



rejected this argument, finding nothing in the Milk Stabilization Act which requires the Director "to assure an adequate supply of the products which are manufactured from...market milk." The court also rejected the cheese companies' challenge to the facial constitutionality of section 62062, on grounds that a milk pricing scheme which fails to ensure the supply of cheese favors only the monetary interests of milk producers. In this regard, the court reviewed a long line of cases establishing the constitutionality of statutes regulating milk production and pricing, because the industry is "clothed with a public interest" and "the statutes primarily protect the consumer, not milk producers, by protecting the quality and quantity of the milk they drink." (See *supra* MAJOR PROJECTS for discussion of a related Attorney General's Opinion.)

In a companion case, *Golden Cheese*

Company of California, et al. v. Voss, 230 Cal. App. 3d 727 (May 24, 1991), the same court rejected the cheese companies' assertions that the CDFG Director's cheese-specific pricing formula constitute a regulatory taking of its property by inverse condemnation. Applying the three "taking" factors set forth by the U.S. Supreme Court in *Connolly v. Pension Benefit Guaranty Corporation*, 475 U.S. 211 (1986), the Fourth District rejected the companies' "as applied" challenge, primarily because it found they have no reasonable investment-backed expectation of any particular milk price level, and because valid price regulation is a traditional exercise of the police power.

FUTURE MEETINGS:

The State Board of Food and Agriculture usually meets on the first Thursday of each month in Sacramento.

-the Department of Toxic Substances Control (transferred intact from the Department of Health Services), which would handle responsibility for the regulation and clean-up of hazardous waste;

-the Department of Pesticide Regulation, transferred intact from the California Department of Food and Agriculture (CDFG); and

-the Office of Environmental Health Hazard Assessment (functions transferred from DHS), which would oversee risk assessment and the implementation of the Safe Drinking Water and Toxics Enforcement Act of 1986 (Proposition 65).

Under the Governor's reorganization plan, the Secretary will serve as the primary point of accountability for the management of environmental protection programs. The Office of the Secretary will bring together functions which cut across the various programs designed to address pollution in a single medium (e.g., air, surface water, groundwater, land). In releasing his plan, Wilson acknowledged that it will not necessarily lead to a change in environmental law or policy, but is intended to correct the current "dilution of accountability" by consolidating related environmental responsibilities now divided among several state agencies.

Following its release to the public, the reorganization plan was forwarded to the legislature and to the Commission on California State Government Organization and Economy (the "Little Hoover Commission"), which studied it, held public hearings on May 22-23, and released its evaluation of the proposal on June 7. The Little Hoover Commission concluded that the Cal-EPA plan should be adopted, but made several recommendations for legislative adjustment of the proposal. (See *supra* agency reports on CDFG and LITTLE HOOVER COMMISSION for background information.)

Under the executive reorganization statute, the legislature has 60 days to veto it. The plan is referred to an appropriate standing committee in each house, each of which reports to the respective floors at least ten days prior to the end of the 60-day period. The only legislative action allowed by law is for either house to adopt a resolution declaring that it "does not favor" the plan. The plan may not be modified, amended, or approved—only vetoed. If no action is taken by either house, the plan automatically takes effect on the sixty-first day. The legislature had until July 16 to veto Governor Wilson's Cal-EPA proposal.

ARB Amends Permit Fee Regulations for Nonvehicular Sources. On April 11, the Board adopted new section 90800.2



RESOURCES AGENCY

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. 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.

MAJOR PROJECTS:

ARB Included in Governor's Cal-EPA Plan. On April 17, Governor Wilson released the details of his plan to create the California Environmental Protection Agency (Cal-EPA). (See CRLR Vol. 11, No. 2 (Spring 1991) p. 134 and Vol. 11, No. 1 (Winter 1991) p. 112 for background information.) Pursuant to his "executive reorganization" authority under Government Code section 12080 *et seq.*, Wilson proposes to establish Cal-EPA and place within it the cabinet-level Office of the Secretary for Environmental Protection and six distinct units:

-three existing agencies from the Resources Agency—ARB, the California Integrated Waste Management and Recycling Board, and the Water Resources Control Board (including the regional water quality control boards); these boards will retain their existing memberships, jurisdiction, and autonomy;



REGULATORY AGENCY ACTION

and amended sections 90801 and 90803, Title 17 of the CCR, to implement part of the California Clean Air Act (Chapter 1568, Statutes of 1988). Specifically, section 39612 of the Health and Safety Code authorizes ARB to require local air pollution control and air quality districts to collect fees from permitholders for pollution sources located in nonattainment areas which emit 500 tons or more per year of any nonattainment pollutant. New section 90800.2 specifies the fee rate and amounts to be remitted to ARB for the 1991-92 fiscal year, which is the third year of the nonvehicular source permit fee program. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 163-64 and Vol. 9, No. 3 (Summer 1989) p. 100 for background information.) In accordance with the adopted regulation, districts are now required to assess each qualifying facility a fee of \$12.02 per ton of emissions of nonattainment pollutants, and transfer those fees to ARB.

ARB approved the proposed regulatory changes with slight modifications; thus, staff was directed to release the modified language for a 15-day comment period. At this writing, staff is still preparing the rulemaking file for submission to the Office of Administrative Law (OAL).

Board Amends Atmospheric Acidity Protection Act Fees. In the Atmospheric Acidity Protections Act of 1988, the legislature made a finding that deposits of atmospheric acidity resulting from other than natural sources is occurring in various regions of California, and that continued depositions of this acidity could have significant adverse effects on public health, the environment, and the economy. The legislature directed ARB to adopt and implement the Atmospheric Acidity Protection Program, to determine the nature and extent of potential damage from this source, and to develop measures which may be needed for the protection of public health and the environment.

The Act authorizes ARB to require districts to impose additional variance and permit fees on nonvehicular sources which emit 500 tons or more of either sulfur oxides or nitrogen oxides. During the first year of the program, the Board adopted sections 90620-23, Title 17 of the CCR, establishing the fee program, including the fee rate and amounts to be remitted to ARB by the districts. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 164 and Vol. 9, No. 3 (Summer 1989) p. 100 for background information.)

On April 11, the Board adopted new section 90621.2 and amended sections 90620 and 90622, Title 17 of the CCR.

New section 90621.2, applicable to fiscal year 1991-92, provides for the collection of emission fees by districts on a \$7.21-per-ton basis and the forwarding of collected fees to ARB. At this writing, staff is still preparing the rulemaking file on this proposed action for submission to OAL.

Procedures for Administrative Hearings for Contesting Citations Issued Under the Heavy-Duty Vehicle Roadside Smoke and Tampering Inspection Program. On May 9, the Board held a public hearing on the proposed addition of new sections 60075.01-.47, Title 17 of the CCR, to implement SB 1874 (Presley) (Chapter 1433, Statutes of 1990). That bill authorizes ARB to adopt regulations regarding the conduct of administrative hearings for owners of vehicles cited under ARB's Heavy-Duty Vehicle Roadside Smoke and Tampering Inspection Program. (See CRLR Vol. 11, No. 1 (Winter 1991) pp. 114-15 for background information.)

The rules provide for hearings upon request of the owner of the vehicle within 30 days of the notice of violation or citation, and specify that the hearing will be conducted by a hearing officer (probably an in-house ARB administrative law judge). The rules include provisions regarding discovery, including the issuance of subpoenas and subpoenas duces tecum, depositions, and evidence by affidavit or declaration. The decision of the hearing officer is final unless the ARB Executive Officer orders reconsideration at the request of a party or on his/her own motion. If the vehicle owner does not seek judicial review within 60 days, the final order is not subject to any further review by any court or agency, and may then be reduced to a judgment for enforcement purposes pursuant to section 44011.6(j) of the Health and Safety Code.

Following the hearing, the Board adopted the proposed regulations. At this writing, staff is preparing the rulemaking file for submission to OAL.

Update on Other ARB Regulatory Changes. The following is a status update on regulatory changes approved by ARB and discussed in detail in previous issues of the Reporter:

-The Board's February 1991 amendments to sections 94131, 94132, and 94142, Title 17 of the CCR, which expand existing ARB test methods for measuring air emissions from stationary sources to include gaseous fluoride, 1,3-butadiene, and acetaldehyde, have not yet been submitted to OAL at this writing. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 138-39 for background information.)

-In December 1990, ARB broke new regulatory ground by unanimously approving emission standards for gasoline-powered lawnmowers, leaf blowers, and other home and garden tools. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 115 for background information.) The new standards will require substantial modifications in utility engines, possibly including catalytic converters, to reduce emissions by 46% by 1994 and by 55% by 1995. On March 15, ARB staff conducted a workshop to explain the certification process of utility and lawn and garden engines, as well as audit procedures for quality assurance. The regulations, which will be codified at sections 2400-2407, Title 13 of the CCR, have not yet been submitted to OAL for approval.

-The Board's December 1990 amendments to section 2256, Title 13 of the CCR, which modify the procedures for certifying alternative diesel fuel formulations, have not been submitted to OAL for approval at this writing. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 115 for background information.)

-ARB's December 1990 amendment to section 93000, Titles 17 and 26 of the CCR, identifying chloroform as a toxic air contaminant (TAC), was approved by OAL on May 10. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 116 for background information.)

-The Board's December 1990 amendment to section 93000, Titles 17 and 26 of the CCR, identifying vinyl chloride as a TAC, was also approved by OAL on May 10. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 116 for background information.)

-The Board's December 1990 amendments to its conflict of interest code, to cover newly-created positions and to delete coverage for obsolete positions, were submitted to the Fair Political Practices Commission for review on March 20. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 116 for background information.)

-On April 10, ARB staff released a modified version of the Board's test procedures to detect excessive smoke emissions from heavy-duty diesel-powered vehicles and inspection procedures to detect tampered or defective emission control systems components on gasoline- and diesel-powered vehicles. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 114 for background information.) The new test procedures, which were adopted by ARB in November 1990, will be codified at sections 2180-2187, Title 13 of the CCR. The public comment period on the modified language ended on April 25; at this writing, staff is still preparing



the rulemaking file for submission to OAL.

-In November 1990, the Board unanimously approved revisions to the area designation regulations contained in sections 60200-60209, Title 17 of the CCR. The revisions to the designation regulations came in response to new air quality data collected in 1989 regarding specific geographic areas. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 115; Vol. 10, No. 4 (Fall 1990) p. 139; and Vol. 9, No. 4 (Fall 1989) p. 108 for extensive background information.) OAL approved these amendments on April 29.

-ARB's November 1990 amendments to sections 92000, 92200, 92220, 92400, 92500, 92510, 92520, 92530, and 92540, Title 17 of the CCR, were approved by OAL on May 1. Among other things, these changes to ARB's abrasive blasting regulations require the use of a certified abrasive in all dry blasting not conducted in a permanent building; eliminate the obsolete opacity standard applied to the use of uncertified abrasives; impose a 40% opacity standard for all permissible outdoor blasting; and replace rules allowing the use of certified abrasives with a 40% opacity rating or uncertified abrasives with a 20% standard in outdoor blasting. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 115 for background information.)

-ARB's October 1990 adoption of new Article 2, Consumer Products (sections 94507-94516), new section 94503.3, and its amendment to section 94505, Title 17 of the CCR, which will reduce volatile organic compound (VOC) emissions from consumer products by establishing limits on VOC content effective 1993 for six categories and January 1994 for ten other categories and by requiring registration of selected products, has not been submitted for OAL approval at this writing. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 113 for background information.)

-In September 1990, the Board adopted new regulations which will coordinate the introduction of stringent exhaust emission standards and test procedures for light- and medium-duty vehicles, and the availability of commensurate volumes of clean-burning fuels for those vehicles. The regulations also provide new specifications for "Phase 1 Reformulated Gasolines." (See CRLR Vol. 11, No. 1 (Winter 1991) p. 113 for detailed background information.) The Phase I gas specifications (new sections 2251.5, 2253.4, and 2257, and amendments to sections 2251, 2252, 2253.2, and 2254, Title 13 of the CCR) were approved by OAL on May 6. The new emission standards and test procedures for low-emis-

sion vehicles (amendments to sections 1900, 1904, 1956.8, 1960.1, 1960.1.5, 1960.5, 2061, 1965, 2111, 2112, 2125, and 2139, and the adoption of new sections 2300-2345, Title 13 of the CCR) have not yet been submitted to OAL.

-ARB's September 1990 amendments to sections 90700-90704, Titles 17 and 26 of the CCR, which include both a list of substances which must be inventoried by facilities subject to the Air Toxics "Hot Spots" Information and Assessment Act of 1987, Health and Safety Code section 44300 *et seq.*, and a fee schedule, were approved in part and disapproved in part by OAL on March 23. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 140 for background information.) OAL approved the revised list of substances, but disapproved the fee schedule. However, on March 26, ARB filed an emergency regulation containing the fee schedule, which OAL approved on March 28. The emergency fee schedule is effective until July 26.

-ARB's August 1990 amendments to section 1976, Title 13 of the CCR, which specify standards for running losses and extend the durability requirements for evaporative emission control systems to be the same as those for exhaust hydrocarbon systems, were revised and released for a 15-day public comment period ending on March 15; staff hoped to submit the rulemaking file to OAL by mid-June. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 142 for background information.)

-New section 93104, Titles 17 and 26 of the CCR, which provides airborne toxic controls for dioxin emissions from medical waste incinerators and was adopted by ARB in July 1990, was submitted to OAL for review on May 24. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 141 for background information.)

-ARB's July 1990 amendment to section 93000, Title 17 and 26 of the CCR, which adds inorganic arsenic to the list of TACs, was approved by OAL on June 6. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 141 for background information.)

-ARB's June 1990 amendments to sections 1900, 1956.8, 1960.1, 1968.1, 2061, 2112, and 2139, Title 13 of the CCR, regarding hydrocarbon, carbon monoxide, and nitrogen oxides exhaust emission standards and test procedures for light-duty trucks, medium-duty vehicles, and light heavy-duty vehicles, were rejected by OAL on May 28. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 140 for background information.) OAL found that the rulemaking record failed to satisfy the necessity and clarity standards of Government Code section 11349.1, and noted several technical violations of the

Administrative Procedure Act. ARB intends to amend its regulatory file and resubmit it to OAL.

-The Board's April 1990 adoption of new section 93106, Titles 17 and 26 of the CCR, which sets forth an airborne toxic control measure regulating permissible levels of asbestos-content serpentine rock used in surfacing applications, was disapproved by OAL on March 25. OAL found that the rulemaking file failed to satisfy the clarity and necessity standards of Government Code section 11349.1, and that ARB failed to adequately summarize and respond to all public comments. ARB corrected these deficiencies and resubmitted the file to OAL for approval on May 19. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 163 for background information.)

LEGISLATION:

SB 1160 (Leonard), which, as amended May 2, would require ARB to establish minimum standards for reformulated gasoline, is pending in the Senate Appropriations Committee.

AB 1378 (Connolly), as amended June 3, would impose limitations on the burning of rice straw in the Sacramento Valley Air Basin and would require ARB to adopt regulations and perform specified duties to enforce these limitations. This bill is pending in the Assembly Ways and Means Committee.

AB 1419 (Lempert), as amended April 15, would prohibit the import, delivery, purchase, receipt, or other acquisition for sale, rental, or lease of a used motor vehicle, unless the model of the vehicle has been certified by ARB as a new motor vehicle. This bill was rejected by the Assembly Transportation Committee on May 20; however, the Committee granted the bill reconsideration on that date.

AB 1514 (Hayden), as amended June 3, would require the Department of Health Services (DHS), in submitting to ARB recommendations for ambient air quality standards, and ARB, in adopting air quality standards, to determine if any adoption, amendment, revision, or extension of the recommendations/standards adequately protects the health of infants and children and, if not, to take more stringent action. The bill would also require DHS/ARB to revise certain standards to adequately protect the health of infants and children by initiating the revisions on or before January 1, 1995, and adopting those revisions on or before January 1, 1999. This bill is pending in the Assembly Agriculture Committee.



REGULATORY AGENCY ACTION

SJR 26 (Presley), as introduced May 20, would urge the U.S. Environmental Protection Agency (EPA) to refrain from publishing a guidance for the states for motor vehicle inspection and maintenance programs until ARB and other interested parties review data underlying that guidance, and to select a guidance which provides substantial emission reductions while providing maximum flexibility to the state to demonstrate the effectiveness of its chosen form of inspection. (See *supra* agency report on BUREAU OF AUTOMOTIVE REPAIR for background information on this issue.) This resolution was passed by the Senate on May 30 and is pending in the Assembly Transportation Committee.

SB 46 (Torres), as amended May 7, would revise the definition of toxic air contaminant to delete an exclusion for pesticides, and to include specified substances; this bill would also redefine the threshold level below which no health effects are anticipated. This bill is pending in the Senate Appropriations Committee.

SB 135 (Boatwright), as amended May 7, would require ARB, by January 1, 1993, to adopt emission standards and test procedures applicable to new engines for transit buses, to be effective by January 1, 1996. This bill would also require ARB to adopt emission standards for heavy-duty public transit vehicles, as specified. This bill passed the Senate on May 30 and is pending in the Assembly Transportation Committee.

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 2 (Spring 1991) at pages 140-41:

AB 1122 (Sher), as amended May 15, and *SB 51 (Torres)*, as amended April 10, would both create the California Environmental Protection Agency (Cal-EPA) by reorganizing the Resources Agency and transferring functions of agencies outside the Resources Agency to the new Cal-EPA. Both bills would move ARB to Cal-EPA. (See *supra* MAJOR PROJECTS for related discussion.) *AB 1122* is pending in the Assembly Ways and Means Committee; *SB 51* is pending in the Senate Appropriations Committee.

SB 295 (Calderon), as amended April 8, would limit the cost of an automobile smog check test to \$50, exclusive of the charge for the certificate of compliance, and would impose an additional \$1 for motor vehicle Smog Check Program certificates; the amounts collected from this \$1 fee would be used to fund a program for individuals to report to the Department of Consumer Affairs vehicles which emit unusual amounts of pollutants. This bill was rejected by the Sen-

ate Transportation Committee on April 30; however, the Committee granted the bill reconsideration on that same date.

SB 431 (Hart), as amended April 24, would enact the Demand-based Reduction in Vehicle Emissions (Plus Reductions in Carbon Dioxide) (DRIVE) Program of 1991; require ARB to adopt implementing regulations; and apply sales tax credits and surcharges on the sale or lease of new passenger cars, light-duty trucks, and medium-duty vehicles on the basis of the level of specified pollutants emitted. This bill is pending on the Senate floor.

AB 187 (Tanner), as introduced January 4, would provide that substances listed in recently-enacted amendments to the Clean Air Act are toxic air contaminants, and would require ARB to compile and maintain a list of those substances. This bill is pending in the Assembly Committee on Environmental Safety and Toxic Materials.

AB 212 (Tanner), as amended March 14, would make various findings and declarations relating to the need to develop a plan for state action to determine the risks posed by exposure to indoor air pollution, and require ARB and DHS to submit a specified report to the Governor and the legislature by January 1, 1993. This bill is pending in the Assembly Ways and Means Committee.

AB 280 (Moore). Existing law requires ARB, by regulation, to prohibit the use of heavy-duty motor vehicles determined to have excessive smoke emissions or other emissions-related defects. ARB may issue citations for violations; the vehicle owner is required to correct deficiencies identified in the citation, and pay a civil penalty and an additional \$300 penalty. As amended April 16, this bill would require that \$300 penalty to be reduced to \$25 if the owner takes corrective action which is certified to the Board within 45 days. This bill passed the Assembly on May 9 and is pending in the Senate Transportation Committee.

AB 405 (Eaves), as introduced February 4, would authorize air pollution control districts, with respect to mobile and stationary sources of pollution, to establish and implement a system to use emission reductions to offset future increases; impose various restrictions on the use of offsets; and establish a state panel to develop guidelines for mobile source offset programs, which the bill would require ARB to adopt. This bill is pending in the Assembly Public Safety Committee.

AB 484 (Connelly), as amended May 24, would impose specified limitations on the burning of rice straw in the Sacra-

mento Valley Air Basin and require ARB to adopt regulations and perform prescribed duties regarding the limitations. This bill is pending in the Assembly Agriculture Committee.

AB 691 (Hayden), as introduced February 25, would make a statement of legislative intent regarding the manufacture and sale of specified chlorofluorocarbons (CFCs), and would, on and after January 1, 1993, except as specified, require the use of refrigerant recycling equipment approved by ARB in the servicing of vehicle air conditioners and other specified activities in the course of which specified refrigerants are or may be released. This bill is pending in the Assembly Committee on Environmental Safety and Toxic Materials.

AB 859 (Vasconcellos), as amended May 22, would make a statement of legislative intent; require specified reductions in the percentage of new motor vehicles equipped with air conditioners which utilize CFC-based products and which are sold, offered for sale, or certified for sale; and require ARB to adopt regulations to provide for the enforcement of those provisions. This bill is pending on the Assembly floor.

SB 1166 (Hill). Existing law requires ARB to establish maximum standards for the volatility of gasoline sold in California at or below 9 pounds per square inch Reid vapor pressure, except that a blend of gasoline consisting of at least 10% ethyl alcohol is exempt, until October 1, 1993, from meeting the volatility standard if the gasoline used in the blend meets the volatility standard for gasoline. As amended May 30, this bill would make that exemption inapplicable after October 1, 1993, to any blend of gasoline, the use of which results in an increase in vehicular emissions. This bill is pending on the Senate floor.

SB 1211 (Committee on Energy and Public Utilities), as amended May 7, would require ARB to adopt regulations requiring clean fuel producers, suppliers, distributors, and retailers to supply ARB with cost and price information, and require ARB to consult with other specified agencies and to report to the legislature concerning that information and whether clean fuels are being marketed at commercially reasonable terms. This bill is pending on the Senate floor.

SB 1213 (Killea), as introduced March 8, would authorize air pollution control districts and air quality management districts designated as nonattainment areas for state ambient air quality standards for ozone or carbon monoxide by ARB to adopt regulations to require operators of public and commercial light- and medium-duty fleet vehicles,



except as specified, when adding or replacing vehicles or when purchasing vehicles to form a new motor vehicle fleet, to purchase low-emission motor vehicles and to require, to the maximum extent feasible, that those vehicles be operated on a cleaner burning alternative fuel. This bill is pending in the Senate Committee on Governmental Organization.

RECENT MEETINGS:

At the Board's March 15 meeting in Sacramento, ARB staff presented a status report on the Air Toxics Monitoring Program (also referred to as the "AB 1807 Program"). Since the initiation of the program nearly seven years ago, the number of sites at which toxics are monitored has increased from 6 stations to 22 stations plus a roving mobile station. The number of compounds reported has increased from 8 to 33, with a corresponding increase in annual analyses from 2,500 to over 29,000. The Monitoring Program has been innovative from the start, with ARB staff designing volatile and nonvolatile substance sampling systems which are now able to detect substances as low as 0.01 parts per billion. The Program has also coordinated with the National Institute of Standards and Technology to develop sub-part per billion reference standards gasses.

Also at the March 15 meeting, ARB staff presented the Annual Report on the Toxic Air Contaminant (TAC) Identification Program and an update to the list of TACs. The TAC Identification Program is authorized by Health and Safety Code section 39650 *et seq.*, which directs ARB to identify substances which may cause or contribute to an increase in mortality or serious illness, or which may pose a present or potential hazard to human health. ARB is also directed to evaluate the need for and appropriate degree of regulation for substances identified as TACs. The resulting TAC Control Measure Development Program has made decisions affecting over 2,300 stationary sources of TACs, resulting in an estimated 2,000 to 7,000 potential lifetime cancer cases avoided.

