



CENT MEETINGS), and the Board's approval of SCAQMD's 1991 air quality management plan and 1992 amendments. [13:4 CRLR 145; 13:1 CRLR 99-100]

RECENT MEETINGS

On October 15, the South Coast Air Quality Management District (SCAQMD) approved the final draft of its Regional Clean Air Incentives Market (RECLAIM) proposal. The RECLAIM project, originally scheduled to be voted on last summer, is the nation's first program which creates a trading market for air pollution credits. [13:4 CRLR 145-46; 12:4 CRLR 168-69] As approved, RECLAIM applies to 390 stationary sources within the District which emit four tons per year of nitrogen oxides (NOx) and an overlapping 41 sources which emit the same level of sulfur oxides (SOx). Instead of setting emissions limits on individual pieces of equipment within a facility, RECLAIM sets individual facility caps on overall NOx and SOx emissions. The caps will drop each year through 2003, and the regulated company may decide how to stay within its cap. Each company is given an annual allotment of tradable credits equal to its emissions cap; by installing efficient emissions control equipment and staying under its cap, a company can sell excess credits for whatever the market will bear to companies which exceed their caps. RECLAIM, which is scheduled to become effective on January 1, must also be approved by ARB and EPA.

On November 9, ARB staff held a workshop to consider public comments on its development of a market-based "alternative control plan" (ACP) for use with the Board's existing statewide consumer product regulations. ARB has adopted a series of regulations to reduce the emissions of volatile organic compounds (VOCs) from the use of consumer products; these regulations employ traditional command-and-control type VOC limits on 27 product categories. [12:2&3 CRLR 197] To help maximize emission reductions, staff is developing a market-based ACP regulation for use with the consumer product regulations. The ACP regulation would allow manufacturers of consumer products to voluntarily enter into an emissions averaging program called an alternative control plan. ARB would enter into ACPs with eligible manufacturers on a product-by-product basis. Products designated as ACP products would be assigned a cumulative maximum level of permissible emissions during a specified reporting period; manufacturers who reduce product emissions below the set ACP limit could sell emission credits to manufacturers

whose products exceed the ACP limit. The ACP regulation is currently in draft form, and ARB's November 9 workshop was the sixth such forum for public comment on the draft. At this writing, ARB staff hopes to publish the proposed regulation for a 45-day comment period and schedule a hearing on it before ARB in March 1994.

At its November 18 meeting, ARB approved some additions to its Mobile Source Emission Reduction Credits guidelines to be used by AQMDs in developing mobile source credit programs. Currently, some areas of the state may not allow further increases in emissions of regulated pollutants from new or existing stationary sources. To allow for added industrial and business expansion, many AQMDs have developed programs for allowing credits that are generated by reducing emissions from mobile sources to be applied to offset increases in stationary source emissions. In February 1993, the Board approved guidelines to the districts for three types of mobile source credit programs: the accelerated retirement of older vehicles, the purchase of low-emission buses, and the purchase of zero-emission vehicles. On November 18, ARB approved additional guidelines for credit programs based on retrofitting existing vehicles to low-emission configurations. The retrofit credit guidelines provide direction regarding hardware certification, credit calculation, enforcement, and credit life determination, for generating credits by retrofitting light-, medium-, and heavy-duty vehicles to low-emission configurations. The Board also decided that its Executive Officer may make future minor changes to the guidelines.

ARB's December 9-10 meeting was cancelled.

FUTURE MEETINGS

April 14-15 in Sacramento.

CALIFORNIA INTEGRATED WASTE MANAGEMENT AND RECYCLING BOARD

Executive Director:
Ralph E. Chandler
Chair: Michael Frost
(916) 255-2200

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 abolished CIWMB's predecessor, the California Waste Management Board. [9:4 CRLR 110-11] CIWMB is located within the California Environmental Protection Agency (Cal-EPA).

CIWMB reviews and issues permits for landfill disposal sites and oversees the operation of all existing landfill disposal sites. The Board requires counties and cities to prepare Countywide Integrated Waste Management Plans (CoIWMPs), upon which the Board reviews, permits, inspects, and regulates solid waste handling and disposal facilities. Alternatively, local governments may join together to form regional agencies which must file Regional Agency Integrated Waste Management Plans (RAIWMPs). Approved CoIWMPs or RAIWMPs must outline the means by which the locality will meet AB 939's required 25% waste stream reduction by 1995 and 50% waste stream reduction by 2000. Under AB 939, the primary components of waste stream reduction are recycling, source reduction, and composting.

CoIWMPs and RAIWMPs are comprised of several elements. Each area must produce a source reduction and recycling (SRR) element, which describes the constituent materials which compose solid waste within the area affected by the element, and identifies the methods the city will use to divert a sufficient amount of solid waste through recycling, source reduction, and composting to comply with the requirements of AB 939. Each area must also produce a household hazardous waste (HHW) element which identifies a program for the safe collection, recycling, treatment, and disposal of hazardous wastes which are generated by households in the area and should be separated from the solid waste stream. The siting element describes the methods and criteria a jurisdiction will use in the process of siting a new or expanding an existing solid waste disposal and transformation facility. The nondisposal facility element must include a description of new facilities or expansion of existing facilities that will be needed to reach AB 939's mandated disposal reduction goals, and must identify transfer stations to be used by the local jurisdiction.

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).

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.

Issues before the Board are delegated to any of six committees; each committee includes two Board members and is chaired by a third. The Permitting and Enforcement Committee handles all matters pertaining to the issuance and enforcement of solid waste facilities permits and state standards for solid waste. The Legislation and Public Affairs Committee recommends positions to the Board regarding relevant legislation, and oversees Board involvement in public affairs activities. The Policy, Research, and Technical Assistance Committee is responsible for all issues and policy development regarding research, development, and special wastes activities. The term "special wastes" refers to those wastes which require unique collection, handling, or disposal methods, such as HHW, sludge, and medical wastes. The Integrated Waste Management Planning Committee deals with the CoIWMPs and local waste reduction plans submitted by cities and counties, and helps cities and counties implement their plans. The Market Development Committee is responsible for developing new markets for recycled materials. The Administration Committee is responsible for contracts entered into by the Board, and for issues that do not clearly belong to any other committee.

MAJOR PROJECTS

California Receives Federal Approval Under Subtitle D. In response to amendments to the federal Resource Conservation and Recovery Act, the U.S. Environmental Protection Agency (EPA) adopted new regulations establishing minimum federal criteria for municipal solid waste (MSW) landfills; these regulations, which became effective on October 9, are known as the "Subtitle D" regulations,

apply to all MSW landfills, and preempt state authority unless a state has obtained approval of its program from EPA. By obtaining EPA approval, a state may operate its own solid waste management program and exercise the full range of flexibility allowed by Subtitle D. [13:4 CRLR 147-48; 13:2&3 CRLR 162]

In order to receive federal approval, California submitted its formal application under Subtitle D in February 1993; however, in May 1993, EPA found that California's existing regulations were not consistent with federal standards, and therefore denied the state's request for full approval. Accordingly, in June 1993, CIWMB sponsored urgency legislative amendments to AB 1827 (Sher) (Chapter 289, Statutes of 1993) and adopted emergency regulations to bring California into compliance with federal standards; the emergency regulations amend sections 17225, 17601, 18250, 18266, and 18280, and add new sections 17258.1, 17258.2, 17258.10, 17258.16, 17258.20, 17258.21, 17258.23, 17258.24, 17258.29, 17258.60, 17258.61, 17258.73, and 17258.74, Title 14 of the CCR. The Office of Administrative Law (OAL) originally approved the changes on July 12, and approved their re-adoption as emergency regulations on November 9; at this writing, CIWMB is scheduled to consider adoption of the changes on a permanent basis at its January 26-27 meeting.

In October, EPA published notice in the *Federal Register* of its determination that California's solid waste program is fully approved; therefore, California is an approved state under Subtitle D, and is authorized to operate its own solid waste management program and exercise flexibility in several areas permitted by Subtitle D.

Required Contents of and Procedures for Adopting CoIWMPs, RAIWMPs, and Elements Thereof. Although CIWMB and its CoIWMP requirement have been in existence since 1990, the Board has never adopted regulations defining the precise required contents of a CoIWMP. Further, AB 2494 (Sher) (Chapter 1292, Statutes of 1992) now enables local governments to join together to form regional agencies which may file a Regional Agency Integrated Waste Management Plan (RAIWMP) [13:4 CRLR 147; 12:4 CRLR 176-77]; the Board's regulations do not specify the contents of a RAIWMP. Accordingly, the Board has recently initiated several rulemaking proceedings to further flesh out the contents of and procedures for completing and adopting a CoIWMP, RAIWMP, and the various elements thereof.

• Required Contents of a CoIWMP and RAIWMP. On June 18, CIWMB published notice of its intent to adopt new sections 18757-18758.1, Title 14 of the CCR, to fully describe the required contents of a CoIWMP and RAIWMP. The proposed regulations would require counties and regional agencies to identify existing and proposed solid waste management facilities, waste management programs, SRR programs in the area and its jurisdictions, regional and countywide integrated approaches to solid waste management, and alternatives to long-range waste reduction and disposal. The 45-day public comment period on these proposed regulatory changes ended on August 2; no public hearing was held. [13:4 CRLR 147] At this writing, staff is in the process of revising the proposed regulations, and expects to release the modified text for an additional fifteen-day public comment period in early 1994; CIWMB is tentatively scheduled to consider the adoption of the regulatory action at its March 30 meeting.

• Contents of Source Reduction and Recycling Element. On October 15, CIWMB published notice of its intent to adopt, on an emergency basis, amendments to sections 18730-18748, Article 6.2, Title 14 of the CCR, which would describe the contents of the SRR element of a CoIWMP or RAIWMP required by the Integrated Waste Management Act, as modified by AB 1520 (Sher) (Chapter 718, Statutes of 1991), AB 3322 (Sher) (Chapter 1293, Statutes of 1992), AB 2494 (Sher) (Chapter 1292, Statutes of 1992), AB 3001 (Cortese) (Chapter 1291, Statutes of 1992), and AB 440 (Sher) (Chapter 1169, Statutes of 1993). [13:4 CRLR 150; 12:4 CRLR 176-78; 11:4 CRLR 161] Specifically, the SRR element must address four components—source reduction, recycling, composting, and special waste—in a specified format which evaluates alternatives in each component area and sets forth a jurisdiction's reasons for selecting a particular alternative. Additionally, the SRR element must include an education and public information component, a solid waste facility capacity component which identifies the capacity of all existing solid waste and transformation facilities within the jurisdiction, a funding component, and an integration component which explains how the source reduction, recycling, composting, and special waste components combine to achieve the 25% and 50% waste diversion mandates in PRC sections 41780 and 41780.1.

CIWMB held public hearings on the proposed action on November 16 in Whittier and November 19 in Sacramento; on December 15, CIWMB adopted the proposed emergency regulations. At this writ-



ing, OAL is expected to approve the emergency action in early January.

• **Siting Element Contents and Procedures.** The siting element of a CoIWMP or RAIWMP must describe the methods and the criteria that a jurisdiction will use in the process of siting a new or expanding an existing solid waste disposal and transformation facility. On June 18, CIWMB published notice of its intent to adopt new sections 18755-18756.7, Title 14 of the CCR, to fully describe the required contents of the siting element. The proposed regulations would require counties and regional agencies to identify existing and proposed solid waste management facilities and alternatives to either expanding existing facilities or constructing new facilities. They also require counties and regional agencies to identify criteria to be used in locating new facilities, identify the socioeconomic and environmental impacts, and assure that any expanded or new facilities are consistent with local general plans. The 45-day public comment period on these proposed regulatory changes ended on August 2; no public hearing was held. [13:4 CRLR 147] At this writing, staff is in the process of revising the proposed regulations, and expects to release the modified text for an additional fifteen-day public comment period in early 1994; CIWMB is tentatively scheduled to consider the adoption of the regulatory action at its March 30 meeting.

On September 3, CIWMB published notice of its intent to amend sections 18776-18790, Title 14 of the CCR; the proposed amendments would describe the procedures which must be followed in preparing and revising a countywide siting element in a CoIWMP and a regional siting element in a RAIWMP. As a result of the passage of AB 2494 (Sher) (Chapter 1292, Statutes of 1992) [12:4 CRLR 176-77], CIWMB's existing regulations required modification to address when counties and cities may form regional agencies and the type of siting element the regional agencies must prepare and adopt as part of a RAIWMP. The Board's proposed changes to the regulations would also eliminate redundant reviews and streamline the local jurisdiction's review and adoption process. The 45-day public comment period ended on October 18; no public hearing was held. [13:4 CRLR 147] At this writing, staff is in the process of revising the proposed regulations, and expects to release the modified text for an additional fifteen-day public comment period in early 1994; CIWMB is tentatively scheduled to consider the adoption of the regulatory action at its March 30 meeting.

• **Contents of Nondisposal Facility Element.** On August 6, CIWMB pub-

lished notice of its intent to adopt new sections 18752-18754.5, Article 6.4, Title 14 of the CCR, to specify the type of information which must be provided in the nondisposal facility (NDF) element of a CoIWMP or RAIWMP; a NDF is defined by PRC section 40150 as any solid waste facility required to obtain a state solid waste facility permit other than solid waste disposal and transformation facilities. PRC sections 41730-36 require local jurisdictions to prepare and adopt a NDF element which identifies the facilities a jurisdiction is using to reach AB 939's disposal reduction goals; the NDF element should also identify new facilities or the expansion of existing facilities a jurisdiction will need in order to reach the mandated goals. The proposed regulations would require the NDF element to specify the type of facility involved; the estimated amount of waste sent to the facility; diversion rate or expected diversion rate; the participating jurisdictions; location of the facility; and a description of the general area, including a land use map, zoning map, or other type of planning map. [13:4 CRLR 147] CIWMB held public hearings on the proposed action on November 16 in Whittier and November 19 in Sacramento; on December 15, CIWMB adopted the proposed emergency regulations. At this writing, OAL is expected to approve the emergency action in early January.

Also on December 15, CIWMB released a document entitled *How to Prepare a Nondisposal Facility Element*, which includes a model NDF element. According to CIWMB, the model is an example of appropriate content and format for a NDF element; however, the model provided by the Board is not the only method for presenting the required information, and jurisdictions may determine that other presentations are better suited to their needs.

• **Procedures for Preparing and Adopting the Source Reduction and Recycling Element, Household Hazardous Waste Element, and Nondisposal Facility Element.** On October 15, CIWMB published notice of its intent to adopt, on an emergency basis, amendments to sections 18760-18775, and new sections 18776 and 18777, Article 7.0, Title 14 of the CCR. The proposed emergency regulations describe the procedures for the preparation, adoption, and CIWMB approval of the SRR, HHW, and NDF elements of a CoIWMP or RAIWMP; the regulations also describe the procedures for petitioning for approval of sludge and excluded waste diversion.

CIWMB held public hearings on the proposed action on November 16 in Whit-

tier and November 19 in Sacramento; on December 15, CIWMB adopted the proposed emergency regulations. At this writing, OAL is expected to approve the emergency action in early January.

• **Solid Waste Generation Study Requirements.** On December 17, CIWMB published notice of its intent to amend, on an emergency basis, sections 18722, 18724, and 18726, and to adopt new sections 18726.1 and 18726.2, Article 6.1, Title 14 of the CCR, regarding solid waste generation study requirements. Each CoIWMP or RAIWMP must include a waste characterization component which identifies the constituent materials which comprise the solid waste generated within the area covered by the plan. The resulting solid waste characterization studies enable the Board to measure the diversion requirements for each city, county, city and county, or regional agency. This proposed regulatory action modifies the required procedures for preparing solid waste generation studies and solid waste disposal characterization studies to include modifications to the Integrated Waste Management Act contained in AB 2494 (Sher) (Chapter 1292, Statutes of 1992). Among other things, the proposed amendments to sections 18722, 18724, and 18726 would provide the following:

-A solid waste disposal characterization study shall characterize and quantify the solid waste disposed of by a jurisdiction at permitted disposal facilities, or jointly by two or more jurisdictions to characterize and quantify the solid waste disposed of at permitted disposal facilities by each of the participating jurisdictions.

-Data obtained from a solid waste disposal characterization study and annual report on the amounts of solid waste disposed of at permitted disposal facilities shall be used by the jurisdiction in determining its progress in achieving the diversion requirements of PRC section 41780.

-Data collected in the preparation of a regional solid waste generation study shall not require disaggregation into the amounts of solid waste generated by the individual member agencies if, pursuant to PRC section 40973, the members of the regional agency have placed the responsibility for compliance with the 25% and 50% diversion mandates of PRC section 41780 on the regional agency, not on the individual cities or counties that are members of the regional agency.

New section 18726.1 would specify how to calculate maximum disposal tonnage standards; new section 18726.2 would specify how to calculate minimum diversion tonnage standards. At this writing, CIWMB is scheduled to hold public



hearings on these proposed changes on January 4 in Sacramento and January 10 in Riverside; the filing deadline for public comments is January 16.

CIWMB Adopts Policy for Classifying Plastic Beverage Connectors as Degradable. Health and Safety Code section 24384.5 provides that on and after July 1, 1981, or one year after CIWMB determines that degradable plastic beverage connectors are commercially available, whichever date occurs later, no beverage shall be sold or offered for sale at retail in this state in beverage containers connected to each other with plastic rings or similar plastic devices which are not classified by CIWMB as degradable, with specified exceptions; any person who sells a beverage in containers connected to each other in violation of the Code is guilty of an infraction and shall be punished by a fine not exceeding \$1,000. In 1981, the Board determined that one degradable beverage connector was commercially available, in compliance with section 24384.5; the "Hi-Cone" photodegradable connector, manufactured by the Illinois Tool Works, was the first—and only—such product determined by CIWMB to be degradable. Since 1981, the Board has taken no further action to classify other connectors as degradable. In April 1993, CIWMB was contacted by Planet Polymer Technologies, Inc., requesting information about the Board's protocol for classifying plastic beverage connectors as degradable. Because CIWMB never developed such a protocol, and because CIWMB already determined that at least one degradable plastic beverage connector was commercially available, staff asked the Board to clarify what—if any—further obligation CIWMB has under section 24384.5. [13:4 CRLR 157]

At its October 27 meeting, CIWMB approved a staff-recommended policy which places the burden of proof on the applicant to submit sufficient information to demonstrate conformance with the statute. Applicants are required to submit information to CIWMB staff demonstrating their plastic connector's degradability as defined by law; staff will review that information on a case-by-case basis to determine if sufficient information has been submitted. According to staff, this policy will allow manufacturers of new plastic connectors to legally sell their products in this state in a timely manner. Under the policy, CIWMB will send a mailing to plastic manufacturers and beverage companies notifying them that if they wish to have a connector classified as degradable, they must submit an application to Board staff; following its review, CIWMB's Executive Director will reply with a notice

indicating whether the product is classified as degradable. The notice will also provide that the Board is in no way endorsing the product, that no statement is being made about the product's effect in the environment, and that the Board may revoke the classification at any time.

Metallic Discards Task Force Meeting. AB 1760 (Eastin) (Chapter 849, Statutes of 1991), codified at PRC section 42160 *et seq.*, addresses the problems posed by the disposal of "metallic discards" (e.g., any large metal article, including metal furniture, machinery, major appliances, electronic products, wood-burning stoves, and vehicles) and the "materials which require special handling" (or "special materials") within them (e.g., chlorofluorocarbons, polychlorinated biphenyls, and sodium azide canisters in unspent air bags) at solid waste facilities. AB 1760 encourages the recycling of metallic discards by specifying that effective January 1, 1994, no solid waste facility shall accept for disposal any major appliance, vehicle, or other metallic discard which contains enough metal to be economically feasible to salvage through recycling or reuse. AB 1760 also requires, after January 1, 1994, solid waste facility operators to remove materials which require special handling from major appliances and vehicles prior to crushing them for transport or transferring them to a baler or shredder for recycling. Finally, AB 1760 requires the Board, "on or before January 1, 1993," to develop and submit to the legislature a management plan for the removal of materials which require special handling from major appliances and vehicles.

The Board adopted its management plan in August 1993. One provision of the management plan requires CIWMB to form a task force to develop and distribute information regarding special materials processing; the task force will examine a number of issues such as, but not limited to, the proper processing of metallic discards and the special material contained within them; the effectiveness of the special materials ban; and potential mechanisms for funding the removal of special materials.

On November 18, the Metallic Discards Task Force held its first meeting. Among other things, participants discussed plans to develop literature to educate the public on why metallic discards pose an environmental and health risk and what the public can do to reduce these risks; plans to develop literature to assist the metallic discards processing industry in identifying special materials contained within certain metallic discards; and the appropriateness of developing criteria to

determine the economic feasibility of recycling metallic discards and the special materials contained within them. At its next meeting, which is not scheduled at this writing, the Task Force is expected to address issues specific to other special materials, explore potential mechanisms for funding the removal of special materials, and assist staff in developing methodology for the nonregulatory monitoring of metallic discarding activity.

CIWMB Adopts Emergency Regulations in Response to Southern California Wildfires. Existing law authorizes CIWMB to adopt emergency solid waste management regulations as necessary for the immediate preservation of health and safety and the well-being of the public. On October 27, Governor Wilson declared a state of emergency in the counties of Los Angeles, Ventura, Orange, San Diego, and Riverside in response to the wave of wildfires which spread through southern California in late October. On November 4, CIWMB adopted sections 17000-17006, Title 14 of the CCR, on an emergency basis; among other things, the regulatory action grants operators who hold valid permits to operate solid waste facilities a limited waiver of any term or condition of a solid waste facilities permit related to origin of waste, rate of inflow for storage, transfer or disposal, types of solid waste, and hours of facility operation and storage time before transfer or disposal of non-putrescible wastes, at existing solid waste facilities, including temporary facilities needed to replace any permitted facility destroyed by the fire. The waiver was for the express purpose of enabling solid waste facilities operators to accept demolition debris and other waste from the clean-up of the fires. At this writing, the waiver is effective without application to the local enforcement agency (LEA) or the Board for 120 days from the effective date of the regulations.

CIWMB noted that operators should maintain all other operational practices consistent with federal, state, and local standards. Solid waste facility operators which receive fire-related waste which would otherwise violate the terms of their permits are required to submit to their LEA, in writing, the facts and circumstances of such receipt, handling, or disposal of waste, stating the origin and type of waste, and the increase in tonnage or volume of waste to be received; this written report must be made to the LEA on within 60 days of receipt of the fire-related waste and again within 30 days of the end of the 120-day effective period of the regulations. The emergency regulations were approved by OAL on November 12.



CIWMB Revises Funding Formula.

At its November 17 and December 15 meetings, CIWMB discussed proposed amendments to section 18282, Title 14 of the CCR, regarding the amount of financial responsibility which the operator of each solid waste landfill must demonstrate to CIWMB and the local enforcement agency to cover closure costs and post-closure maintenance; the Board's Permitting and Enforcement Committee recommended that CIWMB change the funding formula used to determine the amount of financial responsibility to a straight-line funding formula. Following discussion at its December meeting, the Board adopted changes to the funding formula on an emergency basis; as revised, section 18282 states that, except as otherwise provided, an operator using a trust fund or an enterprise fund to demonstrate financial responsibility shall maintain a fund balance equal to or exceeding the amount specified by the following provisions:

-By each anniversary date of the establishment of the fund, the operator shall estimate the permitted capacity filled during the past year. This estimate shall be consistent with the information in the landfill's Report of Disposal Site Information specified in section 18222(c), Title 14 of the CCR.

-On each anniversary date of the establishment of the fund, the minimum fund balance shall be increased by the quantity determined by the formula $((Cf/Cr) \times Er) =$ minimum deposit, where Cf is the annual capacity filled, Cr is the remaining permitted capacity, and Er is the remaining closure and postclosure cost estimates to be funded. To calculate the remaining cost estimates to be funded, current value of the fund should be subtracted from the current closure and/or postclosure cost estimates.

-The fund must be fully funded when the final load has been received at the facility.

-An operator may make only one request to CIWMB to change the anniversary date of the establishment of the fund to coincide with the operator's fiscal year.

The emergency changes were approved by OAL on December 31; CIWMB must transmit a Certificate of Compliance to OAL by March 31 or the emergency language will be repealed by operation of law on the following day.

Rulemaking Update. The following is a status update on CIWMB regulatory proposals discussed in detail in recent issues of the Reporter:

• **Recycling Market Development Zone Program.** On September 22, the Board adopted proposed amendments to

section 17901 and added new section 17914, Title 14 of the CCR, regarding the Recycling Market Development Zone Program; the proposed regulatory action would enable CIWMB to redesignate recycling market development zones. [13:4 CRLR 149] At this writing, these proposed regulatory changes await review by OAL.

• **Recycled Content Trash Bag Regulations.** On November 4, OAL disapproved the Board's proposed adoption of new sections 17975-17985, Title 14 of the CCR, which would define terms, reporting requirements, and certification procedures for the recycled content trash bag program. [13:4 CRLR 150] OAL rejected the regulations due to CIWMB's failure to comply with the necessity and clarity standards and procedural requirements of the Administrative Procedure Act. The Board has 120 days from the date of the disapproval in which to correct these deficiencies and resubmit the proposed regulatory changes to OAL.

• **Waste Tire Facilities.** On November 3, OAL approved CIWMB's adoption of new sections 17225.701-18499 (non-consecutive), Title 14 of the CCR; the new regulations specify procedures and requirements for obtaining waste tire facility permits and technical standards for storage and disposal of waste tires. [13:4 CRLR 149]

• **Conflict of Interest Code.** On November 15, OAL approved the Board's amendments to section 18419, Title 14 of the CCR, which is part of CIWMB's conflict of interest code; the amendments, which became effective on December 15, reflect position changes for designated CIWMB employees subject to reporting requirements and changes caused by the Board's reorganization. [13:4 CRLR 150]

LEGISLATION

AB 173 (V. Brown), as amended August 30, would limit the amount of salary paid to the chair and each member of CIWMB on or after July 1, 1994, to an amount no greater than the annual salary of members of the legislature, excluding the Speaker of the Assembly, President pro Tempore of the Senate, Assembly majority and minority floor leaders, and Senate majority and minority floor leaders. [S. Inactive File]

AB 315 (Hauser). The California Integrated Waste Management Act of 1989 requires, among other things, any person owning or operating a solid waste landfill to certify to CIWMB that the owner or operator has prepared an initial estimate of closure and postclosure maintenance costs, has established a trust fund or equivalent financial arrangement acceptable to the

Board, and will deposit annually in the trust fund or equivalent financial arrangement amounts that will ensure adequate resources for the closure and postclosure maintenance of the landfill. As amended August 19, this bill would provide, until January 1, 1997, that, if the owner or operator is a county with a population of 200,000 or less, as determined by the 1990 decennial census, the county shall not be required to make deposits in excess of the amount required in the 1992-93 fiscal year for a period of three years commencing July 1, 1993, if the county can demonstrate adequate financial assurances through other financial assurance mechanisms authorized by federal law. The bill would require CIWMB to adopt procedures for those counties, pursuant to which the county may utilize other financial assurance mechanisms authorized by federal law.

The bill would require CIWMB, on or before January 1, 1995, to complete a study on landfill closure and postclosure maintenance of landfills in counties with a population of 200,000 or less, as determined by the 1990 decennial census, and report the results of the study to the legislature. [A. Floor]

AB 608 (Areias). The California Integrated Waste Management Act of 1989 provides for the designation of recycling market development zones, and makes related legislative declarations and findings. As introduced February 23, this bill would revise those declarations and findings. [A. Inactive File]

AB 1783 (Bowen), as introduced March 4, would revise the assessments against oil manufacturers under the California Oil Recycling Enhancement Act. This bill would require every oil manufacturer, if the lubricating oil is recycled oil, to instead pay to the Board two cents for every quart, or eight cents for every gallon, of that oil sold or transferred in the state, or imported into the state for use in the state that quarter, except as specified. [A. W&M]

SB 924 (Calderon). The California Integrated Waste Management Act of 1989 defines the term "solid waste" for purposes of the Act to mean all putrescible and nonputrescible solid, semisolid, and liquid waste, with specified exceptions. As amended April 29, this bill would specifically include source separated material within the definition of solid waste. The bill would define the term "source separated material" for purposes of the Act to mean material that is (1) separated at the point of generation from material that is destined for solid waste disposal, and (2) destined for repair, reuse, or recycling. [S. GO]



SB 1089 (Killea). Under existing law, the Division of Recycling is in the Department of Conservation. As amended May 27, this bill would transfer the Division of Recycling and its functions from the Department of Conservation to CIWMB, make related changes in the California Beverage Container Recycling and Litter Reduction Act, in provisions pertaining to plastic waste, in the Fiberglass Recycled Content Act of 1991, and in the California Integrated Waste Management Act of 1989, and prescribe related matters.

The California Integrated Waste Management Act of 1989 establishes the Board as a six-member body, appointed as specified, including two members who are appointed by the Governor to represent the public. The Act requires the chair to be elected by a majority of the Board members. This bill would, effective January 1, 1996, reduce the membership of the Board to five members by eliminating one of the positions appointed by the Governor to represent the public, and would instead require the Governor to appoint the chair of the Board. [S. Appr]

SB 1090 (Killea), as amended May 27, would exclude compost that meets state and federal product quality standards from the definition of "solid waste." [A. NatRes]

SB 1132 (Leslie). The California Integrated Waste Management Act of 1989 requires each SRR element to include an implementation schedule that shows how the local agency will meet AB 939's waste diversion requirements. The Act requires each plan and the elements thereof to be reviewed, revised, and, if necessary, submitted to the Board every five years. As introduced March 5, this bill would instead require the revision of the plan and its elements, if the local agency determines, based on its progress in meeting the diversion requirements, that such a revision is necessary. [A. NatRes]

SB 799 (Presley), as amended April 12, would authorize each state agency, regional agency, and local agency concerned with the solid waste facility planning and siting process to involve the public, as specified, and would revise related legislative findings and declarations. [A. W&M]

AB 1829 (Sher), as amended August 17, would require CIWMB to establish a comprehensive research and development program designed to achieve specified goals regarding innovative resource management and waste reduction programs.

The California Integrated Waste Management Act of 1989 requires CIWMB and certified local enforcement agencies to perform specified functions with regard to the regulation of solid waste manage-

ment, including with regard to the issuance and enforcement of solid waste facilities permits. This bill would require each proposed local enforcement agency, as part of the certification process, to submit a proposed inspection program, as specified, to the Board.

The Act provides that CIWMB may designate and certify a local enforcement agency within each county to carry out specified powers and duties. The Act requires the Board, if a local enforcement agency is not designated and certified, in addition to its other powers and duties, to be the enforcement agency within the county. The Act authorizes CIWMB, when acting as the enforcement agency, to charge reasonable fees to the local governing body to recover its costs, in addition to other specified fee authority. This bill would require CIWMB, if it is the enforcement agency and a local enforcement agency is then designated and certified by the Board, to continue to act as the enforcement agency for the remainder of the fiscal year unless otherwise specified by the Board. The bill would require CIWMB, when it is the enforcement agency, to charge reasonable fees, as determined by the Board, to recover its costs of operation. The bill would also require, if CIWMB is the enforcement agency, the Board and the local governing body, with the exception of the local governing body for Stanislaus County, to enter into a specified agreement. The bill would prescribe other related matters.

The Act provides for the denial, suspension, or revocation of permits, and generally provides for the administrative enforcement of solid waste management. This bill would provide that if the enforcement agency determines that a person is operating a solid waste facility without a permit or transporting solid waste to an unpermitted facility, the enforcement agency is required to issue a cease and desist order. The bill would prohibit any change in the design of a solid waste facility unless the operator meets specified conditions.

The bill would require that, by July 1, 1994, CIWMB prepare and submit to the legislature a plan for the review of solid waste facilities at least once every five years.

The bill would repeal and recast provisions of the Act allowing an applicant to request a hearing if the enforcement agency denies a permit or if the applicant determines that the permit is inappropriate. The bill would revise provisions pertaining to the denial, suspension, or revocation of permits, and provide for a temporary permit suspension where changed

conditions at the solid waste facility necessitate a permit modification. The bill would also revise and recast provisions pertaining to corrective action and cease and desist orders, provide for civil penalties and compliance orders, and specify enforcement procedures.

The Act defines "solid waste" as excluding hazardous waste. This bill would require CIWMB to regulate the disposal of waste containing asbestos at any waste management unit which is classified under specified regulations, unless the waste management unit is subject to a hazardous waste facilities permit issued by the Department of Toxic Substances Control. [S. Floor]

RECENT MEETINGS

At its December 15 meeting, CIWMB adopted a guidance document concerning base-year (1990) diversion restrictions. PRC section 41781.2 provides that, for purposes of determining the base amount of solid waste from which AB 939's diversion requirements must be calculated, the term "solid waste" does not include the diversion of agricultural wastes, inert solids (including inert solids used for structural fill), discarded, white-coated, major appliances, and scrap metals, unless the city, county, or regional agency demonstrates that three criteria are met: (1) the material was diverted from a permitted disposal facility through an action by the city, county, or regional agency which specifically resulted in the diversion; (2) the city, county, or regional agency demonstrates that, prior to January 1, 1990, the solid waste which is claimed to have been diverted was disposed of at a permitted disposal facility in the quantity being claimed as diversion; and (3) the city, county, or regional agency is implementing, and will continue to implement, source reduction, recycling, and composting programs, as described in its SRR element.

According to CIWMB, its policy clarifies the requirements of PRC section 41781.2 for obtaining base-year diversion credit for restricted waste types. Among other things, the policy states that jurisdictions which wish to include base-year diversion of restricted waste types must submit documentation which satisfies all three criteria and demonstrates the material was both disposed and diverted prior to 1990. A jurisdiction may either submit documentation with the final SRR element, as specified in PRC section 41791.5, or submit documentation after CIWMB review of the final SRR element, as provided by PRC section 41811.5. Following the CIWMB hearing to approve or disapprove the final SRR element, if it appears



that the exclusion of the amounts claimed results in a shortfall of the diversion mandates, Board staff will recommend that CIWMB issue a notice of deficiency to the jurisdiction.

■ FUTURE MEETINGS

April 27-28 in Orange County.

May 25 in Sacramento.

June 29 in Sacramento.

July 27-28 in East San Gabriel Valley.

DEPARTMENT OF PESTICIDE REGULATION

Director: James Wells
(916) 445-4000

The California Department of Food and Agriculture's Division of Pest Management officially became the Department of Pesticide Regulation (DPR) within the California Environmental Protection Agency (Cal-EPA) on July 17, 1991. DPR's enabling statute appears at Food and Agricultural Code (FAC) section 11401 *et seq.*; its regulations are codified in Titles 3 and 26 of the California Code of Regulations (CCR).

With the creation of Cal-EPA, all jurisdiction over pesticide regulation and registration was removed from CDFA and transferred to DPR. Pest eradication activities (including aerial malathion spraying, quarantines, and other methods of eliminating and/or preventing pest infestations) remain with CDFA. The important statutes which DPR is now responsible for implementing and administering include the Birth Defect Prevention Act (FAC section 13121 *et seq.*), the Pesticide Contamination Prevention Act (section 13141 *et seq.*), and laws relating to pesticide residue monitoring (section 12501 *et seq.*), registration of economic poisons (section 12811 *et seq.*), assessments against pesticide registrants (section 12841 *et seq.*), pesticide labeling (section 12851 *et seq.*), worker safety (section 12980 *et seq.*), restricted materials (section 14001 *et seq.*), and qualified pesticide applicator certificates (section 14151 *et seq.*).

DPR includes the following branches:

1. The Pesticide Registration Branch is responsible for product registration and coordination of the required evaluation process among other DPR branches and state agencies.

2. The Medical Toxicology Branch reviews toxicology studies and prepares risk assessments. Data are reviewed for chronic and acute health effects for new active ingredients, label amendments on currently reg-

istered products which include major new uses, and for reevaluation of currently registered active ingredients. The results of these reviews, as well as exposure information from other DPR branches, are used in the conduct of health risk characterizations.

3. The Worker Health and Safety Branch evaluates potential workplace hazards resulting from pesticides. It is responsible for evaluating exposure studies on active and inert ingredients in pesticide products and on application methodologies. It also evaluates and recommends measures designed to provide a safer environment for workers who handle or are exposed to pesticides.

4. The Environmental Monitoring and Pest Management Branch monitors the environmental fate of pesticides, and identifies, analyzes, and recommends chemical, cultural, and biological alternatives for managing pests.

5. The Pesticide Use and Enforcement Branch enforces state and federal laws and regulations pertaining to the proper and safe use of pesticides. It oversees the licensing and certification of dealers and pest control operators and applicators. It is responsible for conducting pesticide incident investigations, administering the state pesticide residue monitoring program, monitoring pesticide product quality, and coordinating pesticide use reporting.

6. The Information Services Branch provides support services to DPR's programs, including overall coordination, evaluation, and implementation of data processing needs and activities.

Also included in DPR are the Pesticide Registration and Evaluation Committee (PREC), the Pesticide Advisory Committee (PAC), and the Pest Management Advisory Committee (PMAC). PREC meets monthly, bringing together representatives from all public agencies with an interest in pesticide regulation to consult on pesticide product registration, renewal, and reevaluation issues. PAC meets bimonthly, bringing together representatives from public agencies with an interest in pesticide regulation to discuss all policy issues regarding pesticides. PMAC, established in conjunction with CDFA, also meets bimonthly, and seeks to develop alternative crop protection strategies enabling growers to abandon traditional, chemical-dependent systems and reduce the potential environmental burden associated with pesticide use.

■ MAJOR PROJECTS

DPR Releases Semiannual Reevaluation Report. On October 14, pursuant to section 6225, Title 3 of the CCR, DPR

released its semiannual report summarizing its reevaluation of the registration status of pesticide products; the report covers reevaluation occurring from January 1 through June 30, 1993. California regulations require DPR to investigate all reports of actual or potential significant adverse effects to people or the environment resulting from the use of pesticides; if an adverse impact has occurred or is likely to occur, the regulations require DPR to reevaluate the registration of the pesticide. Factors that may initiate reevaluation are specified in the regulations and include public or worker health hazard; environmental contamination; residue over-tolerances; fish or wildlife hazard; lack of efficacy; hazardous packaging; inadequate labeling; and availability of an effective and feasible alternative material or procedure which is demonstrably less destructive to the environment. Reevaluation is often triggered by ongoing DPR registration reviews, state and county pesticide use surveillance and illness investigations, pesticide residue sample analyses, environmental monitoring activities, or information from other state or federal agencies.

When a pesticide enters the reevaluation process, existing data are reviewed; further additional data that may be required to determine the nature and extent of the potential hazard or the appropriate mitigation measure are identified and requested from the registrants. There are several possible outcomes of a reevaluation. For example, the data may demonstrate that the issue is resolved and that no significant adverse effect will occur; DPR may determine that there is no need to adopt a regulation restricting the use of the pesticide in some manner to mitigate the potential adverse effect; or the reevaluation may indicate that there is an adverse effect which cannot be mitigated, in which case the reevaluation may end with a recommendation that the registration of the pesticide be cancelled.

DPR's October 14 report details its progress in the formal reevaluation of 21 pesticides; formal reevaluation is undertaken when investigations have indicated that a significant adverse impact has occurred or is likely to occur. One of the pesticides formally reevaluated was the "Blizzard" liquid nitrogen system, which is registered for use as a termiticide; liquid nitrogen was placed into reevaluation on March 1, 1990, after an applicator died while using it. After review of the label on file with DPR at the initiation of the reevaluation, it was determined that the label did not mitigate possible hazards of use. The registrant proposed revisions to