



REGULATORY AGENCY ACTION

The court agreed that the Tanner Act preempts a district's authority to identify a TAC; but once the ARB has adopted a regulation identifying a substance as a TAC, a district is free to regulate that substance by local regulation.

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.

Sherman F. Roodzant resigned as chair of CWMB effective June 30, 1988. Governor Deukmejian has named Board

member John E. Gallagher as Roodzant's replacement. As this writing, the Governor has not yet selected a person to fill Gallagher's position on the Board.

MAJOR PROJECTS:

Anti-Litter Campaign. CWMB has launched a drive against litter called "California Cleanin'", which is intended to increase public awareness of the state's growing litter problem and focus attention on related waste management issues such as recycling, landfill siting, and alternative disposal technologies. The campaign features television announcements reminding people not to litter and alerting the public to the state's new \$1,000 fine against littering. Radio announcements are aimed at the most common litterbugs—teenage boys and adult male truck drivers.

Regulatory Action. CWMB has proposed the repeal of three sets of regulations: (1) current rules which require used oil haulers, used oil transfer facility operators, and used oil recyclers to register with the Board (California Code of Regulations (CCR) Title 14, Division 7, Chapter 1, Article 2, commencing with section 18600)—the authority for these regulations was repealed in 1986; (2) the Board's "public meeting" rules (Division 7, Chapter 1, Article 2, Title 14 of the CCR), which are superseded by the state Open Meetings Act; and (3) the Board's public records rules (Division 7, Chapter 1, Article 4, Title 14 of the CCR), which are superseded by the state Public Records Act. The Board was scheduled to hold a September 22 hearing on these proposals.

On January 13, 1988, the Board adopted an amendment to section 17332, Title 14 of the CCR, to require that persons desiring to provide solid waste collection services be authorized by the local solid waste management enforcement agency. (See CRLR Vol. 8, No. 2 (Spring 1988) pp. 99-100 for background information.) This regulatory action was disapproved by the Office of Administrative Law (OAL) on July 29, because it failed to comply with the clarity standard.

Status of CoSWMPs. Each county must prepare a solid waste management plan (CoSWMP) consistent with state policy which is reviewed by the Board. Presently, 52 CoSWMPs are current and complete, and only 5 are delinquent. In June 1985 (a baseline date established for comparison), 31 were delinquent. The Sacramento CoSWMP revision was scheduled for consideration at the Board's October meeting, and the Con-

tra Costa, Humboldt, and Kern revisions have been referred to the state Attorney General for legal action.

Five-Year Permit Review Program.

A review of all facility permits is required five years after issuance, modification, revision, or review. However, approximately 80% of all facility permits are overdue for review. Therefore, CWMB staff has implemented a program to bring delinquent permit reviews up to date. Currently, 160 landfills, 233 transfer stations, and 3 sumps are overdue for a permit review. The number of unreviewed permits indicates that a large number of facilities may be operating outside of permitted conditions.

LEGISLATION:

The following is a status update on bills discussed in CRLR Vol. 8, No. 3 (Summer 1988) at pages 106-08 and Vol. 8, No. 2 (Spring 1988) at pages 100-02:

AB 1028 (Katz) relates to the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), which prohibits any person in the course of doing business from knowingly discharging or releasing a chemical known to the state to cause cancer or reproductive toxicity into water, except as specified. Among other things, this bill would have included public agencies within the definition of "person". AB 1028 was vetoed by the Governor in September 30.

AB 2714 (Jones), which would have revised the definition of the term "significant amount" in Proposition 65, was dropped by its author.

SB 269 (Kopp) would have, subject to the approval of the electors, included public agencies, as defined, within the discharge and exposure prohibitions of Proposition 65, with specified exceptions. This bill was vetoed by the Governor.

AB 3012 (Katz) would have required CWMB, by July 1, 1990, to adopt regulations requiring that all new and expansions of existing waste management units which are used for the disposal of nonhazardous solid waste be equipped with landfill gas monitoring systems. At its September 15 meeting, CWMB voted to ask the Governor to veto the bill as a special-interest bill. CWMB is convinced that this bill is actually a bill sponsored by one landfill company to close down a landfill owned by another landfill company. AB 3012 was vetoed on September 30.

AB 3298 (Killea), which would have enacted the Killea-Cortese Solid Waste Recycling Act of 1988 and required each local agency to prepare, adopt, and im-



plement a waste reduction and recycling plan in accordance with guidelines adopted by the Department of Conservation, was vetoed on September 22.

AB 3746 (Eastin) would have required all state departments and agencies to establish purchasing practices for recycling products and to give prescribed preferences to these products. This bill was vetoed on September 29.

AB 3761 (Connelly) would have enacted the Polystyrene Plastic Reduction Act of 1988 and made it an infraction to manufacture, distribute, or sell to any person in the state on or after January 1, 1990, any product made of or with polystyrene plastic. This bill was vetoed on September 30.

AB 4498 (Sher) would have required specific labeling on oil containers, and would have required CWMB to maintain a toll-free telephone number for informing consumers on permissible methods of recycling or disposing of used oil. The bill was vetoed on September 28.

AB 4607 (Brown) would have required the Board to adopt specified regulations for issuing permits for waste tire facilities and would have required every person (except specified tire dealers) who stores, stockpiles, or disposes of more than 500 waste tires in a calendar year, and every owner and operator of a waste tire facility to file a registration statement of specified contents with the Board. This bill was vetoed on September 30.

SB 2113 (Montoya) would have enacted the California Recycling Act of 1988 and required each local agency, as defined, to prepare, adopt, and implement a recycling plan in accordance with guidelines adopted by CWMB. This bill died on the Senate floor.

AB 3745 (Eastin), which would have required CWMB to supplement its statewide solid waste management information storage and retrieval system with specified information, died in the Senate Appropriations Committee.

AB 544 (Killea), which would have enacted the Litter Prevention Act of 1988, passed the Assembly but died in the Senate Natural Resources and Wildlife Committee.

AB 3817 (Bader) would have required the Joint Rules Committee to execute a contract for the preparation of a model solid waste management plan for specified counties. This bill died in the Assembly Ways and Means Committee.

AB 3847 (Tanner) would have deprived CWMB of its jurisdiction to implement a public information program

concerning household hazardous wastes and would have given it to the Department of Health Services. This bill died in the Senate inactive file.

AB 4103 (Friedman) would have created the Los Angeles County Solid Waste Task Force with specified appointed members, which would have been required to prepare and submit a report to the legislature relating to solid waste management in the County of Los Angeles. This bill died in the Assembly Ways and Means Committee.

AB 4234 (Clute) would have required CWMB to adopt regulations authorizing shredded tire storage at landfills, and to award funds for tire recycling activities. This bill was defeated in the Assembly.

SB 188 (Alquist) would have allowed a credit equal to 10% of the amount paid for recyclable secondary materials, as defined, purchased on or after January 1, 1988, and prior to January 1, 1993, and recycled within California by the taxpayer. This bill was vetoed on September 28.

SB 2304 (Dills) makes the position of the CWMB Chair a full-time position at a prescribed salary. This bill was signed by the Governor on September 24 (Chapter 1334, Statutes of 1988).

SB 2437 (Alquist) amends section 25250.24 of the Health and Safety Code, which currently requires every person who generates, receives, or stores used oil to comply with the hazardous waste control law, and imposes an annual fee upon generators of hazardous waste who generate more than five tons annually. This bill excludes from the calculation of the amount of hazardous waste generated, for purposes of the fee, used oil removed from a motor vehicle when the oil is subsequently recycled. This bill was signed by the Governor on September 20 (Chapter 1085, Statutes of 1988).

AB 2790 (Chandler) authorizes any county to join with other counties, subject to the consent of the cities in the county, to form a regional solid waste planning authority to prepare, amend, and revise a regional solid waste management plan. This bill was signed by the Governor on September 22 (Chapter 1165, Statutes of 1988).

AB 2818 (LaFollette) requires CWMB's Solid Waste Clean-up and Maintenance Advisory Committee to make annual reports to the legislature in 1990, 1991 and 1992 on regulatory activities by state agencies relating to closure and postclosure maintenance of solid waste facilities. This bill was signed by the Governor on September 26 (Chapter

1304, Statutes of 1988).

AB 2831 (LaFollette) requires a solid waste facility permit for a new landfill, a landfill expansion, a new WTE facility, or to increase the capacity of an existing WTE facility, to include a permit condition that precludes accepting any solid waste unless the county which is the source of the waste has adopted a recycling plan element. This bill was signed by the Governor on September 30 (Chapter 1588, Statutes of 1988).

AB 3804 (Mountjoy) prohibits a regional water pollution control board from issuing a waste discharge permit for a new landfill, or a lateral expansion, as defined, of an existing landfill, for the disposal of nonhazardous solid waste if the land has been used at any time for the mining or excavation of gravel or sand. This bill was signed by the Governor on September 27 (Chapter 1476, Statutes of 1988).

AB 3297 (Killea), as amended on August 11, adds section 25250.25 to the Health and Safety Code, prohibiting a manufacturer of containers produced for the noncommercial storage, transportation, or drainage of used oil from selling or transferring those containers unless the container meets certain requirements concerning leakage, absorption, and labeling. This bill was signed by the Governor on September 9 (Chapter 776, Statutes of 1988).

