shall be trained in the proper fundamentals of flagging moving traffic before being assigned as flaggers, and that signaling directions used by flaggers shall conform to the *Manual of Traffic Controls for Construction and Maintenance Work Zones—1990*, published by the state Department of Transportation. According to the petitioner, the term "training" is subject to numerous interpretations; as a result, petitioner requested that the section be amended to require a DOSH-approved flagger's training course. Following discussion, the Board agreed that such a requirement would be duplicative of existing requirements, and denied the petition.

Also at its April 22 meeting, OSB considered Petition No. 326, submitted by Encon Safety Products, requesting that OSB amend section 5162(b), Title 8 of the CCR, which provides that an emergency shower which meets specified requirements shall be provided at all work areas where, during routine operations or foreseeable emergencies, areas of the body may come into contact with a substance which is corrosive or severely irritating to the skin or which is toxic by skin absorption. The petitioner requested that the section be amended to provide relief for work in remote areas and by mobile work crews when it is not feasible to comply with the specifications for emergency shower units that require a plumbed shower unit or portable tanker truck unit capable of carrying a large volume of water. Following discussion, OSB adopted the petition to the extent that it directed DOSH to convene an advisory committee to address the issue of providing relief for remote work locations and mobile crew operations that require the use of an emergency eyewash and shower equipment.

Also at its April meeting, OSB considered Petition No. 327, submitted by Del Schimpf of Cardel, Inc., a manufacturer of an electronic monitoring device which indicates when a long end-dump tractor unit is on an uneven surface; Petitioner requested that OSB adopt a new regulation regarding warning devices to prevent rollover or tipovers of long end-dump tractor trailer units. Following discussion, OSB agreed that such a requirement is unnecessary given other applicable regulations, and denied the petition.

FUTURE MEETINGS

August 26 in Sacramento.
September 26 in Los Angeles.
October 21 in San Francisco.
November 18 in San Diego.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (CAL-EPA)

AIR RESOURCES BOARD

Executive Officer: James D. Boyd
Chair: Jananne Sharpless
(916) 322-2990

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

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

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

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

In January, Patricia M. Hilligoss was confirmed as a new member of the Board. Before appointment to ARB, Hilligoss was chair of the Bay Area Air Quality Management District. Hilligoss received her bachelor's degree from the University of Minnesota, and has been a real estate associate with the firm George A. Pagni Associates since 1987.

MAJOR PROJECTS

Board Delays Implementation of Emission Regulations for Lawn and Garden Engines. In December 1990, ARB approved landmark emission control regulations for utility, lawn, and garden engines (including lawnmowers, chainsaws, blowers, air compressors, portable generators, pumps, and other utility equipment powered by small gasoline and diesel engines) in order to reduce the volume of hydrocarbons and other pollutants emitted from these sources. *[11:1 CRLR 115]* As adopted, the regulations established two tiers of emission standards for lawn and garden engines. The first set of emission standards, designed to provide feasible, short-term reductions in utility engine emissions, was scheduled to be implemented in January 1994. Manufacturers could satisfy these emission standards through simple carburetor adjustments and tighter design tolerances. The second set of emissions standards was scheduled to be implemented in 1999, and would have required the use of advanced emission controls, such as catalytic converters. The regulations also required an emission defects warranty, engine labeling, quality audit testing, and new engine compliance testing programs.

Amendments to the federal Clean Air Act, however, prohibited states from regulating emissions from construction or farm equipment utilizing engines with less than 175 horsepower. Arguably, some of ARB's 1990 regulations impose emissions standards on utility and garden equipment now subject to this federal preemption, and are thus unenforceable by the Board. The U.S. Environmental Protection Agency (EPA) has not promulgated final rules defining the scope of the farm and construction equipment subject to this preemption. Without such guidance, the lawn and garden industry cannot effectively allocate engineering resources to the design of engines requiring compliance with ARB's standards.

At its April 8 meeting, ARB adopted a proposal to delay the first tier of the lawn and garden regulations by one year, until January 1, 1995, by amending section 2400 and sections 2403–2407, Title 13 of the CCR. In addition, the Board approved

a delay of the quality audit testing requirement until January 1, 1996, in order to maintain the original one-year interval between initial engine certification and the start of quality testing. ARB staff estimates that delays will result in lost emission benefits of up to 6 tons per day (tpd) of hydrocarbons and 27 tpd of carbon monoxide. The Board, however, characterizes such losses as short-term, and expects to recoup them by 2000, when most of the 1994 equipment will be removed from the equipment inventory through attrition. In any event, the delay should allow ample time for EPA to finalize its rules, letting engine manufacturers more efficiently design their engines for compliance with ARB's regulations.

At this writing, ARB has not submitted these regulatory amendments to the Office of Administrative Law (OAL) for review and approval.

Permit Fee Regulations for Nonvehicular Sources of Air Pollution. The California Clean Air Act of 1988 requires ARB to develop and expand programs addressing the problem of air pollution in California, including pollution from nonvehicular sources. To defray the additional costs of implementing these programs, section 39612 of the Health and Safety Code authorizes the Board to collect fees from the holders of emission permits for facilities which emit 500 tons or more per year of any nonattainment pollutant or its precursors. Every year since then, ARB has adopted its annual Nonvehicular Source Fee Regulations. *[12:2&3 CRLR 199–200]* On April 8, ARB adopted new section 90800.4 and amended section 90803, Title 17 of the CCR, to establish its 1993–94 permit fees for nonvehicular sources, which will be collected by APCDs and AQMDs and transferred to ARB. The total amount of funds collected through assessment of these fees, exclusive of district administrative costs, may not exceed $3 million in any fiscal year. As with fees collected in the past, the current regulations provide for collection of the fees on a dollar-per-ton basis; recovery of administrative costs by the districts; imposition of additional fees on facilities that do not pay in a timely manner; and exemption of districts from the fee collection requirements for demonstrated good cause.

ARB approved the regulatory changes, but with several technical modifications which require an additional 15-day public comment period. At this writing, ARB has not submitted these regulatory amendments to OAL for review and approval.

Atmospheric Acidity Protection Act Fees. Also on April 8, ARB adopted new section 90621.4 and amended section 90622, Title 17 of the CCR, authorizing local APCDs and AQMDs to collect permit fees from major nonvehicular sources emitting sulfur oxides and nitrogen oxides. These fees fund, in part, the Board's Atmospheric Acidity Protection Program (AAPP) for fiscal year 1993–94.

In 1988, the legislature enacted the Atmospheric Acidity Protection Act, Health and Safety Code section 39900 *et seq.*, to protect natural resources in California from the continued deposition of atmospheric acidity, either alone or in combination with other human-made pollutants. In passing the Act, the legislature concluded that the effects of atmospheric acidity, such as acid rain, could potentially damage the public health, the environment, and even California's economy. Thus, the legislature directed ARB to implement the AAPP to determine the nature and extent of potential damage caused by atmospheric acidity. Specifically, the AAPP directs ARB to determine the extent to which atmospheric acidity adversely affects public health, and the levels and duration of exposure at which those effects occur; document the long-term trends of all forms of atmospheric acidity, including the potential for damage to aquatic and terrestrial ecosystems; and estimate potential economic losses which may result from long-term exposure to atmospheric acidity.

To enable ARB to carry out these requirements, the Act authorized the collection of permit fees on nonvehicular sources which emit 500 tons or more per year of either sulfur oxides or nitrogen oxides, the main contributors to atmospheric acidity. The total amount of funds collected from these fees, exclusive of district costs, shall be $1.5 million for any fiscal year or the amount appropriated from state funds by the legislature for the AAPP, whichever is less. The permit fees collected are based upon emissions data for the calendar year 1991, the most recent year for which statewide emissions data are available. As with permit fees previously collected, the amount charged by the APCDs and AQMDs would be based on a dollar-per-ton basis. According to ARB, the districts plan to charge eligible facilities approximately $8 per ton of sulfur oxide or nitrogen oxide emitted.

This regulatory action awaits review and approval by OAL.

Federal Hazardous Air Pollutants Designated as Toxic Air Contaminants. At its April 8 meeting, ARB adopted new section 93001, Titles 17 and 26 of the CCR, designating 189 federal hazardous air pollutants (HAPs) as toxic air contaminants (TACs). HAPs are toxic substances listed by Congress which may have adverse effects on human health or the environment. Similarly, TACs are substances which ARB has identified as potential adverse pollutants. AB 2728 (Tanner) (Chapter 1161, Statutes of 1992) requires ARB to adopt and designate these HAPs as TACs for purposes of regulation in California. Eighteen of the substances on the HAP list have already been identified by the Board as TACs. ARB hopes that the new regulatory amendment will enable the Board to more quickly adopt and implement control measures to regulate the newly designated TACs. At this writing, ARB has not submitted this regulatory amendment to OAL for review.

ARB Amends Transport Mitigation Emission Control Regulations. The California Clean Air Act (CCAA) requires ARB and local APCDs to take certain actions to mitigate the impact of transported pollutants on downwind areas. Health and Safety Code section 39610(b) requires the Board to identify districts affected by transport and the upwind source of origin, assess the relative contribution of upwind emissions to downwind ambient pollutant levels to the extent permitted by available data, and establish mitigation requirements commensurate with the level of contribution from the upwind areas. These provisions apply only to ozone and ozone precursors.

In December 1989, the Board adopted section 70500, Title 17 of the CCR, which identifies upwind areas that contribute to downwind ozone concentrations. *[10:1 CRLR 126]* In August 1990, ARB established mitigation requirements for the upwind areas that are the source of "significant" or "overwhelming" transport to downwind nonattainment areas (sections 70600 and 70601, Title 17 of the CCR). *[10:4 CRLR 142]* The five areas identified in and subject to the transport mitigation regulations are the Broader Sacramento Area, the San Joaquin Valley, the South Coast Air Basin, the San Francisco Bay Area Air Basin, and the Ventura and Santa Barbara county portions of the South Central Coast Air Basin.

The transport mitigation regulations have three provisions. First, all upwind areas are required to establish a permitting program for new and modified stationary sources that achieves no net increase in emissions. Second, all upwind areas must adopt and implement control measures for existing stationary sources that represent the best available retrofit control technology. Third, upwind areas that cause violations of the state ozone standard downwind must adopt sufficient controls to

achieve the standard, downwind, during conditions that are conducive to overwhelming transport.

In 1992, the CCAA was significantly amended by AB 2783 (Sher) (Chapter 945, Statutes of 1992). *[12:4 CRLR 172]* AB 2783 changed the area classification scheme and established more lenient requirements for permitting programs, but it did not revise the transport mandates or overturn the transport mitigation regulation. As a result, the five areas subject to the regulation remain subject to the "no net increase" permitting requirement. ARB believes that these areas face the same economic pressures due to the recession and offset constraints that motivated the legislature to provide permitting relief elsewhere. The Board also believes that such relief can be provided without significantly diminishing the effectiveness of the transport mitigation regulations.

Thus, at its March meeting, ARB considered staff's proposal to amend section 70600 by adding a uniform ten-ton-per-year (TPY) threshold to the no net increase requirement. It also considered an alternative proposal deleting the regulation's permitting requirements entirely, thereby defaulting to the CCAA's statutory offset thresholds. Staff's technical analysis indicated that the emissions impact of either alternative is small. After discussion and considerable oral testimony, ARB decided to adopt the alternative and delete the permitting provisions of its transport mitigation emission control requirements. Although ARB recognized that its action may result in significant environmental impacts under the California Environmental Quality Act, it will provide regulatory relief primarily for small to medium-sized businesses, which are important generators of jobs and contribute to the overall economic health of the state. ARB believes such relief is critical in light of the state's current economic climate.

At this writing, this regulatory change has not yet been submitted to OAL.

Wintertime Oxygenated Gasoline Program Termed a Success. In October 1992, ARB's Wintertime Oxygenated Gasoline Program went into effect. *[12:1 CRLR 140]* The program requires that gasoline sold in California between October 1 and February 25 contain higher levels of oxygen. February 1993 marked the end of the first phase of the program, and the results were substantial. The "winter gas" cut carbon monoxide levels statewide by 10%, according to ARB.

Carbon monoxide levels, which normally peak in the winter months, dropped 33% this winter. Ten percent of that decrease was a result of the oxygenated gasoline, and the rest was due to the heavy rains and snowfall this past winter, which diluted the carbon monoxide emissions by creating turbulence in the atmosphere.

The cleaner air has not come without a cost, however, as gasoline prices were increased by three to ten cents per gallon. Skeptics of the program's effectiveness claim that all drivers are being forced to pay for a solution that benefits only a small minority—those who drive excessively "dirty" cars. They claim that fixing or eliminating the worst-polluting vehicles would be a cheaper alternative.

The winter gasoline program will run until 1996, at which time the oxygenated gasoline will be required year-round, along with other major changes in the composition of gasoline aimed at reducing air pollution caused by motor vehicles.

State Smog Check Program Comes Under Fire. The much-maligned state Smog Check Program has been the subject of considerable dispute for the past year. *[13:1 CRLR 22–23, 96–97; 12:4 CRLR 59]* The state is required to revamp its Smog Check Program to meet stringent new standards set by EPA, and the legislature is currently considering several bills aimed at complying with that requirement. (*See* LEGISLATION; *see also* agency report on BUREAU OF AUTOMOTIVE REPAIR for related discussion.) However, in an April 14 letter to Governor Wilson, EPA Administrator Carol Browner and U.S. Secretary of Transportation Frederico Pena stated that none of the Smog Check bills under consideration by the state legislature will result in a program that will meet federal clean air requirements, and warned Wilson that the state is in danger of losing federal highway funding if it doesn't come up with an acceptable Smog Check Program. The federal plan requires a 30% reduction of hydrocarbon and carbon monoxide emissions, the main contributors to smog, by 1998. EPA has warned that only a centralized system with separate test and repair facilities will meet the standards; California's current decentralized program has only reduced emissions by 18–19% since its inception in 1984.

The proposed federal budget includes $1.6 billion to improve highways in California. Estimates of how much the federal government could withhold from the state have ranged from $120 million to most of the $1.6 billion total. The letter also stated that sanctions could be imposed on the state—sanctions which would be costly to industry, jobs, and the economic recovery of California.

Update on Other Regulatory Changes. The following is a status update on regulatory changes proposed and/or adopted by ARB in recent months, and discussed in previous issues of the *Reporter*:

• Following a January 14 public hearing, ARB adopted new section 93107, Titles 17 and 26 of the CCR, establishing an airborne toxic control measure for hazardous emissions resulting from non-ferrous metal melting. These emissions include cadmium, inorganic arsenic, and nickel, which have been identified by ARB as TACs, and other metals, such as lead, which may be potential contaminants. At this writing, this regulatory change has not yet been submitted to OAL for review and approval. *[13:1 CRLR 97]*

• Following a January 14 public hearing, the Board adopted—with slight modifications—proposed amendments to sections 1960.1, 1976, and 2061, Title 13 of the CCR. These changes would establish test procedures and requirements for certifying hybrid electric vehicles, which are designed to run on some combination of energy supplied by batteries and an auxiliary power unit, which is likely to be a combustion engine; establish reactivity adjustment factors (RAFs) for Phase 2 gasoline transitional low-emission vehicles (TLEV) and low-emission vehicles (LEV); adopt an RAF for methane emissions from compressed natural gas (CNG) TLEVs; modify the 50°F emission standard to take into account recent developments indicating that manufacturers will be able to certify to LEV and TLEV standards using conventional technologies; and make a number of additional changes to clarify the certification test procedures or to make their application to LEVs more practical. *[13:1 CRLR 98]* ARB released the modified version of these amendments for an additional 15-day comment period on March 22. At this writing, the rulemaking file has not yet been submitted to OAL for review and approval.

• ARB's December 1992 amendment to section 1956.8(b), which sets forth standards and test procedures for heavy-duty diesel engines and vehicles, has not yet been submitted to OAL. The proposed amendment to this section would allow as an option the use of a low-sulfur diesel fuel specified in federal regulations for the certification of 1993 and subsequent model-year diesel engines. *[13:1 CRLR 98]*

• The Board's December 1992 amendments to its Heavy-Duty Vehicle Roadside Inspection Program (sections 2180 through 2187, Title 13 of the CCR), which revise the smoke opacity standards for 1991 and subsequent model-year vehicles and require engine manufacturers to submit smoke emissions data to ARB within

60 calendar days after receiving federal or California engine certification approval, have not been submitted to OAL at this writing. *[13:1 CRLR 97–98]*

• ARB's December 1992 adoption of new sections 2190–2194, Title 13 of the CCR, which require owners of heavy-duty diesel-powered fleets to test their vehicles annually for excessive smoke emissions and undertake repairs whenever tests reveal such problems (with some exceptions), has not yet been submitted to OAL. *[13:1 CRLR 97]*

• The Board's December 1992 adoption of new section 70303.5 and amendments to sections 60200–60209 and 70303, Title 17 of the CCR, which change the designation criteria for the nonattainment-transitional area air pollution classification in compliance with AB 2783 (Sher) (Chapter 945, Statutes of 1992), has not yet been submitted to OAL. *[13:1 CRLR 97]*

• ARB's November 1992 amendments to sections 2317 and 1960.1(k), Title 13 of the CCR, which revise existing test procedures for qualifying a fuel as a substitute or new clean fuel, have not been submitted to OAL at this writing. *[13:1 CRLR 96]*

• ARB's September 1992 adoption of section 2300, Title 13 of the CCR, to phase out the use of chlorofluorocarbon (CFC) refrigerants in air conditioner-equipped new passenger cars, light-duty trucks, medium-duty vehicles, and heavy-duty vehicles, was filed with OAL on April 28 and is awaiting approval at this writing. *[12:4 CRLR 170]*

• The Board's August 1992 amendments to sections 90700–90705, Titles 17 and 26 of the CCR, establishing new fee schedules which APCDs and AQMDs must adopt to cover the state's cost of implementing the "Air Toxic Hot Spots" program, have not been submitted to OAL at this writing. *[12:4 CRLR 169; 12:2&3 CRLR 198]*

• The Board's August 1992 amendments to sections 1960.1(k) and 1956.8(d), Title 13 of the CCR, adopting new specifications for gasoline used during the certification testing of motor vehicles, have not been submitted to OAL at this writing. *[12:4 CRLR 169]*

• ARB's July 1992 amendment to section 93000, Titles 17 and 26 of the CCR, designating 1,3-butadiene as a TAC, was approved by OAL on April 14. *[12:4 CRLR 168]*

• The Board's May 1992 amendment to section 70500, Title 17 of the CCR, which identifies geographical areas that originate or receive transported air pollution, was approved by OAL on May 11. *[12:4 CRLR 168]*

• ARB's May 1992 amendments to sections 2030 and 2031, Title 13 of the CCR, which strengthen existing procedures for approving alternative fuel retrofit systems for motor vehicles beginning with the 1994 model year, were approved by OAL on May 7. *[12:2&3 CRLR 200]*

• The Board's May 1992 amendments to sections 70303 and 70304, Title 17 of the CCR, and Appendices 2–4 thereof, which revise the criteria used to designate areas in California as attainment, nonattainment, or unclassified for state ambient air quality standards, were approved by OAL on April 16. *[12:2&3 CRLR 201]*

• The Board's March 1992 amendment to section 93000, Titles 17 and 26 of the CCR, identifying formaldehyde as a TAC, was approved by OAL on March 1. *[12:2&3 CRLR 198–99]*

• ARB's January 1992 adoption of sections 2420–2427, Title 13 of the CCR, establishing exhaust emission standards and test procedures for new 1996 and later heavy-duty off-road engines, was rejected by OAL on January 14. OAL concluded that ARB's rulemaking file failed to satisfy the necessity and clarity standards of Government Code section 11349.1. ARB corrected the deficiencies and resubmitted the rulemaking file to OAL on May 14, where it is awaiting approval at this writing. *[12:2&3 CRLR 198]*

LEGISLATION

SB 119 (Presley), as amended April 26, **SB 1195 (Russell)**, as amended April 20, and **SB 1119 (Ferguson)**, as introduced March 2, are comprehensive proposals for reforming California's Smog Check program. (*See* MAJOR PROJECTS; *see also* agency update on BUREAU OF AUTOMOTIVE REPAIR for more information.)

AB 355 (Aguiar). Existing law does not exempt student transportation from rules and regulations of APCDs and AQMDs relating to transportation. As introduced February 8, this bill would prohibit any rule or regulation of a district from imposing any requirement or restriction on the transportation of students by any school district or county office of education for home-to-school or special education purposes. *[A. W&M]*

AB 435 (Sher). Existing law requires APCDs and AQMDs, in adopting any program for the use of market-based incentives to improve air quality, to find that the rules and regulations will result in an equivalent reduction in emissions at less cost than current command and control regulations, and provides additional specific criteria applicable to the South Coast Air Quality Management District (SCAQMD). *[13:1 CRLR 100]* As introduced February 11, this bill would revise those findings to require an equivalent or greater reduction in emissions at equivalent or less cost, and would express legislative intent regarding the application of those provisions in the South Coast District. *[S. GO]*

AB 1853 (Polanco). Existing law does not require the budget of any APCD or AQMD to be submitted to the Cal-EPA Secretary for inclusion in Cal-EPA's budget. As amended May 4, this bill would require each district having a budget in excess of $50 million (*i.e.*, SCAQMD) to submit its operating budget to the Secretary for inclusion in the budget of the Agency in the annual budget bill. The bill would prohibit any such district from increasing specified fees except pursuant to specific statutory authority; require such a district to transmit specified revenues to the state for deposit in the Air Quality Operation Fund which the bill would create; and require the legislature to appropriate, in the budget act, the money in the Air Quality Operation Fund to such a district for district operations. *[A. W&M]*

AB 1890 (Sher). Existing law requires APCDs and AQMDs to adopt, implement, and enforce transportation control measures for the attainment of state or federal ambient air quality standards. Existing law requires a district, which has entered into an agreement with a council of governments or regional agency to jointly develop a plan for transportation control measures, to quantify the emissions from transportation sources. As amended May 3, this bill would require ARB, to the extent requested to do so by a district, to assist a district in identifying the quantity of emission reductions necessary to comply with that requirement.

The bill would require each district, other than SCAQMD, to adopt an annual budget in accordance with prescribed requirements and would make legislative findings and declarations in that connection. The bill would prohibit SCAQMD from imposing fees in excess of the adjusted actual cost of District programs in the preceding fiscal year, except as specified. The bill would also require each district which has a population of one million or more to establish a compliance program, consisting of specified elements.

Under existing law, ARB is required at least once every two years to prepare a report on the sources of funding for each district with an annual budget which exceeds $1 million. This bill would require preparation of the report annually and contemporaneously with the state budget, and would require additional specified in-

formation to be included in the report. *[A. W&M]*

SB 801 (Lewis). The Lewis-Presley Air Quality Management Act requires SCAQMD to have an Office of Public Advisor and Small Business Assistance, and requires the public advisor to be appointed by the SCAQMD executive officer. As amended April 27, this bill would rename that office in SCAQMD the Office of Small Business Assistance; require every multi-county APCD and AQMD to establish an Office of Public Advisor, appointed by the Governor and independent of the district's executive officer, with specified powers and duties; and establish in every multi-county district an independent appeals board to hear appeals of decisions of the district board. *[S. Appr]*

SB 802 (Lewis). The Lewis-Presley Air Quality Management Act authorizes SCAQMD to impose fees for the issuance of permits and variances. As amended April 27, this bill would limit any increase in permit or variance fees imposed by SCAQMD to any percentage increase in the state Consumer Price Index, as specified.

The Act does not specifically limit the amount of fees and fines collected by the South Coast District. This bill would limit the total fees and fines collected by the South Coast District, as specified. *[S. Floor]*

SB 883 (Leslie). Existing law requires APCDs and AQMDs to include prescribed transportation control measures in plans to attain and maintain state ambient air quality standards. The Lewis-Presley Air Quality Management Act prohibits SCAQMD from requiring any employer with fewer than 100 employees at a single worksite to submit a trip reduction plan. As amended May 17, this bill would prohibit until January 1, 1997, all of those districts from requiring any employer with fewer than 100 employees at a single worksite to implement a trip reduction program or to submit a trip reduction plan. *[S. Floor]*

SB 1134 (Russell). Existing law requires specified governmental agencies to adopt a congestion management plan for each county. Existing law authorizes APCDs and AQMDs to encourage or require the use of ridesharing, vanpooling, flexible work hours, or other measures which reduce the number or length of vehicle trips and to adopt, implement, and enforce transportation control measures for the attainment of state or federal ambient air quality standards. SCAQMD is prohibited from requiring employers with fewer than 100 employees at a single worksite to submit a trip reduction plan. As introduced March 5, this bill would define, and specify measures that may be included, in a trip reduction plan submitted to an agency or a district by an employer for purposes of those provisions. The bill would require employers to give employees notice of proposed plans and the opportunity to comment prior to submission of the plan to the agency or district. The bill would require the agencies to modify existing programs, and the districts to modify existing regulations, by June 30, 1995, to conform to these provisions. *[S. Floor]*

AB 584 (Cortese). Existing law requires ARB to develop a test procedure and adopt regulations prohibiting the use of heavy-duty motor vehicles which have excessive smoke emissions, and provides for the enforcement of those provisions, including requiring the vehicle owner to immediately correct deficiencies, and to pay a specified civil penalty. Existing law provides that a cited vehicle owner may request an administrative hearing within 30 days. As amended March 29, this bill would require the owner to correct deficiencies within 45 days, limit liability for a civil penalty to cases of willful failure to correct a violation, and second or subsequent violations, and extend the period for requesting a hearing to 45 days.

The bill would prohibit the adoption of more stringent emission or smoke standards for heavy-duty vehicles than the standards that the vehicle's engine was required to meet when initially certified. The bill would require the California Highway Patrol to give preference to certain facilities in contracting for smog and smoke check stations for heavy-duty vehicles. The bill would create certain presumptions regarding compliance by a vehicle that has been issued a certificate of compliance by a smog or smoke check station. *[A. W&M]*

AB 709 (Areias), as amended May 3, would prohibit districts from increasing any fees for authority to construct permits or permits to operate by more than 15% per year if the district has an annual budget of $1 million or more, or by more than 30% in other districts. *[A. Floor]*

AB 956 (Cannella). The Air Toxics "Hot Spots" Information and Assessment Act of 1987 requires operators of facilities which are sources of air releases or potential air releases of hazardous materials to develop, submit to the appropriate APCD or AQMD, and biennially update emissions inventories. The Act requires the districts, based on data from the inventories, to designate facilities as high, intermediate, or low priority category facilities. The Act authorizes the districts to require any facility operator to prepare and submit a health risk assessment, and requires the districts to collect fees from facility operators. As amended May 19, this bill would require the districts to exempt facilities that meet prescribed criteria from further compliance with the Act. The bill would require the operators of exempted facilities to biennially submit a specified statement and a copy of the most recent emissions inventory for the facility to the district; require new facilities to prepare and submit an emissions inventory plan and report; and require facilities to submit an emissions inventory update for those sources and substances for which a change in activities or operations has occurred. *[A. W&M]*

AB 1062 (Costa). Under existing law, if the San Joaquin Valley Unified Air Pollution Control District (unified district) is abolished, the San Joaquin Valley Air Quality Management District (valley district) is to be created. A member of the valley district board, if created, would rotate with a board member of one of the other air pollution control or air quality management districts as a member of ARB, which currently consists of nine members, including one public member. As amended May 18, this bill would increase ARB's membership to eleven members by adding another public member, and by adding on a permanent basis a member of the governing board of the unified district, or, if the unified district ceases to exist, a member of the governing board of the valley district, if created. *[A. Floor]*

AB 2288 (Quackenbush). Existing law requires the air pollution control officer of an APCD or AQMD to observe and enforce all orders, regulations, and rules prescribed by the district board. As introduced March 5, this bill would require the officer to additionally observe and enforce permit conditions, and authorize the officer to enforce an applicable air quality implementation plan.

Existing law provides that a permit issued by a district is renewable upon the payment of specified fees. This bill would delete that provision.

Existing law requires a permit system adopted by a district to prohibit the issuance of a permit unless the permitted article, machine, equipment, or contrivance will comply with prescribed orders, rules, regulations, and statutes. This bill would authorize a district air pollution control officer to subject the issuance of a permit to compliance with an applicable implementation plan, and would subject the issuance of the permit to other specified requirements of federal law.

Existing law authorizes any person to apply for a variance from a specified statute or from rules and regulations of the district, but not from the requirement for a permit to build, erect, alter, or replace. This bill would also prohibit the granting of a variance from the requirement for a permit to operate or use, and would authorize the issuance of a permit for activities for which a variance has been granted, including an abatement order which has the effect of a variance. *[S. GO]*

SB 100 (Kopp). Existing law requires the Department of Motor Vehicles (DMV), upon the renewal of registration of a motor vehicle subject to a motor vehicle smog inspection program, to require biennially a valid certificate of compliance issued by a licensed smog check station. As amended April 12, this bill would require DMV, if a fee of not less than $50 nor more than $100, as determined by ARB, is paid upon the initial registration of a new motor vehicle, to issue a certificate of exemption from those requirements. That exemption would be valid for four years, thus exempting the vehicle from two biennial smog checks. DMV would be required to transmit the fees to the Controller for deposit in the Motor Vehicle Replacement Account, which the bill would create in the Air Pollution Control Fund. The money would be available, upon appropriation, to ARB to establish and implement a program, to be administered by DMV, for the replacement of high-polluting vehicles with new low-emission vehicles. As part of that program, the bill would authorize ARB to make loans or grants to assist in the purchase or lease of new low-emission vehicles of domestic manufacture to replace high-polluting vehicles. *[S. Appr]*

SB 334 (Rosenthal), as amended April 29, would, until January 1, 2002, exempt from state sales and use taxes the gross receipts not exceeding $1,500 from the sale, storage, use, or other consumption in this state of zero-emission vehicles, as defined.

Existing law imposes a specified statewide fee for the registration or renewal of registration of motor vehicles, and permits the imposition of various additional local vehicle registration fees, including fees for the support of air pollution control districts. This bill would impose a $1 fee upon the registration or renewal of registration of any motor vehicle subject to specified vehicular air pollution control laws. *[S. Appr]*

SB 381 (Hayden). Existing law requires ARB to adopt standards and regulations to, among other things, require the purchase of low-emission vehicles by state fleet operators. As amended April 29, this bill would require ARB to require the purchase of low-emission and zero-emission vehicles, as specified, by state and local governmental agencies and would require ARB to also require the purchase of specified percentages of zero-emission vehicles by private fleet operators, as specified. The bill would exempt from that requirement certain authorized emergency vehicles. The bill would authorize state and local governmental agencies to form a consortium to purchase electric vehicles.

Existing law authorizes APCDs and AQMDs to impose fees of $1, $2, or $4, as specified, on motor vehicles for purposes of, and related to, reducing air pollution from motor vehicles. This bill would exempt zero-emission vehicles from those fees imposed by the districts.

Existing law exempts from sales and use taxes the incremental cost of the sale or use of a low-emission motor vehicle, and the gross receipts from the sale or use of a low-emission retrofit device, as specified, until January 1, 1995. This bill would extend that exemption to January 1, 2001.

The bill would also exempt from sales and use taxes, until January 1, 2001, that portion of the sales price of a new electric vehicle that is above the sales price of a comparable vehicle with an internal combustion engine that is of equal size and capacity. The bill would require ARB to annually compute that cost differential.

The Personal Income Tax Law and the Bank and Corporation Tax Law, until January 1, 1995, allows credits against the taxes imposed by those laws for the costs of the conversion of a vehicle to a low-emission motor vehicle, or for the differential cost, as defined, of a new low-emission motor vehicle that meets specified requirements. This bill would extend those credits to January 1, 2001. *[S. Appr]*

SB 455 (Presley). Existing law authorizes APCDs and AQMDs to adopt and implement regulations to reduce or mitigate emissions from indirect sources of air pollution. As amended May 12, this bill would limit the requirements that the districts may impose by regulation on indirect sources for that purpose to requirements that the districts determine are based on the extent of the contribution of the indirect sources to air pollution by way of attracting mobile sources.

Existing law authorizes local authorities, under prescribed circumstances, to determine and declare prima facie speed limits different than the generally applicable speed limits. This bill would authorize, until January 1, 1997, a county or city that is wholly or partly within the South Coast district to determine and declare a prima facie speed limit lower than that which the county or city is otherwise permitted to establish, for any unpaved road, if necessary to achieve or maintain state or federal ambient air quality standards for particulate matter. *[S. Appr]*

SB 532 (Hayden). Existing law requires the state Department of Health Services (DHS) to submit to ARB recommendations for ambient air quality standards. As amended May 4, this bill would require DHS to determine if any adoption, amendment, revision, or extension of the recommendations adequately protects human health, including the health of infants, children, elderly, and other subpopulations and, if not, to take more stringent action.

Existing law requires ARB to divide the state into air basins and adopt standards of ambient air quality for each air basin, in consideration of the public health, safety, and welfare. Existing law requires the standards relating to health effects to be based upon the recommendations of the Office of Environmental Health Hazard Assessment. This bill would require ARB to determine if any adoption, amendment, revision, or extension of the standards adequately protects human health, including the health of infants, children, elderly, and other subpopulations and, if not, to take more stringent action.

Existing law requires ARB to adopt airborne toxic control measures to reduce emissions of toxic air contaminants from nonvehicular sources and to consider the adoption of revisions in the emission standards for vehicular sources. This bill would require ARB to determine if any adoption, amendment, revision, or extension of the standards adequately protects human health, including the health of infants, children, elderly, and other subpopulations and, if not, to take more stringent action, as specified. *[S. GO]*

SB 575 (Rogers). Existing law requires a certificate of compliance or noncompliance with motor vehicle emission standards upon, among other things, the transfer of registration of a vehicle, except in certain instances. As amended April 26, this bill would exempt a transfer from this requirement if a valid certificate of compliance or a certificate of noncompliance, as appropriate, was obtained within sixty days prior to the most recent transfer of ownership and registration. The bill would also require the transferor of a motor vehicle that is subject to emission certification requirements to sign a statement, under penalty of perjury, that he/she has not modified the emission system and has

no personal knowledge of anyone else modifying the emission system in a manner that causes the emission system to fail to qualify for the issuance of a certificate of compliance. The bill would also require the transferor to deliver the completed statement to DMV. *[S. Appr]*

SB 668 (Hart). The Personal Income Tax Law and the Bank and Corporation Tax Law allow credits against the taxes imposed by those laws for the cost of the conversion of a vehicle to a low-emission motor vehicle or for the differential cost, as defined, of a new low-emission motor vehicle that meets specified requirements. As amended April 28, this bill would, until January 1, 2002, enact the Zero-Emission Vehicle Development Incentive Program, to be administered by ARB. The bill would exempt zero-emission vehicles from state, but not local, sales and use taxes. The bill would establish a tax credit under the Bank and Corporation Tax Law for the development of zero-emission vehicle technologies, industries, and jobs. The bill would impose a $1 motor vehicle registration fee beginning on January 1, 1995, and terminating on December 31, 2000, unless the Department of Finance makes a specified finding, in which case it may be extended for one additional year, to be deposited in the Zero-Emission Vehicle Development Incentive Fund, which the bill would create, to fund the exemption and the credit. *[S. Appr]*

SB 766 (Rosenthal), as amended May 10, would enact the Clean Transportation Bond Act of 1994 which, if adopted, would authorize, for purposes of financing a specified clean transportation program, the issuance, pursuant to the State General Obligation Bond Law, of bonds in the amount of $100 million. The bill would provide for submission of the bond act to the voters at the June 7, 1994, direct primary election in accordance with specified law. *[S. Trans]*

AB 1205 (Tucker). Existing law limits the sale of motor vehicles equipped with air-conditioners using specified chlorofluorocarbon-based products. As amended April 28, this bill would revise the specifications of the CFCs subject to those provisions. The bill would prohibit the venting or disposing, and require the reuse or recycling, of CFCs from a nonvehicular commercial refrigeration system, as defined. The bill would require the installation, replacement, or servicing of those systems to be done by qualified persons, as defined, and would prohibit other persons from purchasing any CFC, as defined, except as specified. *[A. W&M]*

SB 1113 (Morgan), as amended April 27, would prohibit any emission standard, rule, regulation, or other requirement from taking effect or being implemented prior to July 1, 1997, in the Bay Area Air Quality Management District and the San Joaquin Valley Air Pollution Control District to require the owner or operator of any stationary source to make any capital expenditure to reduce nitrogen oxide emissions. *[S. Floor]*

LITIGATION

In ***Coalition for Clean Air, et al. v. Air Resources Board***, No. 372697 (Sacramento County Superior Court), a coalition of environmental groups has sued ARB over its approval of SCAQMD's air quality plan, which—according to the coalition—fails to take strong measures in regulating the quality of the air found in the Los Angeles Basin. The action also attacks ARB's conditional approval of SCAQMD's proposed Regional Clean Air Incentives Market (RECLAIM) program. *[13:1 CRLR 99–100]* At this writing, the court has scheduled a hearing on the coalition's petition for writ of mandate in September.

RECENT MEETINGS

At its February meeting, ARB considered approval of the air quality attainment plans for Kern, San Bernardino, and Imperial counties. The Board found that the San Bernardino and Imperial plans were deficient in that they required the submission of additional information on emission accounting, indirect source control measures, and commitment to adopt best available retrofit control technology for larger sources. In addition, both districts have not yet adopted and implemented a "no net increase" new source review rule. The Board fully approved the Kern plan, and conditionally approved the San Bernardino and Imperial plans with specified conditions and timetables for correcting plan deficiencies.

At its March meeting, the Board considered approval of Placer County's 1991 air quality attainment plan. The plan, which was submitted to ARB in April 1992, was approved by the Board with specified conditions to correct deficiencies. The deficiencies include adoption of the required new source permitting rule, development of a mechanism to provide for uniform control measures within the planning area, and several actions related to transportation control measures.

FUTURE MEETINGS

September 9–10 in Sacramento.
October 14–15 in Sacramento.
November 18–19 in Sacramento.
December 9–10 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. A CoIWMP submitted by a local government must outline the means by which its locality will meet AB 939's requirements of a 25% waste stream reduction by 1995 and a 50% waste stream reduction by 2000. Under AB 939, the primary components of waste stream reduction are recycling, source reduction, and composting.

A CoIWMP is comprised of several elements. Each city initially produces 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 city 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 city and should be separated from the solid waste stream. After receiving each city's contribution, the county produces an overall CoIWMP, which includes all of the individual city plans' elements plus a county-prepared plan for unincorporated areas of the county, as well as a countywide siting element which provides a description of the areas to be used for