



Governor Wilson has announced his intent to establish Cal-EPA; at this writing, however, it is unknown whether he will accomplish its creation through legislation or through "executive reorganization" under Government Code section 12080 *et seq.* (See *supra* agency report on CDFA for related discussion.)

AB 1586 (Moore), as introduced March 8, would require CEC to certify home energy conservation rating systems and procedures that calculate energy and utility bill savings to be expected from conservation measures. CEC would also be required to certify a uniform rating scale for measuring dwelling energy efficiency and potential utility bill savings. This bill is pending in the Assembly Natural Resources Committee.

SB 634 (Rogers). Existing law authorizes CEC to make loans from geothermal revenues deposited in the Geothermal Resources Development Account to entities engaged in the exploration and development of geothermal energy. As introduced March 4, this bill would also authorize CEC to make grants to those entities. This bill is pending in the Senate Committee on Energy and Public Utilities.

SB 1203 (Committee on Energy and Public Utilities), as introduced March 8, would abolish CEC and create the California Energy Resources Board, and would provide for the Board to succeed to all powers, authority, responsibilities, and programs of CEC. The bill would require the Governor to prepare a California Energy Strategy every two years, commencing June 1, 1993, and would prohibit state entities from taking any action which is inconsistent with the strategy. This bill is pending in the Senate Committee on Energy and Public Utilities.

SB 1204 (Committee on Energy and Public Utilities), as introduced March 8, would return CEC's authority to certify new powerplant sites and facilities utilizing non-nuclear energy, effective January 1, 1993. Cities and counties would be authorized to refer an application for such certification to CEC. It would require the PUC, municipal utility districts supplying electrical energy, and any utility supplying electrical energy to a city with a population of more than three million to use the forecasts prepared by CEC for determinations involving the acquisition of new electrical energy generation resources, including bidding and other competitive acquisition programs and requests for proposal type solicitations. This bill is pending in the Senate Committee on Energy and Public Utilities.

SB 1205 (Committee on Energy and Public Utilities), as introduced March 8, would require CEC, by January 1, 1993, to evaluate and report to the legislature on economic and environmental benefits of energy-efficient appliance technologies which are commercially available, in comparison to minimum appliance efficiencies required by federal standards, and upon specified findings, to apply for a waiver of the federal preemption against more efficient state standards. The bill would require CEC to review and revise its appliance efficiency standards every five years, and its efficiency standards for new residential and nonresidential buildings every three years. This bill is pending in the Senate Committee on Energy and Public Utilities.

SB 1206 (Committee on Energy and Public Utilities), as introduced March 8, would require CEC and the Department of General Services, on or before January 1, 1993, to adopt energy efficiency measures for new state buildings and to adopt goals for the reduction of energy consumption in existing state buildings. This bill is pending in the Senate Committee on Housing and Urban Affairs.

SB 1207 (Committee on Energy and Public Utilities), as introduced March 8, would amend existing law which requires CEC to adopt, by June 30, 1992, home energy rating and labeling guidelines that may be used by homeowners to make cost-effective decisions regarding the energy efficiency of their homes. The bill would require CEC to adopt a single, consistent method for rating the energy efficiency of both new and existing homes by January 1, 1993. The bill is pending in the Senate Committee on Energy and Public Utilities.

SB 1208 (Committee on Energy and Public Utilities), as introduced March 8, would require CEC, as part of the biennial report it must submit to the legislature, to establish priority technologies for research, development, and demonstration; establish specific performance goals for these priority technologies; and develop research, development, and demonstration programs which pursue these technologies. All energy technology research, development, and demonstration which is paid for in whole or part by taxpayer or by ratepayer funding would have to be evaluated against these priorities. CEC would be required to establish a statewide energy efficiency research, development, and demonstration database and computer network. The bill would also require CEC to establish a generation efficiency task force to study and report on the development of high-efficiency electric genera-

tion technologies. This bill is currently pending in the Senate Committee on Energy and Public Utilities.

AB 1732 (Costa), as introduced March 8, would require CEC to develop best practice/best technology model codes for energy-efficient new residential and nonresidential buildings, which shall be available for voluntary adoption by local governments. This bill is pending in the Assembly Local Government Committee.

AB 2130 (Brown). Existing law requires CEC to prescribe, by regulation, standards for minimum levels of operating efficiency, based on a reasonable use pattern, to promote the use of energy efficiency appliances whose use, as determined by CEC, requires a significant amount of energy on a statewide basis.

As introduced March 8, this bill would instead direct CEC to prescribe, by regulation, standards for minimum levels of operating efficiency, maximum energy consumption, or efficiency design requirements, based on a reasonable use pattern, for appliances whose use, as determined by CEC, requires a significant amount of energy on a statewide basis; require CEC, on or before December 31, 1992, to determine whether any appliances that are currently not subject to CEC standards should be regulated and, for any such appliance, to adopt standards in accordance with prescribed procedures; require CEC, by December 31, 1992, to complete an investigatory proceeding to determine whether changes in the federal labelling rules would assist in achieving improvements in appliance efficiency or increased compliance with efficiency standards; and require CEC, by January 1, 1993, to adopt energy conservation measures that are cost-effective and feasible for privately-owned residential buildings. This bill is pending in the Assembly Committee on Utilities and Commerce.

FUTURE MEETINGS:

CEC meets every other Wednesday in Sacramento.

CALIFORNIA INTEGRATED WASTE MANAGEMENT AND RECYCLING BOARD

Executive Officer: George H. Larson
Chair: Michael Frost
(916) 322-3330

The California Integrated Waste Management and Recycling Board (CIWMB) was created by AB 939 (Sher)



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(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 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.

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.

In February, the Board elected Michael Frost, former chief of staff to former Governor Deukmejian, as its chair. The Board position reserved for a representative of environmental protection groups remains empty, waiting for an appointment by Governor Wilson.

MAJOR PROJECTS:

Regulatory Changes. On February 15, the Office of Administrative Law (OAL) approved CIWMB's emergency re-adoption of Articles 3, 6.1, 6.2, 7, and 8, Division 7, Title 14 of the CCR. These emergency regulations implement programs mandated by AB 939 (Sher) and AB 1820 (Sher), including Solid Waste Generation Studies, Source Reduction and Recycling (SRR) elements, procedures for preparing and revising city and county SRR elements, and procedures for preparing CoIWMPs. (See CRLR Vol. 11, No. 1 (Winter 1991) pp. 118-20; Vol. 10, No. 4 (Fall 1990) p. 146; and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 169 for detailed background information.) At its February 22 meeting, the Board adopted these articles as permanent regulations. The rulemaking record on this regulatory action is being prepared for submission to OAL.

At its January 22-23 meeting, CIWMB staff reported on its progress in developing regulations for the Household Hazardous Waste element of CoIWMPs, recycling market development zones, siting elements, waste tires, and operational liability. Draft regulations are being prepared in all five of these areas, some of which are currently covered by previously-adopted emergency regulations.

The Household Hazardous Waste (HHW) element must be included in CoIWMPs pursuant to AB 2707 (LaFollette) (Chapter 1406, Statutes of 1990), which requires that CIWMB establish regulations requiring jurisdictions to prepare an HHW element to guide the handling and disposal of HHW. The draft regulations are similar to the former HHW component requirements and require jurisdictions to address the diversion of HHW, funding for preparing and implementing the HHW element, and public education regarding HHW. As currently drafted, the proposed regulations concerning the HHW element will comprise sections 18750-18751.8, Article 6.3, Division 7, Title 14 of the CCR.

By July 1, 1991, CIWMB must adopt regulations and guidelines concerning the necessary contents of applications for the designation of recycling market development zones; Board staff is cur-

rently drafting these regulations and their associated documents in preparation for review by the Board. Cities and counties must plan market development activities as they prepare the SRR elements of their CoIWMPs. By obtaining a market development zone designation, a local government may undertake intensive efforts to create new markets for recovered materials. To make local officials aware of the program, CIWMB has produced advertisements, made presentations during SRR element workshops, and is conducting briefings of the Local Task Forces. CIWMB staff is also preparing draft regulations for a \$5 million revolving loan program which supports the recycling market development zones.

Board staff is in the process of drafting Article 6.4, Division 7, Title 14 of the CCR, regarding the Countywide Siting Element, to complete the regulations relating to the preparation of CoIWMPs. Article 6.4 will require counties to evaluate the adequacy of their existing solid waste management system to safely handle and dispose of solid waste which cannot be diverted for a minimum of fifteen years, and to identify new or expanded solid waste facilities or programs for the safe handling and disposal of solid waste if a county has less than fifteen years of remaining disposal capacity.

PRC section 42800 *et seq.* requires the Board to develop regulations dealing with the storage, transport, and disposal of waste tires. In January, Board staff reported on its progress in defining the issues to be addressed in the development of these regulations. As part of its effort, staff has begun a review of regulations from other states that have tire programs. Some important issues include the extent of involvement of the local enforcement agencies (LEAs) in the permitting of tire facilities and the adoption of technical standards for fire prevention, vector control, security measures, closure plans, and financial assurances to cover damage claims arising out of the operation of the facilities. The Board expects to adopt emergency regulations for major waste tire facilities by July 1.

Under PRC section 43030, operators of solid waste disposal facilities must demonstrate adequate financial ability to compensate third parties for personal injury and/or property damages resulting from the operation of a facility. In March 1989, the previous Board approved a draft regulatory package outlining financial methods for satisfying the operational liability requirements, including a trust fund, letter of credit, government



securities, enterprise fund, and insurance. CIWMB staff is currently preparing the notice and initial statement of reasons regarding the regulatory proposals; the Board anticipates submitting an approved package to OAL for approval by September.

Organizational Structure. PRC section 40634 requires that on or before April 1, 1991, CIWMB must establish a new organizational and managerial structure to implement the Integrated Waste Management (IWM) program. Board staff drafted a new resource allocation proposal, portions of which were sent to the Department of Personnel Administration (DPA) for review in April and July 1990. From August through December 1990, there were significant changes in the composition of the Board's staff as a result of increased hiring to implement the IWM program. At this time, formal approval of the plan by DPA and the State Personnel Board has not been obtained. At its January meeting, CIWMB directed its staff to make any necessary changes to documents previously submitted to DPA, in addition to transmitting any new documentation required by DPA.

CIWMB Establishes Board Committees. AB 939 and related waste management laws have dramatically increased the number and variety of issues that CIWMB must consider and respond to within prescribed statutory timeframes. At its January 22-23 meeting, the Board adopted a new committee structure under PRC section 40500 (as amended by AB 1820); the committee structure is designed to enable CIWMB to perform all of its duties while providing the opportunity for a thorough review of all relevant policy and implementation issues. Board staff proposed the formation of five committees, each composed of three Board members: the Integrated Waste Management Planning Committee; the Solid Waste Facility Permitting and Enforcement Committee; the Legislative Affairs Committee; the Public Information and Education Committee; and the Policy, Research and Technical Assistance Committee. Under the staff recommendation approved in January, each Board member, except the Chair, would be the designated chair of one committee. At its February 22 meeting, the Board modified staff's proposal slightly, created four committees, and elected committee chairs.

The Integrated Waste Management Planning Committee is chaired by Wes Chesbro (vice-chair of CIWMB), and will be responsible for all issues pertaining to the implementation of CoIWMPs. The committee will assist in the devel-

opment, approval, and oversight of the implementation of local plans to achieve the waste diversion requirements specified in PRC section 41780, in accordance with a specified hierarchy of activities. The Committee will also be responsible for developing, approving, and administering state integrated waste management programs which will reduce the amount of solid waste generated, advance the use of recycled and recyclable products, and convert materials destined for disposal into marketable products. Such programs include the development of a disposal cost fee system; regulations for state purchase of compost; specifications and studies on state procurement of recycled secondary and postconsumer plastic products; programs for state purchase of retreaded tires; and regulations pertaining to recyclable lead-acid batteries. The Committee will also implement a high-grade white office paper recovery program and establish and enforce minimum content percentages for the use of recycled-content newsprint. The Committee will perform waste evaluations, upon request, for the public and private sector, and develop accounting methods to evaluate the costs of integrated waste management options.

Under chair Jesse Huff, the Solid Waste Facility Permitting and Enforcement Committee will be responsible for all issues pertaining to the issuance and enforcement of solid waste facility permits and state standards for solid waste. The Committee will ensure that facilities handling solid waste are constructed, operated, and closed in an environmentally safe manner which protects the public health. To achieve these goals, the Committee will review the content and appropriateness of environmental documents describing solid waste facilities; concur in facility permit applications submitted by LEAs; develop and adopt regulations for granting, revising, or amending permits for solid waste facilities; and develop guidelines for meeting liability requirements for solid waste landfills. In the area of enforcement, the Committee will develop and administer a program which will ensure that solid waste facilities and other facilities handling solid waste are operating in accordance with state minimum standards and permit conditions and to ensure that the duties delegated to local agencies are being carried out. Enforcement-related duties of the Committee include developing and implementing training and certification programs for LEAs, and developing regulations revising state minimum standards for solid waste handling, processing, and disposal. The

Committee will develop a state inspection program and pursue, in cooperation with local agencies, the enforcement of the state minimum standards.

Kathy Neal will chair the Legislative and Public Affairs Committee, which combines the duties of the staff's proposed Legislative Affairs Committee and Public Information and Education Committee. This Committee will be responsible for all issues pertaining to legislation affecting any integrated waste management activity (except HHW programs). Public information and education duties of the Committee will include developing and conducting a statewide public education program affecting all areas of integrated waste management; implementing a "buy recycled" campaign; and developing, producing, and disseminating materials for grades K-12 to teach the concepts of source reduction, recycling, and integrated waste management in California schools. The Committee will also prepare biennial reports to the legislature summarizing existing and planned integrated waste management programs and their ability to achieve the statutory mandates.

The Policy, Research, and Technical Assistance Committee, chaired by Sam Egigian, is responsible for all issues and policy development regarding research, development, and special waste activities. The Committee will research, develop, and promote technologies for the processing, handling, and disposal of solid wastes and special wastes. The term "special wastes" refers to those waste materials which require unique collection, handling, or disposal methods, such as HHW, sludge, and medical waste. Specific duties of the Committee include establishing cooperative research facilities at colleges and universities; performing research into landfill mining; studying hazards posed by special wastes and the ash emissions from incineration of waste; evaluating the potential for various material recovery technologies; analyzing landfill encroachment problems; and compiling computer databases on topics such as waste characteristics, special waste volumes, and county and regional capacities. The Committee will also develop and implement a public information program and a grant program for HHW. Finally, the Committee will study the options for sludge disposal and make its recommendations in a report to the Governor and legislature regarding the inclusion of sludge in the waste diversion goals mandated by the Public Resources Code.

Local Task Forces. PRC section 40950 requires each county to establish a



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Local Task Force (LTF) to ensure cooperation between cities and counties in the preparation of the individual SRR elements; 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 February 22, the only LTF remaining to be formed was the Alameda County LTF; however, significant strides had been taken toward its completion. The LTFs are currently engaged in determining the combined remaining permitted disposal capacity of each county, pursuant to section 18777(b) of the CCR. CIWMB staff conducted six workshops during January and February to aid LTFs in developing their SRR and HHW elements.

Implementation of AB 2448. AB 2448 (Eastin) (Chapter 1319, Statutes of 1987) requires CIWMB to award grants for the funding of local programs that help prevent the disposal of HHW at solid waste landfills. At its February 22 meeting, the Board approved 44 non-discretionary grants for the HHW grant program; these grants serve as reimbursement to a jurisdiction for HHW programs implemented in the fiscal year prior to the grant application period. The grants are funded by the Solid Waste Disposal Site Clean-up and Maintenance Account, established by AB 2448, as well as by other Board programs. A jurisdiction is eligible to receive 20% of the fees generated into the account or the cost of its HHW program, whichever is less.

Disposal Cost Fee Study. Pursuant to PRC section 40600, CIWMB selected Tellus Institute to submit a disposal cost fee (DCF) report and model legislation to the Governor on January 1, 1991. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 120 and Vol. 10, No. 4 (Fall 1990) p. 147 for background information.) On February 15, the Institute delivered the final draft of its report to the Board. The report analyzes existing legislation in California relating to solid waste disposal fees, the California waste stream, methods of calculating the full cost of waste disposal, alternative fee systems, and data collection methods, and sets forth a recommended design for a disposal fee system. At its February 22 meeting, the Board discussed the Institute's suggestions for model legislation; Tellus suggested that the legislation concentrate on promoting source reduction, as opposed to recycling. The Board debated whether there is a distinction between source reduction and recycling,

concluding that the two strategies are inseparable, not distinct.

The Board submitted the Tellus Institute report to the Governor and legislature on March 1, along with a letter stating that the conclusions reached were those of Tellus and not of CIWMB. The Board clarified its views in several key areas:

-CIWMB strongly disagreed with Tellus' findings regarding the amount of revenue to be raised by a DCF; Tellus projected \$4 or \$5 billion annually, but the Board stated that it envisions the DCF, if successful, as a method to ultimately reduce the costs of waste management in the state.

-Second, the funds collected from a DCF would pay for only those programs or incentives directly related to waste reduction or recycling programs, including offset of the tipping fee surcharge established pursuant to PRC section 48000. The DCF must be structured so that the fee is not deemed a tax under the relevant provisions of the state constitution.

-While acknowledging that there are "tremendous complexities and technical considerations that need to be examined and reviewed in developing this method of collection for the DCF," the Board stated that it supports levying the fee at the point of first sale in California. While noting that the fee should seek to influence both manufacturer and consumer behavior, the Board acknowledged that its preference for levying the fee at the point of first sale has the effect of impacting manufacturer behavior over consumer behavior.

-The Board rejected the conclusion of Tellus that source reduction and recycling are mutually exclusive goals of a DCF, and stated its support for a fee that would encourage both source reduction and recycling, consistent with the waste management hierarchy of PRC section 40051.

-The Tellus report recommends that the DCF should be levied across-the-board on virtually all products in the state; however, the Board stated that not all goods or materials should receive the DCF at the outset. Instead, the scope of goods and materials covered by the DCF should be phased in over time.

-While the Tellus report recommends that the DCF be calculated to meet the total conventional and environmental costs of disposal, the Board believes the DCF should address "a share of the current conventional costs of waste disposal as well as some of the long-term environmental costs."

Permits. At its February 22 meeting, the Board issued a revised facility permit

to North County Landfill in San Joaquin County. The Board originally issued the landfill's permit in November; however, the facility requested a revision in the permit to allow the use of a composite liner in place of the original clay liner. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 120 for background information.) The Board voted unanimously to approve the revised permit.

The Board also approved a revised permit for Central Disposal Site in Sonoma County. The revised permit changes the facility's closure year from 1996 to 1999 and allows an increase in the permitted daily capacity of wastes received at the site.

At its February 27-28 meeting, the Board approved a permit for the Recycling in Santa Clara County; the Recycling will work in conjunction with the Newby Island Landfill, adjacent to it. The facility will include a materials recovery facility, a woodwaste processing system, and a public buyback and education center; the daily maximum permitted capacity is 2,500 tons.

Sludge Management. AB 1820 (Sher) (Chapter 145, Statutes of 1990) requires the Board to submit to the Governor and legislature a report which describes and evaluates the various options for disposal and reuse of sludge. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 121; Vol. 10, No. 4 (Fall 1990) p. 148; and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 172 for background information.) The report was to be prepared in consultation and cooperation with the state Water Resources Control Board and the state Department of Health Services.

CIWMB contracted with the management consulting firm of Booz-Allen & Hamilton, Inc., to conduct the study. The consultant's report concludes that based on a purely technical analysis of the quality of California sludge and the application of a "worst case" risk analysis:

-there is no technical reason to believe that some sludge cannot be reused safely at some sites in California;

-there appears to be no evidence that current reuse applications or practices are harmful to the public health and the environment;

-there is no technical reason to prohibit current reuse applications;

-the existing regulatory system is capable of addressing all aspects of sludge generation, disposal, and reuse. However, the statutes and regulations do not constitute a coordinated system of sludge management, their application is inconsistent, and the responsibilities of the implementing agencies are overlapping and unclear;



-the U.S. Environmental Protection Agency's (EPA) proposed regulations should be used as a foundation for the development of a comprehensive regulatory program for sludge disposal and reuse; and

-the Technical Advisory Committee should form the basis of a process to improve California's sludge management approach.

The consultant also recommended that California count sludge toward the AB 939 diversion requirements as soon as the regulatory system has been modified to give the capability to address site-specific issues with a coordinated and more consistent approach, and that the state develop a program that will allow it to take delegation of the EPA program and determine what, if any, additional requirements should be imposed.

LEGISLATION:

AB 2092 (Sher), as introduced March 8, would extend the date by when the SRR element of a CoIWMP is required to be prepared and adopted to January 1, 1992. This bill would also extend the date by when city and county HHW elements are required to be prepared to January 1, 1992, and would require each city and county to prepare and submit to CIWMB written reports on the status of the preparation of both the SRR and HHW elements. This bill is pending in the Assembly Natural Resources Committee.

AB 2211 (Sher). The California Integrated Waste Management Act of 1989 establishes a State Source Reduction Program, the Recycled Market Development Commission, the Office Paper Recovery Program, the Los Angeles County Pilot Litter Program, and the Research and Development Program; requires CIWMB, to the extent of available resources, to provide technical assistance to the public and private sector in the form of government and business waste evaluations if requested; and establishes a program to facilitate the assessment of waste management options by local jurisdictions. As introduced March 8, this bill would repeal all of those provisions of existing law. This bill is pending in the Assembly Natural Resources Committee.

AB 1122 (Sher), as introduced March 5, and **SB 51 (Torres)**, as introduced December 4, would both create the California Environmental Protection Agency (Cal-EPA) by reorganizing the Resources Agency and transferring functions of agencies outside the Resources Agency to the new Cal-EPA. AB 1122 would include within Cal-EPA the Air Resources Board, the California

Integrated Waste Management and Recycling Board, the California Energy Commission, and the Water Resources Control Board; SB 51 would include all of those agencies except the Energy Commission. In addition, both bills would create the Department of Toxic Substances Control within Cal-EPA and transfer to it the duties of the Department of Health Services (DHS) with regard to hazardous waste, hazardous substances, and radioactive materials, and the duties of the California Department of Food and Agriculture (CDFA) with regard to pesticide regulation.

Governor Wilson has announced his intent to establish Cal-EPA; at this writing, however, it is unknown whether he will accomplish its creation through legislation or through "executive reorganization" under Government Code section 12080 *et seq.* (See *supra* agency report on CDFA for related discussion.)

AB 240 (Peace), as introduced January 14, would prohibit any person from owning or operating a hazardous waste disposal facility or disposing of hazardous waste at, or causing the disposal of hazardous waste at, a hazardous waste facility if the facility is on Native American Indian reservation land or land dedicated for use by Native American Indians, unless the hazardous waste facility has been issued all applicable federal and state permits and meets all applicable federal and state statutes, regulations, and standards. This bill is pending in the Assembly Environmental Safety Committee.

AB 556 (Horcher), as introduced February 15, would require CIWMB to report to the legislature by September 1, 1991, as to whether there are any landfills operating in the state which accept ash from a transformation facility in a manner which is not consistent with their solid waste facilities permit. This bill is pending in the Assembly Natural Resources Committee.

AB 1100 (Lee). The Used Oil Collection Demonstration Grant Program Act of 1990 requires CIWMB to develop and administer a used oil grant program; the Board is required to adopt regulations by July 1, 1991, to administer this program. As introduced March 5, this urgency bill would instead require the Board to adopt guidelines to administer the program, and would provide that these guidelines are not regulations, thus exempting them from the procedures for the adoption of regulations, including review by the Office of Administrative Law. This bill is pending in the Assembly Natural Resources Committee.

AB 1327 (Farr), as introduced March 7, would enact the California Solid

Waste Reuse and Recycling Access Act of 1991 to require that, on and after July 1, 1992, any area in a development project used to transfer, receive, or store solid waste be designed to accommodate at least four receptacles for the purpose of separating, reusing, or recycling all solid waste materials generated by the project. This bill is pending in the Assembly Natural Resources Committee.

AB 1381 (Areias), as introduced March 7, would require CIWMB, the Department of Conservation, and the state Department of Education to jointly establish twenty three-year schoolsite SRR pilot programs, which create and implement a program for the purpose of reducing and recycling a significant percentage of the total waste stream emanating from each schoolsite and to educate students about waste management activities. This bill is pending in the Assembly Natural Resources Committee.

AB 1388 (Horcher), as introduced March 7, would specify that any reduction of a buffer zone for a landfill or transformation facility in or near an urban residential community constitutes a significant change in a solid waste facility, requiring approval of the local enforcement agency; the bill would also require CIWMB to review any approved modifications that would result in the reduction of a buffer zone, and would require the Board to object to the modification under certain conditions. This bill is pending in the Assembly Natural Resources Committee.

AB 1515 (Sher). Under the California Integrated Waste Management Act of 1989, hearings that are required to be conducted under specified statutory provisions relating to the denial, suspension, or revocation of a permit to operate a solid waste facility, or relating to the administrative enforcement of requirements imposed upon a transfer or processing station or disposal site, are required to be conducted by a hearing panel appointed by the chairperson of the local governing body of the enforcement agency.

As introduced March 7, this bill would require, as to hearings required to be conducted by CIWMB pursuant to statutory provisions relating to the administrative enforcement of requirements imposed upon a transfer or processing station or disposal site, that hearings be conducted by a hearing panel of three persons appointed by the chairperson of the Board. This bill is pending in the Assembly Natural Resources Committee.

AB 1520 (Sher). Existing law requires cities and counties to divert



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25% of all solid waste from landfill or transformation facilities by January 1, 1995, and, except as specified, 50% by January 1, 2000, through source reduction, recycling, and composting activities. Existing law, which will terminate October 1, 1991, defines "solid waste" for the purpose of determining the base amount of solid waste from which source reduction, recycling, and composting levels are calculated. As introduced March 7, this bill would delay until January 1, 1993, the termination date of the statutory definition of "solid waste" for those purposes. This bill is pending in the Assembly Natural Resources Committee.

AB 1760 (Eastin), as introduced March 8, would prohibit a solid waste landfill from accepting for disposal any white goods, vehicle, or other metallic discard which contains enough metal to be feasibly salvaged for commercial recycling and which is large enough to be easily separated from the waste stream, but would permit the landfill to accept them for recycling. Among other things, this bill would require CIWMB to evaluate the use of recycling residue as solid waste landfill cover material or extenders for currently used cover material. This bill is pending in the Assembly Natural Resources Committee.

AB 2076 (Sher). Existing law requires CIWMB to maintain a toll-free telephone number for the sole purpose of informing callers of specified information relating to used oil. As introduced March 8, this bill would delete the limitation of that toll-free telephone number to that sole purpose.

This bill would also enact the California Oil Recycling Enhancement Act, under which, beginning October 1, 1992, every oil manufacturer would be required to pay quarterly five cents to CIWMB for each quart, or twenty cents for each gallon, of lubricating or industrial oil sold or transferred in this state or imported into this state in that quarter, except oil on which a payment has been paid and except bulk oil imported, transferred, or sold in this state for use by motor carriers.

This bill would also require CIWMB to pay a recycling incentive to every industrial generator, curbside collection program, and every certified used oil collection center, for oil collected from the public or generated by the used oil collection center or the industrial generator after April 1, 1993, and transported to a certified used oil recycling facility. This bill is pending in the Assembly Natural Resources Committee.

SB 545 (Calderon). Existing law authorizes CIWMB to enter into a loan

guarantee with solid waste landfill operators to carry out a corrective action. As introduced February 28, this bill would prohibit a city which has not complied with specified testing or planning requirements from receiving any funds from the Solid Waste Disposal Site Clean-up and Maintenance Account in the Integrated Waste Management Fund or any loan guarantees. This bill is pending in the Senate Governmental Organization Committee.

SB 576 (Royce). Pursuant to existing law, each city or county SRR element is required to include an implementation schedule for specified goals for diversion of solid waste from landfill or transformation facilities, through source reduction, recycling, and composting activities. As introduced March 4, this bill would permit a city or county to count towards those diversion goals the total weight of any cover material, other than clean soil, which is approved by CIWMB for use, if the alternative cover material is made of recycled solid wastes or compost, and the solid wastes from which the alternative cover materials are made were normally disposed in solid waste landfills used by the city or county on January 1, 1990. This bill is pending in the Senate Governmental Organization Committee.

SB 1005 (Hill), as introduced March 8, would require the Board to establish a procedure for its review and approval of proposed construction projects on closed landfill sites. This bill is pending in the Senate Governmental Organization Committee.

SB 1051 (Vuich), as introduced March 8, would impose an excise tax on the sale of every disposable diaper sold in this state by a distributor to a dealer at the rate of five cents per diaper, and would require that the monies from the tax be deposited in the Disposable Diaper Fund, which the bill would create and which would, upon appropriation, be used for specified purposes. This bill is pending in the Senate Revenue and Taxation Committee.

SB 1066 (Dills), as introduced March 8, would require CIWMB to conduct a study of the feasibility of requiring that all telephone directories which are issued or sold in this state be made of materials which makes them acceptable to most recycling operations. The Board would be required to report the results of the study to the legislature on or before January 1, 1993. If the study contains a specified finding, the bill would require all telephone directories distributed in this state to be made from materials, as determined by CIWMB, acceptable to most recycling operations in the state.

The bill would require CIWMB to adopt general guidelines regarding production of recyclable telephone directories. This bill is pending in the Senate Governmental Organization Committee.

SB 1142 (Killea). Existing law establishes the Source Reduction Advisory Committee in CIWMB, with specified duties concerning commending actions to reduce the volume of waste generated in the state. Existing law also establishes the Recycled Market Development Commission, with a specified membership.

As introduced March 8, this bill would repeal the provisions establishing the Committee, and would create, within the Board, an Office of Source Reduction and Office of Recycling Markets Development and Reusable Product Information Exchange, with specified duties related to waste reduction and reuse of materials. The bill would increase the membership of the Recycled Market Development Commission by six members with specified qualifications, appointed by the Governor, and would require the Board to adopt a form for conducting waste evaluations for buildings which exceed an unspecified square footage. This bill is pending in the Senate Governmental Organization Committee.

AB 144 (Sher). Existing law makes it unlawful for any person to represent that any consumer good which it manufactures or distributes is "ozone friendly," "biodegradable," "photodegradable," "recyclable," or "recycled" unless that good meets specified definitions or meets definitions established in trade rules adopted by the Federal Trade Commission. As introduced December 13, this bill would add "compostable" to these provisions, and would provide that a consumer good may also be labeled with the above terms if it meets definitions established in enforceable regulations adopted by the Environmental Protection Agency. This bill is pending in the Assembly Committee on Consumer Protection, Governmental Efficiency, and Economic Development.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 1 (Winter 1991) at page 121:

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

SB 97 (Torres), as amended March 14, 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, is pending in the Senate Governmental Organization Committee.

RECENT MEETINGS:

At its February 27-28 meetings, the Board discussed numerous contract concepts for the remainder of the 1990-91 fiscal year. Among the contracts under consideration are a Waste Generation Rates Study and the development of a Geographic Information System. The Board reviewed seventeen contract concepts, instructing staff to develop detailed scopes of work for each concept; the scopes of work will be considered by the Board at subsequent meetings.

The February 27-28 meeting also included a discussion of budget change proposals for the 1991-92 fiscal year. The funding for these proposals comes from the disposal cost fee mandated by AB 939; the fee is paid quarterly to the Board of Equalization (BOE) and is based on the amount of waste disposed of at each site. The fee is limited to 75 cents per ton of waste disposed during fiscal 1990-91 and may increase to \$1 per ton for the 1991-92 fiscal year. The amount of waste disposed of at landfills exceeds 40 million tons annually (based on BOE receipts), so the Board expects \$10 million in increased funds for fiscal 1991-92.

FUTURE MEETINGS:

August 18 in Sacramento.
 September 25 in San Diego.
 October 23 in Bakersfield.
 November 20 in Sacramento.
 December 11 in Sacramento.

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 determines whether these activities are consistent with the federally certified California Coastal Management Program (CCMP). The CCMP is based upon the policies of the Coastal Act. A "consistency certification" is prepared by the proposing company and must adequately address the major issues of the Coastal Act. The Commission then either concurs with, or objects to, the certification.

A major component of the CCMP is the preparation by local governments of local coastal programs (LCPs), mandated by the Coastal Act of 1976. Each LCP consists of a land use plan and implementing ordinances. Most local governments prepare these in two separate phases, but some are prepared simultaneously as a total LCP. An LCP does not become final until both phases are certified, formally adopted by the local government, and then "effectively certified" by the Commission. Until an LCP has been certified, virtually all development within the coastal zone of a local area must be approved by the Commission. After certification of an LCP, the Commission's regulatory authority is transferred to the local government subject to limited appeal to the Commission. Of the 125 certifiable local areas in California, 73 (59%) have received certification from the Commission as of January 1, 1991.

The Commission meets monthly at various coastal locations throughout the state. Meetings typically last four consecutive days, and the Commission makes decisions on well over 100 line items. The Commission is composed of fifteen members: twelve are voting members and are appointed by the Governor, the Senate Rules Committee, and the Speaker of the Assembly. Each appoints two public members and two locally elected officials of coastal districts. The three remaining nonvoting members are the Secretaries of the Resources Agency and the Business and Transportation Agency, and the Chair of the State Lands Commission. The Com-

mission's regulations are codified in Division 5.5, Title 14 of the California Code of Regulations (CCR).

MAJOR PROJECTS:

Batiquitos Lagoon Enhancement Project. On March 12, the Coastal Commission approved the City of Carlsbad's coastal permit application for Alternative A of the Batiquitos Lagoon Enhancement Project (BLEP). The enhancement plan has been the subject of months of political, legal, and scientific debate regarding the scope and rationale of the project. Because of the unique and sensitive nature of the lagoon, the Commission is required to find that the proposed project is a true "restoration project" under section 30233(c) of the Coastal Act, and that there is no feasible less environmentally damaging alternative. In approving the enhancement plan, the Commission rejected its own staff's report concluding that under existing law, Alternative A could not be termed a restoration project, and that only under nearly a dozen special conditions could any of the project alternatives be considered a restoration project. Because a lawsuit from citizen and environmental groups naming the Coastal Commission as a defendant is inevitable, a brief description of the project and its history is warranted.

Batiquitos Lagoon is located along the northern San Diego County coastline, and has been designated by the Department of Fish and Game as one of California's 19 "high priority" wetlands for its valuable natural resources. Historic charts and maps from the 1800s indicate that Batiquitos Lagoon was once a large embayment that was open to tidal action. The lagoon has since been hydrologically disturbed by three constructions (from the construction of two roads and a railway across the lagoon) and excessive sedimentation caused by runoff from inland development. These forces have transformed the lagoon into a broad, very shallow water body which is nontidal through most of the year; however, the mouth of the lagoon is dredged open occasionally, usually for public health and safety reasons.

Because the lagoon usually lacks tidal flushing, the hydrology of the system is somewhat erratic, with high levels of fresh water at some times and low levels of hypersaline water at others. Because of the unpredictable and often wide fluctuations in hydrology and water quality, the diversity of plants and aquatic animal species at Batiquitos is limited in comparison to tidal lagoons in the area. Nevertheless, Batiquitos provides expansive and varied habitats for