



REGULATORY AGENCY ACTION

2251 occurs, it must be reported to the regional water quality control board or to the Federal Emergency Response Center. The regulations apply to government or private utility facilities which treat or reclaim sewage and industrial wastes.

At this writing, the approved regulations had not been sent to the Office of Administrative Law for review; the WRCB is still responding to the public comments.

LEGISLATION:

The following is a status update of bills described in detail in CRLR Vol. 8, No. 3 (Summer 1988) at pages 116-17:

SB 2691 (Hart) would have required the inclusion of a water quality component for bays and estuaries, and numerical sediment quality objectives in the WRCB's California Ocean Plan by specified dates. The bill also would have required the WRCB to send a proposal for developing and maintaining a program to clean up toxic hot spots in the state's ocean, bays, and estuaries to the legislature by January 1, 1991. This bill was vetoed by the Governor on September 28.

AB 1990 (Hayden), which was vetoed on September 23, would have required the WRCB to conduct a standardized ocean monitoring and discharge reporting system.

AB 2975 (Seastrand) would have prohibited any discharge into Morro and Monterey Bays or any tributaries draining into them. It was vetoed on September 29.

AB 3947 (Brown), which would have required the WRCB, in consultation with other agencies, to develop and maintain a comprehensive program to identify and characterize toxic hot spots in enclosed bays and estuaries, was vetoed by the Governor on September 28.

SB 269 (Kopp) was vetoed by the Governor on August 12. If signed, it would have been placed on the November 8 ballot for approval by the voters. The bill would have required public agencies to conform to the prohibitions of Proposition 65, with specified exceptions.

SB 1335 (McCorquodale) would have authorized WRCB to enter and inspect lands where timber operations are conducted; it was vetoed on September 26.

SB 2463 (Kopp) makes legislative findings and declarations concerning public involvement in the hearing process established by the WRCB for adoption of water quality standards for the San Francisco Bay/Sacramento-San

Joaquin Delta Estuary. This bill was signed on September 16 (Chapter 971, Statutes of 1988).

SB 2829 (Bergeson), which changes the existing fee structure established by the WRCB for persons subject to waste discharge requirements, was signed on September 20 (Chapter 1026, Statutes of 1988).

AB 3666 (Bates), which would have required the regional water quality control board for the San Francisco Bay area region to conduct unannounced inspections of waste discharges in the Bay, was defeated in the Assembly Ways and Means Committee on August 1.

AB 3123 (Hansen), regarding WRCB's authority to levy fees to be paid by persons requesting laboratory certification, died in the Senate Appropriations Committee's inactive file.

RECENT MEETINGS:

At its September 7 meeting, WRCB adopted an order requiring the Imperial Irrigation District (IID) to develop a plan by the end of the year to save

100,000 acre-feet of water per year. The District has five years to implement the plan or it may risk losing part of its water appropriation from the Colorado River.

WRCB's Decision 1600 in 1984, which found that IID was unreasonably wasting water through its irrigation system, has led to negotiations between the Metropolitan Water District (MWD) and IID for the transfer of water from the Imperial Valley to urban and suburban southern California.

The negotiations broke down in 1987 when MWD rejected IID's offer to sell 100,000 acre-feet of water at \$250 per acre-foot. The difficulty over price and other issues is holding up a plan by which MWD will pay for fixing the IID's irrigation systems in return for use of the water saved.

FUTURE MEETINGS:

Workshop meetings are generally held the first Wednesday and Thursday of the month. For exact times and meeting locations, contact Maureen Marche at (916) 445-5240.



INDEPENDENTS

AUCTIONEER COMMISSION

*Executive Officer: Karen Wyant
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The Auctioneer and Auction Licensing Act was enacted in 1982 (AB 1257, Chapter 1499, Statutes of 1982) and established the California Auctioneer Commission to regulate auctioneers and auction businesses in California.

The Act was designed to protect the public from various forms of deceptive and fraudulent sales practices by establishing minimal requirements for the licensure of auctioneers and auction businesses and prohibiting certain types of conduct. Duayne Epele was recently appointed by Governor Deukmejian to fill a public member position on the Board. Mr. Epele is employed by San Diego County Purchasing and Contracting, which coordinates cooperative auctions.

The Auctioneer and Auction Licensing Act provided for the appointment of a seven-member Board of Governors, composed of four public members and three auctioneers, to enforce the provisions of the act and to administer the

activities of the Auctioneer Commission. Members of the Board are appointed by the Governor for four-year terms. Each member must be at least 21 years old and a California resident for at least five years prior to appointment. In addition, the three industry members must have a minimum of five years' experience in auctioneering and be of recognized standing in the trade.

The Act provides assistance to the Board of Governors in the form of a council of advisers appointed by the Board for one-year terms. In September 1987, the Board disbanded the council of advisers and replaced it with a new Advisory Council (see CRLR Vol. 7, No. 4 (Fall 1987) p. 99 for background information).

MAJOR PROJECTS:

Proposed Regulation Withdrawn. On June 30, the Board of Governors decided that the need has not been established for a regulation requiring disclosure of the \$10,000 bonding limit in consignor contracts. Consequently, proposed section 3527, Chapter 35, Title 16 of the California Code of Regula-



tions, will not be pursued. (See CRLR Vol. 8, No. 3 (Summer 1988) p. 118; Vol. 8, No. 2 (Spring 1988) p. 113; Vol. 8, No. 1 (Winter 1988) p. 99; and Vol. 7, No. 4 (Fall 1987) p. 99 for complete background information.) Licensees, however, must continue to disclose in their contracts that they are bonded to and licensed and regulated by the Commission. Failure to adhere to this or any other requirements specified in section 5776(k) of the Business and Professions Code will result in the assessment of a \$250 administrative fine.

Commission Statistics. The Commission finished the 1987-88 fiscal year on June 30, completing its fifth year in operation. Complaints dropped significantly during the year, particularly those from consignors alleging that they had not been paid sales proceeds (down 56.3% from the previous year). Money recovered through complaint mediation rose to \$48,908 from the previous year's \$18,395. In addition, fines and bond claims paid increased considerably.

Private Investigators to Be Hired. Executive Officer Karen Wyant has been directed by the Board of Governors to begin utilizing the services of contract private investigators throughout the state to conduct investigations and compliance inspections of licensees. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 114 and Vol. 7, No. 4 (Fall 1987) p. 99 for background information.) The Board expects that this program will be much less expensive than directly hiring investigative staff. The investigators will make compliance inspections of auctions throughout the state to determine whether licensees are (a) posting the sign required by section 5775(c) of the Business and Professions Code (failure to post such a sign is subject to a \$50 fine for a first violation); (b) posting or distributing the terms and conditions of the auction sale as required by section 5775(d) of the Code (failure to do so is also subject to a \$50 fine for a first violation); and (c) utilizing consignor contracts which comply with section 5776(k) (failure to do so is subject to a \$250 fine for the first violation). Investigators will report the results of their observations and the names of the persons conducting the sales to the Executive Officer. The Commission will then determine the license status of the individuals and issue a fine for each violation discovered during the inspection.

RECENT MEETINGS:

At its June 30 meeting in Sacramento, Executive Officer Wyant and the

Board continued its discussion about the use of the terms "minimum" and "reserve" by Board licensees. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 113; Vol. 7, No. 4 (Fall 1987) p. 100; Vol. 7, No. 1 (Winter 1987) p. 89 and Vol. 6, No. 4 (Fall 1986) p. 85 for complete background information.) Wyant suggested that regulatory language be developed to require the disclosure of the sale of items subject to a minimum or a reserve in auction advertising. A previously established subcommittee was directed to study the issue, develop proposals, and report at the next meeting.

FUTURE MEETINGS:

December 2 in San Francisco.

BOARD OF CHIROPRACTIC EXAMINERS

Executive Director: Edward Hoefling (916) 445-3244

In 1922, California voters approved an initiative which created the Board of Chiropractic Examiners (BCE). The Board licenses chiropractors and enforces professional standards. It also approves chiropractic schools, colleges, and continuing education courses.

The Board consists of seven members, including five chiropractors and two public members.

MAJOR PROJECTS:

New Disciplinary Guidelines Approved. At its September 15 meeting in Long Beach, the Board approved amendments to its disciplinary guidelines. Among other things, the new guidelines increase the recommended minimum penalty for gross negligence, repeated negligent acts, and incompetence by adding a minimum thirty-day suspension to the existing minimum penalties of stayed revocation and five years' probation.

Although these "guidelines" are not considered regulations by the Board, they are often followed by administrative law judges (ALJ) in recommending penalties for offending chiropractors. The Board, troubled by the failure of ALJs to impose the strict penalties mandated by the guidelines for certain offenses, sent the new guidelines with a letter to the Office of Administrative Hearings. The letter requests that any ALJ who deviates from the guidelines' penalties accompany his/her proposed decision with a memo outlining the reasons for his/her failure to apply

them. In its letter, the Board acknowledged that section 1157(c) of the Administrative Procedure Act enables the Board to increase the penalty prescribed by ALJs, but stated that these procedures are costly and time-consuming.

Proposed Regulatory Changes. The Board recently approved draft language to amend section 356, Title 16 of the California Code of Regulations (CCR), which establishes the prerequisites for the renewal of a license to practice chiropractic. Specifically, the change would mandate continuing education in "adjustive technique". The new regulation would require that four out of every twelve hours spent in continuing education cover adjustive technique. At this writing, this proposed change has not yet been published for comments.

At its September 15 meeting, the Board discussed a proposed change to section 355, Title 16 of the CCR, which sets fees for the renewal and restoration of a license to practice chiropractic. The change would call for a \$50 increase in the renewal fee, bringing the total to \$145. Under existing statute, the maximum renewal fee is \$150. The fee was last increased in 1983, when it rose from \$75 to the current \$95. The Board has not yet approved this proposal.

This fall, the Board will consider five alternative proposals developed by the state Attorney General's office for a new subsection (u) to regulatory section 317, which would broaden the definition of unprofessional conduct to include a failure by a chiropractor to inform insurance companies of his/her no-out-of-pocket-expense (NOOPE) practices. Simply stated, a chiropractor is engaging in a NOOPE practice when he/she agrees to accept whatever amount a patient's insurance policy will cover without looking to that patient for any additional insurance policy co-payment.

Use of Thermography by Chiropractors. At its July 28 meeting, the Board discussed the fact that insurance evaluators are becoming more aware of the increasing use of thermography by chiropractors. Dr. Reyes suggested that the Board consider implementing additional educational hours in the use of thermography. Dr. McKown appointed Dr. Reyes and Dr. Hemauer to a committee to study and report on the need for additional training hours and perhaps a certification in thermography.

LEGISLATION:

The following is a status update on bills discussed in detail in CRLR Vol. 8, No. 3 (Summer 1988) at page 119: