sides must file a witness list and pre-hearing statement at least ten days prior to the hearing. After the hearing, the ARB must issue a written decision setting forth findings of fact and conclusions of law. The procedures allow either the petitioner or the EO to file a request for reconsideration.

Following a public hearing, the Board adopted the regulations subject to an additional fifteen-day comment period. The rulemaking package is currently being prepared for submission to OAL.

Proposed Amendments to New Direct Import Certification Regulations. Health and Safety Code section 43150 *et seq.* prohibits the sale of new motor vehicles in California unless the vehicle has been certified by the ARB as complying with the state's motor vehicle emissions standards. Most new passenger cars and medium- and light-duty trucks have been certified by the manufacturer of the vehicle ("original equipment manufacturer" or "OEM") pursuant to the standards set forth in section 1960.1, Title 13 of the CCR, and documents incorporated therein.

New direct import vehicles—that is, vehicles manufactured outside the United States and not certified for sale in this country by the OEM which are less than two years old—may be certified by non-OEM "modifiers" pursuant to section 1964, Title 13 of the CCR, and documents incorporated therein. Because of the small business nature of the modification industry, the certification program for new direct import vehicles requires less pre-certification durability testing than the OEM certification program, and focuses instead on in-use enforcement, including recall, to assure that the overall program for new direct import vehicles will be as stringent and protective of air quality as the OEM certification program. The certification program for new direct import vehicles thus requires the modifier to demonstrate its ability to correct emissions defects and to perform in-use recalls prior to sale by posting a surety bond in the amount of $1,000 for each vehicle. Under existing regulations, the modifier may also avail itself of two alternative methods of ensuring its ability to correct defects and perform recalls.

In February 1988, the ARB received a petition requesting amendment of the recall bond and insurance requirements, to allow modifiers to purchase recall "warranty" insurance with a maximum liability of $1,000 per vehicle. After a May 13 public hearing, the Board denied the petition, but directed staff to develop alternatives to the recall bond and insurance provisions for consideration by the Board at a future meeting.

On November 17, the Board entertained staff's alternative proposals, which would would given modifiers a fourth alternative in providing the required demonstration that it will have the resources necessary to correct defects and perform recalls. Staff's proposed amendments to the existing regulation (section 1964, Title 13 of the CCR) and the document incorporated therein (California Certification and Compliance Test Procedures for New Modifier Certified Motor Vehicles) would have allowed the modifier to demonstrate its ability to carry out a worst-case recall by providing specified information about the finances, organization, and management of the modifier to show that it is a strong and viable "going concern" which has the ability and resources necessary to continue in the modification business during the full recall period for the vehicles to be certified, or at least be in a position to recall vehicles during that period.

However, the ARB rejected the proposed amendment, finding that the existing alternatives are still viable and will ensure compliance with the intent of the law to a greater extent. Any financial burden on modifiers due to the existing certification program regulations may be offset with an appropriate price adjustment.

Implementation of AB 2595. In the first implementation of AB 2595 (Sher), the California Clean Air Act of 1988 (Chapter 1568, Statutes of 1988), the ARB recently amended section 2252 and adopted new sections 2255 and 2256, Title 13 of the CCR. Starting January 1, 1993, the new regulations would limit the permissible sulfur content of motor vehicle diesel fuel to 500 parts per million (ppm), and would limit the aromatic hydrocarbon content of motor vehicle diesel fuel to 10% by volume; small refiners would be subject to a 20% limit. The 10% aromatic hydrocarbon limit could be waived by the Executive Officer for a blend of diesel fuel containing an additive if the EO determines, upon application, that the blend results in no greater emissions of any criteria pollutant, criteria pollutant precursor, or toxic air contaminant than vehicular diesel fuel meeting the 10% limit.

The Board adopted these regulatory changes at its November meeting; the rulemaking package is being prepared for submission to OAL.

OAL Disapproves ARB Regulatory Action. On September 22, the OAL disapproved ARB's August 19 adoption of section 2222(h) and (i), Title 13 of the CCR, which would have established procedures for the evaluation of non-original equipment catalytic converters and recycled used catalytic converters. OAL found that the rulemaking file failed to include all required documents and failed to summarize and respond to each comment made regarding the rulemaking action. The Board supplemented the rulemaking file and resubmitted it to OAL in January.

LEGISLATION:

SB 54 (Torres) would prohibit an air pollution control district or air quality management district from issuing or renewing a permit for the construction of, renewing a permit for the operation of, or issuing a determination of compliance for, a project which burns hazardous waste, unless the project will not prevent or interfere with the attainment or maintenance of state and federal ambient air quality standards; and unless the district performs a health risk assessment and determines that no significant increase in illness or mortality is anticipated as a result of air pollution from the project.

SB 231 (Roberti) would make a statement of legislative intent and require the ARB to adopt criteria to determine the existence of replacement products for specified chlorofluorocarbon (CFC) applications, and would prohibit the use of CFCs in product applications in which it is determined that replacement products exist.

SB 155 (Leonard) would impose emission charges on motor vehicles and fuels at designated rates based on specified pollutants emitted, as determined by the ARB.

FUTURE MEETINGS:

To be announced.

CALIFORNIA WASTE MANAGEMENT BOARD

Executive Officer: George T. Eowan
Chairperson: John E. Gallagher
(916) 322-3330

Created by SB 5 in 1972, the California Waste Management Board (CWMB) formulates state policy regarding responsible solid waste management. Although the Board once had jurisdiction over both toxic and non-toxic waste, CWMB jurisdiction is now limited to non-toxic waste. Jurisdiction over toxic waste now resides primarily in the toxic unit of the

Department of Health Services. CWMB considers and issues permits for landfill disposal sites and oversees the operation of all existing landfill disposal sites. Each county must prepare a solid waste management plan consistent with state policy.

Other statutory duties 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. The Board has also attempted to develop economically feasible projects for the recovery of energy and resources from garbage, encourage markets for recycled materials, and promote waste-to-energy (WTE) technology. Additionally, CWMB staff is responsible for inspecting solid waste facilities, *e.g.*, landfills and transfer stations, and reporting its findings to the Board.

The Board consists of the following nine members who are appointed for staggered four-year terms: one county supervisor, one city councilperson, three public representatives, a civil engineer, two persons from the private sector, and a person with specialized education and experience in natural resources, conservation, and resource recovery. The Board is assisted by a staff of approximately 86 people.

MAJOR PROJECTS:

AB 2448 Loan Guarantee Program. CWMB is currently developing draft regulations to implement AB 2448 (Eastin) (Chapter 1319, Statutes of 1987). (See CRLR Vol. 8, No. 3 (Summer 1988) p. 106 and Vol. 7, No. 4 (Fall 1987) p. 89 for background information.) AB 2448 requires the Board to adopt regulations governing the administration of $5 million per year in loan guarantees for corrective actions and for closure and postclosure maintenance plans. The Loan Guarantee Program assists landfill operators and owners in preparing and implementing the closure and postclosure plans, and in making required corrective actions. CWMB must adopt eligibility and priority criteria for the granting of loan guarantees. A loan guarantee is a promise by the guarantor (the Board) to cover specific obligations to repay the loan to the lender in case of default by the borrower (landfill operator or owner). A private lending institution makes the loan, with CWMB insuring it against default by the borrower.

The Board has until July 1, 1989, to adopt regulations for loan guarantees. Key issues include whether uniform criteria should be established for program participation; the standards which should be used to judge a borrower's ability to repay a loan; the appropriate priority for the granting of loan guarantees; the feasible minimum and maximum loan amounts; the appropriate level of risk to be shared by CWMB and the lender; and repayment periods, reserve ratios, and delinquency and default procedures.

Regulatory Review. CWMB is engaged in a long-term review of its regulations in Title 14 of the California Code of Regulations. The Board is currently discussing Chapter 4 entitled "Conformance of Solid Waste Facilities to County Solid Waste Management Plans." Chapter 4 was written to implement Government Code sections 66783.1 and 66784, which relate to the establishment of solid waste facilities. Section 66783.1 prohibits the establishment of a solid waste facility without the Board first making a Need and Necessity Finding in counties where there is no approved County Solid Waste Management Plan (CoSWMP). Section 66784 prohibits the establishment of solid waste facilities that are not in conformance with an approved CoSWMP.

However, Chapter 4 does not contain a complete list of facilities covered by the statutes (*e.g.*, expanded solid waste facilities and composting projects are not included), nor is there a list of facilities excluded by Chapter 4. Some regulations do not meet the Office of Administrative Law's (OAL) criteria for clarity, nonduplication, and necessity. For example, some definitions in Chapter 4, Article 2 duplicate definitions in the Government Code, which violates OAL rules. Other regulations simply reference sections of the Government Code which authorize the preparation of regulations; that is, they do not require anyone to do anything. Hence, these regulations do not meet OAL's standards for regulations.

The Board is thoroughly reviewing Need and Necessity Findings to determine whether it should continue to use them. The procedures for a Determination of Conformance will be revised to clarify what is required of a proponent. Chapter 4 also fails to set forth sanctions for noncompliance by illegally established facilities. One section discusses waivers from the requirements of this chapter for certain types of disposal sites; however, the Government Code does not authorize the use of waivers.

At its November meeting, CWMB discussed Chapter 3 of the Board's regulations entitled "State Minimum Standards for Solid Waste Handling and Disposal." These regulations are unchanged since 1978 and are unclear regarding what performance standard is to be attained, which has led to confusion in the regulated industry. In addition, Chapter 3 is not consistent with either current or proposed federal requirements or with current state requirements. Furthermore, these regulations do not meet OAL's criteria for clarity and necessity.

The Board will continue to discuss and revise Chapters 3 and 4 at future meetings.

Enforcement Advisory Council. EAC has asked CWMB to investigate the feasibility of obtaining California Environmental Quality Act (CEQA) equivalency for the solid waste facilities permitting process. This proposed process would be similar to the CEQA equivalency process for preparing or revising regional water quality control board waste discharge requirements. (See CRLR Vol. 8, No. 3 (Summer 1988) pp. 105-06 and Vol. 8. No. 2 (Spring 1988) pp. 99 for background information on the EAC.)

LEGISLATION:

AB 4 (Eastin) would require all state departments to establish purchasing practices for recycled products and to give prescribed preferences to these products. It would establish certain percentage goals, to be administered by the Department of General Services, increasing from 1991-1995 for the purchase of materials, goods, or supplies available as recycled products. A similar bill by Assemblymember Eastin which passed during the 1988 session was vetoed by the Governor.

AB 34 (Tanner). Existing law authorizes the Department of Health Services (DHS) to extend the date by which a council of governments or a county submits a final regional hazardous waste management plan to DHS from October 1, 1988, to February 1, 1989, if the Department makes a specified determination. AB 34 is an urgency bill which would extend the date for submittal to June 1, 1989.

AB 42 (Jones). The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) prohibits knowingly discharging or releasing a significant amount of a toxic chemical into a source of drinking water. The Act also prohibits any person from knowingly and intentionally exposing any individual to such a chemical without giving a specified warning. AB 42 is an urgency bill which would revise the definition of the term "significant amount" in Proposition 65. A similar bill in the 1988

session was dropped by Assemblymember Jones.

SB 65 (Kopp). Subject to approval by the voters, this bill would extend Proposition 65's discharge and exposure prohibitions to public agencies, with specified exceptions. A similar bill by Senator Kopp during the 1988 session was vetoed by the Governor on the basis that regulations implementing Proposition 65 have only recently taken effect and that expanding the measure at this time would be premature. The earlier version of the bill was supported by CWMB, the Sierra Club, and the California Manufacturers Association. It was opposed by the League of California Cities, the Association of California Water Agencies, and the Metropolitan Water District.

AB 80 (Killea) would enact the Solid Waste Recycling Act of 1989, requiring every city and county to prepare, adopt, and implement a waste reduction and recycling plan in accordance with guidelines prepared by the Department of Conservation. The waste reduction and recycling plan would be incorporated into the CoSWMP. Assemblymember Killea has chosen the Department of Conservation to prepare the guidelines rather than CWMB because she believes the Department has the necessary expertise and a commitment to recycling. She also contends that CWMB is dominated by the waste-hauling industry and does not support recycling. A similar bill by Assemblymember Killea during the 1988 session was vetoed by the Governor.

RECENT MEETINGS:

At its October meeting, CWMB issued a solid waste facilities permit for the Coast Waste Management Transfer Station in the city of Carlsbad in San Diego County. This new large-volume transfer station has a capacity of 400 tons per day. Salvage operations will consist of the separation of glass bottles, cardboard, aluminum cans, computer paper, and a limited amount of ferrous metal. Solid waste not considered suitable for recycling will be transported in an enclosed trailer to the county's sanitary landfill.

During its December meeting, the Board reviewed the status of CoSWMPs. Fifty CoSWMPs are current and complete; three are partially approved or recently submitted; and five are delinquent (including San Mateo, Del Norte, and Siskiyou). The Contra Costa CoSWMP Revision has been referred to the Attorney General's office for legal action.

FUTURE MEETINGS:

To be announced.

COASTAL COMMISSION

Director: Peter Douglas
Chairperson: Michael Wornum
(415) 543-8555

The California Coastal Commission was established by the California Coastal Act of 1976 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 determines the geographical jurisdiction of the Commission. The Commission has authority to control development in state tidelands, public trust lands within the coastal zone and other areas of the coastal strip where control has not been returned to the local government.

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. After certification of an LCP, the Commission's regulatory authority is transferred to the local government subject to limited appeal to the Commission. There are 69 county and city local coastal programs.

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.

MAJOR PROJECTS:

LCPs. The purpose of the LCP program is to conform local land use plans and implementing ordinances to the policies of the California Coastal Act. The Coastal Act allows local governments, with Coastal Commission approval, to divide their coastal zones into geographic segments, with an LCP prepared for each segment. Consequently, 126 LCPs are being prepared instead of 69 (the number of actual coastal zone cities and counties). This number has decreased by 4 since the February 1987 Status Report (see CRLR Vol. 7, No. (Spring 1987) p. 90), because some segments are no longer listed separately. For example, Sunset Aquatic Park and Newport Beach are now listed as areas within the cities of Seal Beach and Newport Beach, respectively.

To date, the Commission has reviewed and acted upon 115 LUPs (91% of the 126 LCP segments). Of these, the Commission has certified 98 without modifications, denied 3, and certified 14 with suggested modifications. Seventeen of these LCPs or LUPs have portions or areas that are uncertified at this time, and are known as "areas of deferred certification." Most of these are small areas.

The Commission has acted upon 86 implementation (zoning) submittals (or 68% of the 126 segments). Of these, 75 have been certified without modifications, 5 denied, and 6 certified with suggested modifications. To date, 71 total LCP segments (56% of 126) have been effectively certified and these local governments are now issuing coastal development permits—an increase of 21 since the February 1987 Status Report.

The Coastal Commission recently received a federal grant to develop programs designed to significantly improve the rate at which local governments complete their LCPs. At its December meeting, the Commission voted to adopt several suggested incentives to prevent the continuing delays. It plans to amend its regulations to extend from six months to one year the time within which a locality may accept suggested modifications without a rehearing by the Commission. This will create a greater likelihood that the local government would adopt those modifications because they will be able to review them thoroughly without being rushed.