



Also in August, the Board again discussed the worsening state budget crisis. Staff reported that all CDFA managers were required to take a 5% pay reduction, effective July 1. Director Henry Voss reported that additional funding cuts would affect all CDFA programs, with some taking a percentage cut while others will be eliminated.

At the Board's September 5 meeting, Board President John Kautz established four committees to study the

significant problems facing agriculture—water, pest control, pollution, and land use. Each committee will be comprised of a cross-section of Board members, and will make recommendations to the Director and the Governor.

#### FUTURE MEETINGS:

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

*of Substances, and Emission Inventory Criteria and Guidelines.* Pursuant to Health and Safety Code section 44380, ARB is required to adopt a regulation which recovers the cost of implementing the Air Toxics "Hot Spots" Identification and Assessment Act. These costs are recovered through fees paid by facilities subject to the Act. The Board is also required to maintain a list of substances subject to the "Hot Spot" Act's reporting requirements, which is appended to the Fee Regulation. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 153 and Vol. 10, No. 4 (Fall 1990) pp. 139-40 for background information.)

On June 13, the Board approved amendments to sections 90700-90705 and 93334, Titles 17 and 26 of the CCR, which reflect changes in the state and district costs which must be recovered for the 1991-92 fiscal year, and changes in the emission inventories which are used to determine applicability and establish fees. The approved amendments require local air pollution control districts to adopt rules which assess sufficient fees to cover state agency and district costs to implement the Act. The Board also adopted amendments which subject landfill facilities to the Act's emission inventory reporting requirements, and to facility prioritization and risk assessment requirements. Additional clarifying amendments reference Appendix E of the Emission Inventory Criteria and Guidelines Regulation as the criteria for determining whether a facility which emits less than ten tons of criteria pollutants is subject to the Fee Regulation.

For fiscal year 1991-92, the fee regulation was amended to include updated state and district costs and fees. As was done last year, districts must choose either a cost-per-facility fee or a cost-per-ton fee based on the amount of criteria pollutant emissions. The amendments also include the addition of a three-tiered fee schedule for sources that emit no more than ten tons per year each of any criteria pollutant, and are subject to the "Hot Spots" Program because they fall into one of the classes listed in Appendix E of the Emission Inventory Criteria and Guidelines Regulation. The approved amendments delete fee schedules for districts choosing to adopt district rules to recover costs of implementing the Act, and specify the amount each district must remit to the Board to recover state costs. Finally, the list of substances contained in the Air Toxics "Hot Spots" Fee Regulation was updated by the addition of 190 new substances recognized by the Board as presenting a chronic or acute threat to



## CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (CAL-EPA)

#### AIR RESOURCES BOARD

*Executive Officer: James D. Boyd*

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

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

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

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

#### MAJOR PROJECTS:

**ARB Included in Cal-EPA.** Governor Wilson's plan to establish the California Environmental Protection Agency (Cal-EPA), a California counterpart to the federal EPA, went into effect on July 17. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 151; Vol. 11, No. 2 (Spring 1991) p. 134; and Vol. 11, No. 1 (Winter 1991) p. 112 for background information.) Creation of the new agency fulfills a Wilson campaign promise to consolidate some of the state's major environmental programs and streamline their management, including ARB. Both critics and supporters say additional legislation will be required to define the agency's authority and give its secretary the clout needed to make a significant difference.

A July 14 train wreck near Dunsuir in Shasta County that dumped 19,500 gallons of toxic pesticide into the Sacramento River posed an immediate challenge for the new Cal-EPA. Southern Pacific railroad undertook an ambitious clean-up plan, under which a flotilla of vessels bearing giant water pumps drew the contaminated water from the north end of the Shasta Lake reservoir and sprayed it into the air. The aerial dispersal was intended to accelerate the breakdown of the potent toxin, metam sodium, into harmless elements. When exposed to the air, however, metam sodium releases toxic gases that cause nausea, eye irritation, and headaches. The clean-up proceeded despite ARB's serious concerns about the effects that the aerial dispersal could have on clean-up crews, area residents, and tourists. (See *infra* agency report on DEPARTMENT OF PESTICIDE REGULATION for related discussion.)

**Amendments to the Air Toxics "Hot Spots" Program Fee Regulation, List**



public health when present in the ambient air. Corresponding changes were made to the list of substances contained in the Emission Inventory Criteria and Guidelines Regulation.

At the Board hearing, staff proposed minor modifications to the amendments discussed in the staff report. The Board approved the resolution subject to an additional 15-day public comment period which ended on August 22. At this writing, these regulatory changes have not yet been submitted to the Office of Administrative Law (OAL) for review.

**Nickel Identified as Toxic Air Contaminant.** On August 8, ARB adopted a proposed amendment to section 93000, Titles 17 and 26 of the CCR, to identify nickel as a toxic air contaminant (TAC). The staffs of ARB and the new Office of Environmental Health Hazard Assessment (OEHHHA) within Cal-EPA recommended that ARB identify nickel as a TAC after evaluating metallic nickel and inorganic nickel compounds. ARB staff concluded that inasmuch as nickel has been identified as a hazardous air pollutant under section 112 of the federal Clean Air Act, identification of nickel as a TAC is required by California Health and Safety Code section 39655.

Natural sources of ambient nickel are windblown dusts and volcanic activity. The major anthropogenic source of ambient nickel emissions in California is fossil fuel combustion; the major source of indoor exposure to nickel is tobacco smoke. Other sources are asbestos mining and milling, secondary smelting, municipal refuse and sewage sludge incineration, electroplating, and cement manufacturing. ARB staff estimates 42 to 810 potential respiratory cancer cases might result in California based on 7.3 nanograms of nickel per cubic meter, the estimated mean statewide population-weighted exposure to nickel. Although acute health effects and chronic noncancer health effects can result from nickel exposure, these effects are not expected to occur at the 7.3 nanograms per cubic meter level.

At this writing, ARB has not yet submitted this amendment to OAL for approval.

**Amendments to Agricultural Burning Guidelines.** Also on August 8, the Board held a public hearing to consider amendments to its regulations on agricultural burning, sections 80130, 80150, 80250, 80260, and 80290, Title 17 of the CCR. The Board's Agricultural Burning Guidelines specify the criteria which must be used for controlling agricultural burning in each of the state's fourteen air basins and include various

requirements that the districts must follow in administering their agricultural burning programs. These amendments would: (1) modify existing reporting requirements by reducing the frequency of reports for some areas and revising the information which must be reported, making these report requirements uniform throughout the state; (2) correct obsolete language describing a portion of Placer County now in the Sacramento Valley Air Basin; and (3) replace references in the Guidelines to the federal ambient air quality standards with references to state standards. ARB approved the proposed amendments with slight modifications. At this writing, staff has not yet released the modified language for a 15-day public comment period; thus, these regulatory changes have not been submitted to OAL for review.

**On-Board Diagnostics II Status Update and Revisions.** In September 1989, ARB adopted section 1968.1, Title 13 of the CCR, requiring vehicle manufacturers to equip 1994 and later-model vehicles with advanced, computerized on-board diagnostic systems (OBD II). This regulatory action supplemented ARB's 1985 OBD I regulation, section 1968, Title 13 of the CCR, applicable to 1988 and later vehicles. (See CRLR Vol. 9, No. 4 (Fall 1989) pp. 106-07 for detailed background information.) When adopted, ARB described the OBD II regulations as technology-forcing requirements, and instructed staff in Resolution 89-77 to report back to the Board in two years regarding the progress of auto manufacturers in developing these required monitoring strategies.

The OBD II regulation, as originally adopted, includes new monitoring requirements covering catalyst system condition, engine misfire detection, evaporative control system operation, supplementary air system function, exhaust gas recirculation flow rate, and monitoring of other components or systems which are controlled by the computer. The regulation requires compliance beginning with 1994 model year passenger cars and light- and medium-duty trucks; all vehicles must comply by 1996.

The principle behind OBD II is that malfunctions should be detected when the performance of a component or system deteriorates to the point that a vehicle's emissions exceed a threshold value tied to the applicable emission standard. Under OBD II, the vehicle operator will be notified at the time when the vehicle begins to marginally exceed emission standards (generally 1.5 times the threshold standard) by the Malfunction Indication Light (MIL).

At its September 12 meeting, ARB held a public hearing on the status of the OBD II regulation. ARB praised the innovation and progress that the automobile industry has demonstrated over the two years since OBD II was adopted. Staff was also commended for working closely with the industry in order to implement a feasible OBD II strategy.

ARB agreed to minor amendments to sections 1968.1 and 1977 at the September meeting, based on staff recommendations to make OBD II more workable. The most prominent amendment is that for 1994 and 1995 model years, illumination of the MIL will be optional for the monitoring of specified systems, although the on-board computer will internally track when emissions exceed the standards. This change results from fear that consumers will lose confidence in the system due to false MIL illuminations while OBD II is being perfected. Also, for 1994 and 1995 model years, on-board diagnostic system recall shall not be considered for excessive emissions until emissions exceed 2.0 times the applicable standard, as opposed to the original 1.5 times.

Notwithstanding minor feasibility problems which were addressed by these amendments, ARB concluded that the technology for OBD II is feasible, and that most manufacturers are generally on schedule to implement OBD II systems beginning with the 1994 model year. By approving these modifications, staff was directed to release the modified language for a 15-day comment period ending September 27. ARB also instructed staff to report back to the Board in one year to update the progress of manufacturers in developing the required technology for OBD II.

At this writing, these regulatory changes await review and approval by OAL.

**Perchloroethylene Proposed as a TAC.** ARB was scheduled to hold a public hearing on October 10 to consider amending section 93000, Titles 17 and 26 of the CCR, to identify perchloroethylene as a TAC without a specified threshold exposure level. Perchloroethylene is a nonflammable, colorless, dense liquid with an ethereal odor used as a solvent in a wide variety of industrial and consumer activities, including dry cleaning, degreasing, paints and coatings, and adhesives. The Department of Health Services (DHS) found that perchloroethylene is an animal carcinogen and a possible human carcinogen. DHS staff further found that there is not sufficient scientific evidence to support the identification of an exposure level below which carcinogenic



effects would not have some probability of occurring, and recommended that perchloroethylene be treated as having no identified threshold. No control measures for perchloroethylene are proposed for adoption at this hearing. If perchloroethylene is listed as a TAC, a report on the need for, and appropriate degree of, control measures to reduce perchloroethylene emissions will be developed.

**Proposed Amendments to Regulations Regarding the State 24-Hour Ambient Air Quality Standard for Sulfur Dioxide.** Also in October, the Board was scheduled to conduct a public hearing to consider proposed amendments to sections 70100(k) and 70200, and the repeal of section 70201, Title 17 of the CCR. Sulfur dioxide is a highly irritating gas, harmful to the respiratory system. It is emitted primarily from the combustion of sulfur-containing fuels such as coal and oil. To protect public health, ARB has established ambient air quality standards for sulfur dioxide. In an August 23 report, staff proposed that the Board amend the current 24-hour standard for sulfur dioxide which deals with long-term health effects.

If adopted, the recommendations will (1) lower the numerical value of the 24-hour sulfur dioxide ambient air quality standard from 0.05 parts per million (ppm) to 0.04 ppm; (2) remove the current requirements for concurrent exceedance of specified oxidant (ozone) or total suspended particulate matter concentrations; (3) change the basis for determining violations of the standard to "not to be exceeded" (rather than "equal or exceed"); (4) update health effects information; (5) delete parts of sections 70100, 70200, and 70201 which discuss or define compliance with the 24-hour sulfur dioxide standard in combination with total suspended particulate matter and ozone; and (6) retain the current method for monitoring for sulfur dioxide, the Ultraviolet (UV) Fluorescence method. The net effect of these proposed changes is to retain the current level of maximum allowable 24-hour exposure to sulfur dioxide and to rescind the language specifying concurrent exposure to ozone and/or suspended particulate matter.

**Vehicle Identification Number to Identify Emission Standards and Low-Emission Vehicles.** In an effort to properly and effectively identify levels of exhaust emission standards for a particular motor vehicle, it has been proposed that, beginning in the 1995 model year, the eighth character of the 17-character vehicle identification number (VIN) of passenger cars, light- and medium-duty trucks, heavy-duty vehicles,

and motorcycles be reserved and standardized for the purpose of identifying the vehicle's exhaust emission standards. This would make it possible to calculate the fleet average emission standards for different vehicle classes, as well as to enforce sales requirements on various types of low-emission vehicles (LEVs) based on Department of Motor Vehicle VIN records. ARB accepted comments on this proposal until October 11; this proposal may also be included in ARB's revisit of its LEV regulations next spring. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 113 for background information on ARB's LEV regulations.)

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

-ARB's May 1991 adoption of new sections 60075.01-47, Title 17 of the CCR, which sets forth procedures for the conduct of ARB's administrative hearings for owners of vehicles cited under the Board's Heavy-Duty Vehicle Roadside Smoke and Tampering Inspection Program, has not yet been submitted to OAL at this writing. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 152 for background information.)

-ARB's April 1991 adoption of new section 90621.2 and its amendments to sections 90620 and 90622, Title 17 of the CCR, which establish an emission fee program for non-vehicular sources which emit 500 tons or more of either sulfur oxides or nitrogen oxides under the Atmospheric Acidity Protection Act, were submitted to OAL for review on August 23 and approved by OAL on September 19. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 152 for background information.)

-ARB's April 1991 adoption of new section 90800.2 and amendments to sections 90801 and 90803, Title 17 of the CCR, which set fees to be collected by local air pollution control and air quality districts from permit holders for pollution sources located in specified nonattainment areas, were submitted to OAL on August 23 and approved by OAL on September 18. (See CRLR Vol. 11, No. 3 (Summer 1991) pp. 151-52 for background information.)

-The Board's March 26 emergency fee schedule for the Air Toxics "Hot Spots" Information and Assessment Act of 1987, Health and Safety Code section 44300 *et seq.*, which was approved by OAL on March 28, was resubmitted as a permanent fee schedule and approved by OAL on August 26. (See CRLR Vol. 11, No. 3 (Summer 1991) p.

153 and Vol. 10, No. 4 (Fall 1990) p. 140 for background information.)

-The Board's February 1991 amendments to sections 94131, 94132, and 94142, Title 17 of the CCR, which expand existing ARB test methods for measuring air emissions from stationary sources to include gaseous fluoride, 1,3-butadiene, and acetaldehyde, have not yet been submitted to OAL at this writing. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 138-39 for background information.)

-The Board's December 1990 amendments to section 2256, Title 13 of the CCR, which modify the procedures for certifying alternative diesel fuel formulations, have not yet been submitted to OAL for approval at this writing. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 115 for background information.)

-The Board's December 1990 adoption of new sections 2400-2407, Title 13 of the CCR, has not yet been submitted to OAL for approval. The new emission standards for gasoline-powered lawnmowers, leaf blowers, and other home and garden tools will require substantial modifications in utility engines, possibly including catalytic converters, to reduce emissions by 46% by 1994 and by 55% by 1995. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 115 for background information.)

-The Board's December 1990 amendments to its conflict of interest code, which add newly-created positions to the list of ARB employees who must file financial disclosure statements and delete coverage for obsolete positions, were approved by the Fair Political Practices Commission on July 30, filed with OAL on August 14, and approved by OAL on September 12. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 116 for background information.)

-On April 10, ARB staff released a modified version of the Board's test procedures to detect excessive smoke emissions from heavy-duty diesel-powered vehicles and inspection procedures to detect tampered or defective emission control systems components on gasoline- and diesel-powered vehicles. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 116 for background information.) The new test procedures, which were adopted by ARB in November 1990, will be codified at sections 2180-2187, Title 13 of the CCR. These modifications have not yet been submitted to OAL at this writing.

-ARB's October 1990 adoption of new Article 2, Consumer Products (sections 94506.5-94517), new section 94503.3, and its amendments to sec-



tions 94504-06, Title 17 of the CCR, which will reduce volatile organic compound (VOC) emissions from consumer products by establishing limits on VOC content effective 1993 for six categories and January 1994 for ten other categories and by requiring registration of selected products, were approved by OAL on September 19. (See CRLR Vol. 11, No. 1 (Winter 1991) pp. 113-14 for background information.)

-In September 1990, the Board adopted new regulations which will coordinate the introduction of stringent exhaust emission standards and test procedures for light- and medium-duty vehicles, and the availability of commensurate volumes of clean-burning fuels for those vehicles. The regulations also provide new specifications for "Phase 1 Reformulated Gasolines." (See CRLR Vol. 11, No. 1 (Winter 1991) p. 113 for detailed background information.) The Phase I gas specifications (new sections 2251.5, 2253.4, and 2257, and amendments to sections 2251, 2252, 2253.2, and 2254, Title 13 of the CCR) were approved by OAL on May 6. The new emission standards and test procedures for low-emission vehicles (amendments to sections 1900, 1904, 1956.8, 1960.1, 1960.1.5, 1960.5, 1965, 2061, 2111, 2112, 2125, and 2139, and the adoption of new sections 2300-2317, Title 13 of the CCR) were approved by OAL on August 30.

-ARB's August 1990 amendments to section 1976, Title 13 of the CCR, which specify standards for running losses and extend the durability requirements for evaporative emission control systems to be the same as those for exhaust hydrocarbon systems, were revised and adopted by ARB on March 15. These amendments and revisions were disapproved by OAL on July 22 for failure to comply with the technical requirements of the Administrative Procedure Act. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 141 for background information.) ARB plans to correct the deficiencies and resubmit the amendments to OAL, but has not yet done so at this writing.

-New section 93104, Titles 17 and 26 of the CCR, which provides airborne toxic controls for dioxin emissions from medical waste incinerators and was adopted by ARB in July 1990, was approved by OAL on June 13. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 141 for background information.)

-ARB's June 1990 amendments to sections 1900, 1956.8, 1960.1, 1968.1, 2061, 2112, 2138, and 2139, Title 13 of the CCR, regarding hydrocarbon, carbon monoxide, and nitrogen oxides ex-

haust emission standards and test procedures for light-duty trucks, medium-duty vehicles, and light heavy-duty vehicles, were approved by OAL on August 2, following ARB's resubmission of the regulatory package. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 153 and Vol. 10, No. 4 (Fall 1990) p. 140 for background information.)

-The Board's April 1990 adoption of new section 93106, Titles 17 and 26 of the CCR, which sets forth an airborne toxic control measure regulating permissible levels of asbestos-content serpentine rock used in surfacing applications, was approved by OAL on June 19. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 163 for background information.)

## LEGISLATION:

**AB 598 (Elder)**, as amended August 19, would require ARB to prepare a list of models of motor vehicles that are significant sources of air pollution, and require the Department of Motor Vehicles (DMV) to develop and implement a program to acquire and scrap the designated vehicles. The DMV would also be required to assess a pollution mitigation fee on an individual if the cost of repairing his/her vehicle in order to bring it into compliance with emission standards exceeds the prescribed cost limitations. This two-year bill is pending in the Senate Transportation Committee.

**AB 1054 (Sher)**. Existing law requires ARB, on or before January 1, 1992, to adopt regulations to achieve the maximum feasible reduction in reactive organic compounds emitted by consumer products. Air pollution control districts and air quality management districts are prohibited from adopting regulations prior to January 1, 1994, relating to a consumer product which are different from regulations adopted by ARB. As amended July 9, this bill would prohibit the districts from adopting those regulations prior to January 1, 1992, rather than January 1, 1994. This bill is pending in the Senate inactive file.

**AB 505 (Sher)**, as amended July 11, would prohibit any person who operates a heavy-duty motor vehicle, or a facility for loading or unloading goods from those vehicles, from causing the engine of a heavy-duty motor vehicle to idle for more than consecutive minutes on the property of the facility, except as specified. This two-year bill, which would specifically require the air quality management districts to monitor and enforce this prohibition, is pending in the Senate Transportation Committee.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 3 (Summer 1991) at pages 153-55:

**AB 1378 (Connelly)**, as amended September 10, imposes limitations on the burning of rice straw in the Sacramento Valley Air Basin and requires ARB to adopt regulations and perform specified duties to enforce these limitations. This bill was signed by the Governor on October 10 (Chapter 787, Statutes of 1991).

**AB 1514 (Hayden)**, as amended June 3, would have required the Department of Health Services (DHS), in submitting to ARB recommendations for ambient air quality standards, and ARB, in adopting air quality standards, to determine if any adoption, amendment, revision, or extension of the recommendations/standards adequately protects the health of infants and children and, if not, to take more stringent action. This bill was rejected by the Senate Governmental Organization Committee on July 16.

**SJR 26 (Presley)**, as introduced May 20, urges the U.S. Environmental Protection Agency (EPA) to refrain from publishing a guidance for the states for motor vehicle inspection and maintenance programs until ARB and other interested parties review data underlying that guidance, and to select a guidance which provides substantial emission reductions while providing maximum flexibility to the state to demonstrate the effectiveness of its chosen form of inspection. (See *supra* agency report on BUREAU OF AUTOMOTIVE REPAIR for related discussion.) This resolution was chaptered on June 27 (Chapter 42, Resolutions of 1991).

**SB 135 (Boatwright)**, as amended July 16, requires ARB, by January 1, 1993, to adopt emission standards and test procedures applicable to new engines for transit buses, to be effective by January 1, 1996. This bill also requires any light- or medium-duty motor vehicle operated for compensation, as defined, to transport persons in any district which does not meet state ambient air quality standards to be a low-emission vehicle, as defined in ARB regulations which the Board must adopt by January 1, 1993 and make effective by January 1, 1996. This bill was signed by the Governor on October 5 (Chapter 496, Statutes of 1991).

**AB 859 (Vasconcellos)**, as amended September 10, makes a statement of legislative intent; limits the percentage of new motor vehicles equipped with air-conditioners which utilize CFC-based products, as defined; and requires ARB to adopt regulations to provide



for the enforcement of these provisions. This bill was signed by the Governor on October 12 (Chapter 874, Statutes of 1991).

**SB 1166 (Hill)**. Existing law requires ARB to establish maximum standards for the volatility of gasoline sold in California at or below 9 pounds per square inch Reid vapor pressure, except that a blend of gasoline consisting of at least 10% ethyl alcohol is exempt, until October 1, 1993, from meeting the volatility standard if the gasoline used in the blend meets the volatility standard for gasoline. As amended August 29, this bill exempts from the volatility standard, on and after October 1, 1993, any blend of gasoline of at least 10% ethyl alcohol, unless ARB determines that the use of the blend would result in a net increase in the ozone-forming potential of the total vehicular emissions. This bill was signed by the Governor on October 14 (Chapter 1194, Statutes of 1991).

**SB 1160 (Leonard)**, as amended June 27, would require ARB to establish minimum standards for reformulated gasoline. This two-year bill is pending in the Assembly Transportation Committee.

**AB 1419 (Lempert)**, as amended April 15, would prohibit the import, delivery, purchase, receipt, or other acquisition for sale, rental, or lease of a used motor vehicle, unless the model of the vehicle has been certified by ARB as a new motor vehicle. This two-year bill is pending in the Assembly Transportation Committee.

**SB 46 (Torres)**, as amended May 7, would revise the definition of toxic air contaminant to delete an exclusion for pesticides, and to include specified substances; this bill would also redefine the threshold level below which no health effects are anticipated. This two-year bill is pending in the Senate Appropriations Committee.

**SB 295 (Calderon)**, as amended April 8, would limit the cost of an automobile smog check test to \$50, exclusive of the charge for the certificate of compliance, and would impose an additional \$1 for motor vehicle Smog Check Program certificates; the amounts collected from this \$1 fee would be used to fund a program for individuals to report to the Department of Consumer Affairs vehicles which emit unusual amounts of pollutants. This two-year bill is pending in the Senate Transportation Committee.

**SB 431 (Hart)**, as amended September 11, would enact the Demand-based Reduction in Vehicle Emissions (Plus Reductions in Carbon Dioxide) (DRIVE) Program; require ARB to

adopt implementing regulations; and apply sales tax credits and surcharges on the sale or lease of new passenger cars, light-duty trucks, and medium-duty vehicles on the basis of the level of specified pollutants emitted. This two-year bill is pending on the Senate floor.

**AB 187 (Tanner)**, as introduced January 4, would provide that substances listed in recently-enacted amendments to the federal Clean Air Act are toxic air contaminants, and would require ARB to compile and maintain a list of those substances. This two-year bill is pending in the Assembly Committee on Environmental Safety and Toxic Materials.

**AB 212 (Tanner)**, as amended March 14, would make various findings and declarations relating to the need to develop a plan for state action to determine the risks posed by exposure to indoor air pollution, and require ARB and DHS to submit a specified report to the Governor and the legislature by January 1, 1993. This two-year bill is pending in the Assembly Ways and Means Committee.

**AB 280 (Moore)**. Existing law requires ARB, by regulation, to prohibit the use of heavy-duty motor vehicles determined to have excessive smoke emissions or other emissions-related defects. ARB may issue citations for violations; the vehicle owner is required to correct deficiencies identified in the citation, and pay a civil penalty and an additional \$300 penalty. As amended July 18, this bill would require that \$300 penalty to be imposed only upon an owner who fails to take corrective action, would impose a \$25 civil penalty, in other cases. This two-year bill is pending in the Senate Transportation Committee.

**AB 405 (Eaves)**, as introduced February 4, would authorize air pollution control districts, with respect to mobile and stationary sources of pollution, to establish and implement a system to use emission reductions to offset future increases; impose various restrictions on the use of offsets; and establish a state panel to develop guidelines for mobile source offset programs, which the bill would require ARB to adopt. This two-year bill is pending in the Assembly Public Safety Committee.

**AB 484 (Connelly)**, as amended May 24, would impose specified limitations on the burning of rice straw in the Sacramento Valley Air Basin and require ARB to adopt regulations and perform prescribed duties regarding the limitations. This bill was dropped due to the passage of AB 1378 (Connelly) (*see supra*).

**AB 691 (Hayden)**, as introduced February 25, would make a statement of legislative intent regarding the manufacture and sale of specified CFCs, and would, on and after January 1, 1993, except as specified, require the use of refrigerant recycling equipment approved by ARB in the servicing of vehicle air conditioners and other specified activities in the course of which specified refrigerants are or may be released. According to Assemblymember Hayden's office, this bill will not be pursued as a result of the recent adoption of federal regulations in this area.

**SB 1211 (Committee on Energy and Public Utilities)**, as amended May 7, would require ARB to adopt regulations requiring clean fuel producers, suppliers, distributors, and retailers to supply ARB with cost and price information, and require ARB to consult with other specified agencies and to report to the legislature concerning that information and whether clean fuels are being marketed at commercially reasonable terms. This two-year bill is pending in the Assembly Transportation Committee.

**SB 1213 (Killea)**, as introduced March 8, would authorize air pollution control districts and air quality management districts designated as nonattainment areas for state ambient air quality standards for ozone or carbon monoxide by ARB to adopt regulations to require operators of public and commercial light- and medium-duty fleet vehicles, except as specified, when adding or replacing vehicles or when purchasing vehicles to form a new motor vehicle fleet, to purchase low-emission motor vehicles and to require, to the maximum extent feasible, that those vehicles be operated on a cleaner burning alternative fuel. This two-year bill is pending in the Senate Governmental Organization Committee.

#### RECENT MEETINGS:

On July 30, ARB held a workshop to obtain feedback regarding procedures for certifying conversions of gasoline- or diesel-fueled vehicles to use fuels other than gasoline or diesel. Alternative fuel retrofit systems have shown excellent performance in use. However, improperly converted vehicles have been found to produce excess emissions. The proposed procedures would increase the stringency of the certification requirements in several ways. Most significantly, the proposed procedures would require manufacturers to certify retrofit system designs that are specific to a given engine family and to ensure that no component or calibration of the



## REGULATORY AGENCY ACTION

fuel system that could affect emission performance may be adjusted by the system installer or the vehicle user. The applicable emission standards for retrofitted vehicles would be the same as those required for new vehicles of the same model year using the same fuel(s).

The draft regulations set a three-year or 50,000-mile warranty requirement on both manufacturers and installers of retrofit systems. Manufacturers would also be required to provide a seven-year or 70,000-mile warranty on those retrofit system parts costing more than \$300 to replace. The proposed procedures would require retrofit system installers to submit a converted vehicle to Bureau of Automotive Repair Smog Check referee stations for inspection and testing prior to releasing the vehicle to the consumer. Retrofit system manufacturers would be required to demonstrate in-use compliance of their systems as installed. Retrofit systems failing to meet in-use standards would be subject to recall action. The proposed procedures would apply to all alternative fuel retrofit systems designed for installation on gasoline- or diesel-fueled light-, medium-, and heavy-duty motor vehicles certified for sale in California for 1993 and subsequent model years.

ARB has determined that many manufacturers should reevaluate their systems for controlling the sale of California emissions (tune-up) labels. A recent ARB survey revealed that many dealerships are willing to sell California emissions labels over-the-counter without verifying whether the label is legally being installed on a California-certified vehicle. To ensure that adequate procedures are in place, ARB has requested each manufacturer of California-certified vehicles to submit documentation of the procedures it has established to prevent the unauthorized sale of California emissions labels. (See CRLR Vol. 7, No. 4 (Fall 1987) p. 87 for background information.)

### FUTURE MEETINGS:

January 9 in Sacramento.

### CALIFORNIA INTEGRATED WASTE MANAGEMENT AND RECYCLING BOARD

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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 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 Board has begun its work under the new enabling statute, along with a variety of recently-enacted bills and many new regulations. The Board is operating on a \$58 million budget during fiscal year 1991-92, and will employ a staff of approximately 250 in meeting the solid waste management

needs of the state. The Board expects to employ up to 70 additional personnel after it completes the move to its new office this winter.

On August 8, Governor Wilson appointed Paul Relis to fill the Board position reserved for a representative of environmental protection groups. Relis is a founder and president of the Community Environmental Council in Santa Barbara, a nonprofit environmental education organization. He was also a member of the 1989 Senate Task Force on Solid and Hazardous Waste which recommended adoption of the integrated waste management hierarchy of source reduction, recycling, and composting, and a major restructuring of the Board. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 111 for background information.) Relis has advised federal, state, and local agencies, including the U.S. Environmental Protection Agency, the congressional Office of Technology Assessment, and CIWMB's predecessor, the California Waste Management Board.

### MAJOR PROJECTS:

**Governor's Cal-EPA Plan Approved.** Governor Wilson's proposal to create the California Environmental Protection Agency (Cal-EPA) took effect on July 17. CIWMB, the Air Resources Board, and the state Water Resources Control Board, among others, are now incorporated within Cal-EPA. (See CRLR Vol. 11, No. 3 (Summer 1991) pp. 159-60 for background information.)

**Board Adopts Emergency Diversion/Planning Requirement Regulation.** PRC section 41782 allows CIWMB to establish alternative but less comprehensive planning requirements and reduced diversion goals for those cities and counties for which it is not feasible to meet AB 939's mandated diversion and planning requirements due to population density, small geographic size, and/or the small quantity of waste generated. On July 29, OAL approved CIWMB's emergency adoption of section 18775, Title 14 of the CCR, concerning reductions in diversion requirements. Pursuant to section 18775, eligible cities must consist of less than three square miles or have a population density of less than 1,500 people per square miles, and have a waste generation rate of less than 100 cubic yards (or 60 tons) per day. Eligible unincorporated areas of a county must consist of geographic areas of 1,500 square miles or less or have a population density of less than ten people per square mile, and a waste generation rate of less than 100 cubic yards (60 tons) per day. CIWMB