AB 3299 (Killea), as amended on August 4, declares legislative findings and intent, and requires all rigid plastic bottles and containers sold in California on and after January 1, 1992, to have a label which indicates their composition. This bill makes it a crime to manufacture for use in this state any rigid plastic container which is not labeled in accordance with the bill. This bill was signed by the Governor on September 13 (Chapter 838, Statutes of 1988).

AB 3344 (Tanner) requires any revision of a solid waste management plan for a thermal powerplant, as defined, using solid waste as a fuel to be submitted to CWMB for comment. This bill was signed by the Governor on September 28 (Chapter 1446, Statutes of 1988).

ACR 100 (LaFollette) requests the Department of General Services to establish a collection service for all state government offices in and around the Capitol building for recyclable products. This resolution also requests the Department to indicate whether items listed in its procurement catalog are made from recycled materials. Finally, ACR 100 requests each member of the legis-



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lature and each state department and agency to take a leadership role in promoting recycling and reuse by ordering and using recycled office supplies whenever possible. This bill was chaptered by the Secretary of State on September 7 (Res. Chapter 193, Statutes of 1988).

RECENT MEETINGS:

At its June 9-10 meeting, CWMB considered guidelines proposed by its Household Hazardous Waste Advisory Committee. Household products which should be disposed of as hazardous waste include solvents, adhesives, sealants, waste oil, pool chemicals (acids), auto antifreeze, and batteries of all types.

During its July 6-8 meeting, the Board received a staff update on implementation of AB 2448 (Chapter 1319, Statutes of 1987), which gives CWMB authority to develop regulations for closure and postclosure maintenance of facilities scheduled to close in the next two years. CWMB must develop criteria for loan guarantees by June 30, 1989. (See CRLR Vol. 8, No. 3 (Summer 1988) pp. 105-08 and Vol. 7, No. 4 (Fall 1987) p. 89 for background information on AB 2448.)

At the August 10-12 meeting, CWMB reviewed a \$1 million contract to sample and analyze air emissions and ash at the City of Commerce WTE plant. The contract was signed with the Los Angeles County Sanitation Districts (LACSD) and is part of CWMB's Waste-to-Energy Demonstration Program (see CRLR Vol. 8, No. 3 (Summer 1988) p. 106 for details).

CWMB is required by section 66786.3 of the Government Code to report to the legislature annually on the status of WTE projects. At its September meeting, CWMB approved a report regarding the three currently operational WTE projects: Long Beach (the SERRF project), Crow's Landing (the Stanislaus project), and the City of Commerce. Three other projects are actively seeking permits. The appropriate classification and management of ash residues is the major environmental issue confronting WTE projects. CWMB believes that WTE has an important place in the management of California's increasing amount of solid waste, especially when combined with other waste reduction technologies such as recycling.

CWMB has conducted a two-year study of the characteristics of constituents in 63 of the state's landfills. The results of the study were revealed at CWMB's September meeting. For those ten sites with gas recovery systems (and

hence multiple collection points), benzene, ethylbenzene, toluene, and vinyl chloride were found in all ten sites. Dichloromethane was found in nine sites. All have been classified by the U.S. Environmental Protection Agency as volatile priority pollutants.

FUTURE MEETINGS:

December 14-16 in Sacramento.

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:

Lease Sale Decelerated. The U.S. Senate recently announced it would drop attempts to accelerate Lease Sale 95, which would have permitted offshore oil drilling in southern California in September 1989. (See CRLR Vol. 8, No. 3 (Summer 1988) p. 109; Vol. 8, No. 2 (Spring 1988) p. 103; Vol. 7, No. 4 (Fall 1987) pp. 92-93; Vol. 7, No. 3 (Summer 1987) p. 116; and Vol. 7, No. 2 (Spring 1987) p. 91 for background information on the Department of the Interior's lease sale plan.) Lease Sale 95 is currently scheduled to occur in January 1990. An acceleration provision in a federal appropriations bill would have allowed Lease Sale 95 to take place a year earlier than planned. The purpose of the advancement was to replace revenues lost by the delay in the finalizing of Lease Sale 91, which will allow drilling off the northern California coast. That lease sale, originally scheduled for February 1989, has been delayed until October 1989. The revenues will be replaced by proposed lease sales in the Aleutian Islands and also by reducing the Interior Department's administrative funds by 2%.

Commission Budget Cut. On July 8, the Governor signed a state budget bill which includes a 14% cut to the Coastal Commission's budget, reducing it by almost \$1 million. Governor Deukmejian is also attempting to force the Commission to close its Santa Barbara and Santa Cruz offices. (See CRLR Vol. 8, No. 3 (Summer 1988) p. 109 for background information.)

LEGISLATION:

The following is an update of bills discussed in detail in CRLR Vol. 8, No. 3 (Summer 1988) at pages 109-10 and Vol. 8, No. 2 (Spring 1988) at pages 103-05: