code (PRC) section 40000 *et seq.* AB 939 repealed SB 5, thus abolishing CIWMB's predecessor, the California Waste Management Board (CWMB). (See CRLR Vol. 9, No. 4 (Fall 1989) pp. 110-11 for extensive background information.)

CIWMB reviews and issues permits for landfill disposal sites and oversees the operation of all existing landfill disposal sites. The Board is authorized to require counties and cities to prepare Countywide Integrated Waste Management Plans (CoIWMPs), upon which the Board will review, permit, inspect, and regulate solid waste handling and disposal facilities. A CoIWMP submitted by a local government must outline the means by which its locality will meet AB 939's requirements of a 25% waste stream reduction by 1995 and a 50% waste stream reduction by 2000. Under AB 939, the primary components of waste stream reduction are recycling, source reduction, and composting.

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

The new CIWMB is to be 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.

At its September 1990 meeting in Sacramento, the new CIWMB reached a quorum of four members and the old CWMB was abolished. The members present at the first CIWMB meeting were Sam Egigian, Wes Chesbro, Kathy Neal, and John Gallagher. Gallagher, former chair of CWMB, has since resigned rather than risk rejection by the Senate. Shortly before he left office, former Governor Deukmejian appointed his chief of staff, Michael R. Frost, and his Director of Finance, Jesse Huff, to the remaining two public member positions; these two positions are not subject to Senate confirmation.

The new Board begins its work under a new enabling statute, with a variety of recently enacted bills and many new regulations. The Board is operating on a \$53 million budget during fiscal year 1990-91, and will deploy an enlarged staff of about 200 in meeting the solid waste management needs of the state.

MAJOR PROJECTS:

Regulatory Changes. In March 1990, the Office of Administrative Law (OAL) approved a number of emergency regulations designed to implement AB 939 (Sher). (See CRLR Vol. 10, No. 4 (Fall 1990) p. 146; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 169; and Vol. 10, No. 1 (Winter 1990) p. 129 for extensive background information on AB 939 and these regulatory changes.) These emergency regulations are scheduled to remain in effect until March 14, 1991, under an extended deadline granted by OAL.

At a December 5 public hearing, the Board considered the adoption of permanent regulations to replace the previously approved emergency regulations. The proposed permanent regulations considered consist of Articles 3, 6.1, 6.2, 7, and 8, Chapter 9, Division 7, Title 14 of the CCR.

Proposed section 17820 of Article 3 contains definitions of 85 terms used in CIWMB's regulations regarding the preparation and revision of the CoIWMPs required under AB 939. According to CIWMB staff, precise definitions of these terms, many of which are intended to have very specific meanings in regard to solid waste management, will help to expedite the preparation and approval of the CoIWMPs submitted by the jurisdictions.

For example, the term "best readily available and applicable data or representative data"—which is required in CoIWMP preparation—is defined to mean information that is available to a jurisdiction from published sources, field sampling, the Board, or other identifiable entities which is the most current data and which addresses the situation being examined; the different classes of waste materials are categorized into "commercial solid waste," "industrial solid waste," "organic waste," etc.; and terms to assist jurisdictions and the Board in determining the base rate for measurement of progress toward the 1995 and 2000 waste diversion goals (such as "normally disposed of," "diversion alternatives," "disposal capacity," etc.) are also defined.

Most of the differences between the definitions contained in the emergency regulations and those of the proposed



permanent regulations are minor. Some of the more important changes include the definition of "organic waste," which has been expanded to include waste materials derived from petroleum and petroleum products; and the definition of "normally disposed of," which has been modified to clarify the waste categories and types which may be used in determining the base amount of solid waste from which source reduction, recycling, and composting levels will be calculated.

The Board responded to numerous public comments regarding the proposed definitions, and modified several of them in response to the comments. For example, the definitions of "composting" and "composting facility" were revised to be consistent with PRC section 40116, and the definition of "aluminum can or container" was amended to reflect the typical composition of commercially made containers, which is approximately 94-96% aluminum instead of the 99% figure used in the original draft language. The Board then adopted the proposed regulatory amendments to Article 3.

Article 6.1, which consists of sections 18722, 18724, and 18726, outlines the general requirements of Solid Waste Generation Studies, and is designed to assist local governments in preparing the Source Reduction and Recycling (SRR) element of the CoIWMP mandated by PRC section 41000 *et seq.* These waste characterization studies may be conducted by an individual jurisdiction (city or county) for solid waste generated within that jurisdiction, or jointly by two or more jurisdictions for the solid waste generated within the participating jurisdictions. Reliance on such regional studies is authorized by PRC sections 41030 and 41330 and by the 1990 amendments to these sections which were enacted through AB 1820 (Sher) (Chapter 145, Statutes of 1990). (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 172 for background information on AB 1820.)

Proposed Article 6.1 details the methods to be used in the sampling and analysis of the waste stream and the projection of the data to determine future landfill capacity needs for at least the next fifteen years. The Solid Waste Generation Studies will help to establish the base rate of diversion that each jurisdiction is required to determine in preparing to meet AB 939's specified waste diversion goals. The proposed regulations provide guidelines for the measurement of waste quantities, which must be reported both by weight and by volume to facilitate evaluation of the waste

diversion efforts among the large number of operating facilities overseen by the Board; and include safeguards to prevent counting waste materials more than once and to ensure that all solid wastes countable toward the statutory diversion goals are not only generated in a community, but are normally disposed of in permitted solid waste disposal sites located in or used by that community. Section 18724 of Article 6.1 implements the 1990 AB 1820 (Sher) amendments to AB 939, which pertain to the preparation of the initial solid waste generation study for the initial SRR element. The regulation clarifies the due dates for local governments to complete their solid waste generation studies, and the exceptions to these dates under PRC section 41000(b); requires, under specified conditions, the use of six months' worth of data for the initial characterization study combined with projections based on those data for the remaining half of the first year; and clarifies the rules regarding a local government's use of regional studies or pre-existing data regarding waste characterization. Section 18726 provides requirements for the preparation of Solid Waste Generation Studies for revised SRR elements; subsequent revisions are required to contain a greater amount of detailed information than the initial study.

The proposed regulations contained in Article 6.1 were adopted by the Board, but only after several changes were made to the original language of the regulations. Modifications made following the public comment period include clarification of the term "other sources" as used in the categorization of solid waste types; clarification of the methods allowed for acquisition of data concerning seasonal variation in the quantities and variation of solid waste types; elimination of the special treatment of materials in the "litter" category; and an allowance for the inclusion of other waste types in addition to the specified solid waste categories and types. Other changes include clarification of requirements of a quantitative field analysis of waste materials; a revision of limits on the use of waste generation data from other jurisdictions; and the addition of a new paragraph stressing the need for accuracy in compiling and reporting data for the purposes of preparation of the SRR element, the household hazardous waste element, and the countywide siting element.

Sections 18730-18748 of Article 6.2 provide guidelines and procedures for the preparation of the SRR element which each jurisdiction is required to include in its CoIWMP, and describe the

information which must be included in the SRR element and the kind of analysis to be made by each jurisdiction of its own solid waste management problems.

Pursuant to the regulations, each SRR element would be comprised of the following individual parts specified in section 18733's Model Component Format: (1) a source reduction component; (2) a recycling component; (3) a composting component; and (4) a special waste component. A fifth component, the household hazardous waste component, was removed from Article 6.2 prior to the Board's adoption of these regulations on December 5. Each of the components is required to state the short-term and medium-term goals of the jurisdiction in view of existing conditions, the results of the Solid Waste Generation Analysis required by section 18732, and the proposed means of implementation of the solid waste diversion program. Each component program must also contain an explanation of how the program will be monitored and evaluated regarding its effectiveness in meeting AB 939's waste diversion goals.

Article 7, consisting of sections 18760-18775, provides additional guidelines for the preparation and revision of city and county SRR elements. As adopted by CIWMB in December, the proposed permanent Article 7 regulations contain few changes from the previously-approved emergency regulations. Article 7 identifies the agencies responsible for preparing SRR elements; defines the responsibilities of each jurisdiction and CIWMB regarding preparation and subsequent implementation of the SRR element; describes the role and responsibilities of Local Task Forces (LTF) in the development of SRR elements; provides for public comment during the planning and implementation of the SRR elements; and seeks to promote regional cooperation between the cities and counties while ensuring that each individual jurisdiction will remain responsible for its own solid waste.

Article 8, consisting of sections 18776-18790, sets forth procedures for preparing and revising the countywide siting elements of the CoIWMPs required by PRC sections 41700-41823. Changes from the existing emergency regulations revise the time period for Board review; require CIWMB to provide each jurisdiction with a written analysis of any deficiencies; and amend the requirements of the annual report of progress toward achieving diversion goals. Under the proposed final regulations, the information required for inclusion in the annual report is described in greater detail than exists in the emergency



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regulations, and CIWMB's duties in reviewing the reports have been revised. Also, section 18788's requirements for the five-year review and future revision of CoIWMPs have been changed to require more detailed information regarding progress made in reaching waste diversion goals and to specify the Board's duties relevant to its review of any revised CoIWMP.

As adopted by the Board in December, Article 8's regulations contain several minor changes which were made subsequent to the public comment period. Most of these modifications were made in the provisions regarding the role of LTF recommendations concerning the siting elements and CoIWMPs; a few additional changes were made to provisions setting forth the Board's review process for the jurisdictions' annual report of progress towards achieving diversion goals.

These proposed permanent regulations implementing AB 939 and AB 1820 await submission to and review by OAL.

Local Task Forces. Pursuant to PRC section 40950, each county is required to establish a Local Task Force (LTF) to ensure cooperation between cities and counties in the preparation of the SRR element of the CoIWMP; identify solid waste issues of local and regional concern; develop goals, policies, and objectives for the siting element of the CoIWMP; provide assistance in preparing the CoIWMP; and review the required plan elements.

All LTFs were required to convene by March 1, 1990. As of December 19, 54 out of the 56 counties had formed LTFs (Sutter and Yuba counties are joined under a single LTF and the City and County of San Francisco is statutorily exempt from forming an LTF). The two counties which had not formed their LTFs by December 19 each reported that the task was under way; the Board stated no objection to the progress reports of either county.

Implementation of AB 2448. Pursuant to AB 2448 (Eastin) (Chapter 1319, Statutes of 1987), each solid waste disposal site in the state was required to submit closure/postclosure maintenance plans to the Board by January 1, 1989. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 146; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 169-70; and Vol. 10, No. 1 (Winter 1990) pp. 130-31 for background information.) Of the 428 disposal facilities listed on the Solid Waste Information System (SWIS) database, the Board has now received 406 responses to the certification requirement. As of November 27, 121 of these certifications

had received Board approval; 232 of the responses had been reviewed but had not yet received the Board's approval.

CIWMB staff reviews all submissions for certification pursuant to AB 2448. When an incomplete certification application is submitted, staff notifies the operator of the submitting facility regarding the missing component(s) and sets a deadline for compliance. At its November 27 meeting, the Board agreed to request the Attorney General to send a letter to Needles Solid Waste Disposal Site, identifying the missing components of the certification, and indicating that failure to comply may result in legal action.

Disposal Cost Fee Study. Under PRC section 40600, the Board was required to submit a disposal cost fee report and model legislation to the Governor on January 1, 1991. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 147 for background information.) The legislation will be designed to create a system of fees to be placed upon goods sold in California which are not subject to the beverage container recycling provisions of Division 12.1 (section 14500 *et seq.*) of the PRC. The fee will not only help to reduce the amount of landfill waste, but it will also provide a source of funds for waste management activities.

The Board received two responses to its invitation for bids released on July 30. At its September 27 meeting, the Board selected the lowest qualified bidder, Tellus Institute, to prepare the report. At the October 31 meeting, the Board accepted staff's recommendation that the Board approve the formation of an ad hoc advisory committee on a disposal cost fee system to facilitate representative participation in the development of a recommended fee system. The advisory committee members are responsible for the review of the alternative disposal cost fee systems developed by the contractor. The committee will determine which system would be most effective in addressing the waste disposal problems faced by the state.

The Institute delivered the first draft of its report to the Board on November 2. Among other things, the report contained an analysis of the existing legislation in California relating to pre-disposal fees; the California waste stream; the full cost of waste disposal; and the data collection methods. The Institute's final report was scheduled to be delivered to the Governor by January 1.

Permits. At its October 31 meeting, the Board approved the issuance of several new solid waste facilities permits; CIWMB also approved two large urban transfer stations and the San Joaquin

Composting Facility in Kern County. Both of the new urban transfer stations provide for extensive materials separation in order to remove and recycle a maximum amount of recyclable materials. The remaining nonrecyclable materials from the incoming trash stream at both transfer stations will be transported to local landfills. Both facilities prohibit the acceptance of hazardous materials.

The new San Joaquin Composting Facility will produce agricultural soil amendments by thermophilic windrow decomposition of waste. The types of nonhazardous waste to be composted include sewage sludge, fiber process wastes (such as cotton gin waste, nut hulls, and sawdust), manures, and green waste (such as leaves, grass, and clippings). The complete composting cycle takes a minimum of 60 days, during which high temperatures reached in the compost (minimum of 131 degrees Fahrenheit maintained for at least fifteen consecutive days) destroy pathogens during the breakdown of the organic materials. Some of the arguments against the proposed plant concerned the potential for air, groundwater, and surface water pollution from sewage dusts and toxics in the sewage sludge and powders; however, CIWMB staff responded that implementation of proposed mitigation measures will limit any potentially adverse environmental impacts that could result from the operation of the facility.

At its November 27 meeting, the Board considered plans for a new landfill facility in San Joaquin County. The new facility, North County Landfill, plans to employ a high density polyethylene (HDPE) liner instead of the traditional clay liner. The HDPE liner system is projected to be at least 250 times less permeable than clay, according to the design engineers employed by the San Joaquin County Board of Supervisors. After finding that the San Joaquin County Department of Public Works had satisfactorily complied with the California Environmental Quality Act in the County's preparation of an environmental impact report and that the local enforcement agency (LEA) and the facility's proponent had met all state and local requirements for the issuance of a permit, the Board concurred in the issuance of a permit for this facility.

At its December 19 meeting, the Board issued a new solid waste facility permit to Yuba-Sutter Disposal, Inc. Integrated Waste Recovery Facility, which will operate in conjunction with the Bi-County Solid Waste Commission as a regional center for the recovery and



recycling of solid wastes generated in Yuba and Sutter counties.

Sludge Management. AB 1820 (Sher) (Chapter 145, Statutes of 1990) requires the Board to submit a report which describes and evaluates the various options for disposal and reuse of sludge. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 148 and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 172 for background information.) CIWMB staff recommended that the timely preparation of the sludge report, which must be submitted by March 31, 1991, would require the retention of a consultant and would require approximately \$100,000 for the analysis and report. At its August meeting, the Board approved an Invitation for Bids (IFB) for the preparation of the sludge study; the Board received five responses to the IFB by the deadline. Each bid was evaluated and rated by a review panel of Board staff.

At its October 31 meeting, the Board adopted staff's recommendation to accept the review panel's scores for bidders qualified to bid under the rules of the IFB, open the bid price and cost proposal to determine the lowest qualified bidder, and authorize the Executive Officer to negotiate a contract with the lowest qualified bidder.

LEGISLATION:

AB 130 (Hansen), as introduced December 7, would require CIWMB to establish a labeling program to license the use of environmentally safe product labels. It would require CIWMB's Source Reduction Advisory Committee to advise the Board on the design, application for licensing, and standards for products to meet in the program. This bill, which would also provide for the fees for the licenses, is pending in the Assembly Natural Resources Committee.

SB 51 (Torres), as introduced December 4, would create the Environmental Protection Agency, including within that agency CIWMB, the state Air Resources Board, the state Water Resources Control Board, each California regional water quality control board, and the Toxics Substances Control Department (which this bill would create). This bill is pending in the Senate Committee on Toxics and Public Safety Management.

SB 97 (Torres), as introduced December 13, would specify that "transformation," as that term is used in section 41783 of the Public Resources Code, does not include the incineration of municipal waste in a mass-burning facility, as specified. This bill is pending in the Senate Governmental Organization Committee.

RECENT MEETINGS:

At its November 27 meeting, the Board considered Orange County's request to designate its Health Care Agency as the sole LEA for the County. Prior to this request, the County's solid waste enforcement was under the auspices of the Department of General Services, which operates five landfills in the County. The Orange County Board of Supervisors, wishing to resolve this conflict of interest, abolished the existing LEA and designated the Health Care Agency as the LEA for the County, pending the Board's approval. The Board approved the County's decision, finding that all of the designation documents had been completed and the County had proposed an Enforcement Program Plan and organization which resolves all of the concerns of CIWMB staff.

The Board also discussed its proposed permit enforcement policy at the November meeting. This enforcement policy dates back to a 1987 order of the CWMB to its staff to resolve the problems of out-of-date solid waste facilities permits. Initially, the Board mandated that each LEA conduct permit reviews for the facilities in its area. As a result of these permit reviews, CIWMB became aware that LEAs were not properly addressing the special limitations placed on older permits (those prepared prior to 1988). To remedy this situation, the Board conducted LEA training seminars in 1989 and 1990, and drafted a proposed enforcement policy; CWMB staff began circulating the enforcement policy to LEAs and facility operators in February 1990. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 170-71 for extensive background information.) The policy, which has been endorsed by the Enforcement Advisory Council and was approved by the Board at its November meeting, is an affirmation of CIWMB's position that LEAs should take enforcement action in the form of a Notice and Order when permit limits are exceeded by facilities. The enforcement policy is aimed at bringing all of the state's facilities into compliance by August 1, 1992.

At its November meeting, the Board also voted to contract for the training of LEAs during fiscal 1990-91. Staff suggested contracting with Solid Waste Association of North America for this training; the Board accepted that suggestion at its December 19 meeting. The Board also discussed a proposed contract for a public awareness program; this program is mandated by PRC section 42600 *et seq.* The Board discussed allocating funds from the 1990-91 budget for this

program, and voted to allocate \$1 million for the program, with increasing amounts in the future. The Board's staff feels that the large allocation will attract reputable advertising agencies into the bidding.

At its December 19 meeting, the Board approved a proposal to contract with the League of California Cities to assist in the implementation of integrated waste management programs, allocate \$65,000 from the 1990-91 budget for this proposal, and authorize the Executive Officer to negotiate and execute the contract.

At the December meeting, CIWMB also authorized the Executive Officer to negotiate and execute an interagency agreement with the Office of Emergency Services for field staff health and safety training for fiscal year 1990-91 in an amount not to exceed \$40,000.

FUTURE MEETINGS:

To be announced.

COASTAL COMMISSION

Executive Director: Peter Douglas

Chair: Thomas Gwyn

(415) 904-5200

The California Coastal Commission was established by the California Coastal Act of 1976, Public Resources Code section 30000 *et seq.*, to regulate conservation and development in the coastal zone. The coastal zone, as defined in the Coastal Act, extends three miles seaward and generally 1,000 yards inland. This zone, except for the San Francisco Bay area (which is under the independent jurisdiction of the San Francisco Bay Conservation and Development Commission), determines the geographical jurisdiction of the Commission. The Commission has authority to control development of, and maintain public access to, state tidelands, public trust lands within the coastal zone, and other areas of the coastal strip. Except where control has been returned to local governments, virtually all development which occurs within the coastal zone must be approved by the Commission.

The Commission is also designated the state management agency for the purpose of administering the Federal Coastal Zone Management Act (CZMA) in California. Under this federal statute, the Commission has authority to review oil exploration and development in the three-mile state coastal zone, as well as federally sanctioned oil activities beyond the three-mile zone which directly affect the coastal zone. The Commission