ARB staff made two presentations at the meeting. The first addressed the steps leading to the recommendation that a substance be identified by the Board as TAC. Fourteen substances are currently identified as TACs, with an additional nine substances under review for TAC listing.

The second presentation concerned proposed revisions to the 1990 TAC Identification List. The purpose of the list is to assist ARB staff with the selec-

tion of substances for review as TACs. The proposed changes to the list include revising category definitions, revising the status of some of the substances on the 1990 list, and adding substances to the list. The proposed revisions are partly based on the listing of 189 hazardous air pollutants in the federal Clean Air Act. Since the Board is required to identify hazardous air pollutants as TACs, all of the hazardous air pollutants not included on the 1990 list were added to the 1991 list. Category definitions were revised to reflect the status of substances in the process, the factors that are evaluated prior to revising the status of substances on the list, and the listing of federal hazardous air pollutants. Other substances not listed as hazardous air pollutants, but for which California emissions data were available, were also added to the list. Based on the revisions, 170 substances were proposed to be added to the 1991 list, for a total of 232 substances. These revisions were approved by the Board.

Also at the March 15 meeting, the Scientific Review Panel forwarded a letter to the Board recommending that environmental tobacco smoke be considered for identification as a TAC. ARB staff agreed to work with DHS on options to address the request.

At its April 11 meeting, the Board considered a proposed report to the legislature required by section 39611 of the Health and Safety Code, regarding prospects for meeting the state ambient air quality standards for particulate pollutants—specifically, suspended particulate matter (PM10), visibility reducing particles (VRP), sulfates, lead, and hydrogen sulfide. The major findings of the report are as follows: (1) Lead levels measured in California are well below state and national standards. Because lead is an extremely toxic pollutant, and public exposure in some areas may still be hazardous, ARB is evaluating the need to regulate lead as a TAC. (2) Problems with sulfates and hydrogen sulfide are infrequent, occur in only a few areas, and are relatively minor. (3) The PM10 problem is widespread, severe, and diverse, and represents a significant public health problem. (4) The state's visibility problems are also widespread. Staff believes that at least 10 of the 14 air basins exceed the state standard. Only Lake County is in attainment for VRP. (5) PM10 controls will assist in achieving the state standard for VRP.

Staff recommended that a control strategy for each area be developed, with emphasis on reducing public exposure to unhealthy PM10 levels. Staff also recommended establishment of a health

advisory program; evaluating the cost-effectiveness of PM10 controls; development of a methodology for assessing public exposure and tracking changes in relation to time; refinement of emission trading policies to account for the different health effects of PM10; and expansion of the information base for PM10 and VRP. All of these actions are presently within ARB's current authority, but specific legal mandates would be helpful and additional resources are essential if the state is to upgrade its program. The Board approved the report and directed the Executive Officer to forward the report to the legislature.

At ARB's May 9 meeting, staff made a presentation to the Board on three transportation guidance reports prepared by the Office of Strategic Planning. These reports include new development and clarification of policies set forth last year in the document *California Clean Air Act Transportation Requirements Guidance*. The new reports are entitled *Transportation Performance Standards of the California Clean Air Act, Employer-Based Trip Reduction: A Reasonably Available Transportation Control Measure*, and *High Occupancy Vehicle System Plans as Air Pollution Control Measures*. These reports are viewed as a continuation of last year's state guidance to local air pollution control districts on transportation control measure development. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 162 for extensive background information.)

FUTURE MEETINGS:

September 12-13 in Sacramento.
October 10-11 in Sacramento.
November 14-15 in Sacramento.
December 12-13 in Sacramento.

CALIFORNIA ENERGY COMMISSION

Executive Director: Stephen Rhoads
Chairperson: Charles R. Imbrecht
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In 1974, the legislature enacted the Warren-Alquist State Energy Resources Conservation and Development Act, Public Resources Code section 25000 *et seq.*, and established the State Energy Resources Conservation and Development Commission—better known as the California Energy Commission (CEC)—to implement it. The Commission's major regulatory function is the siting of powerplants. It is also generally charged with assessing trends in energy consumption and energy resources available to the state; reducing wasteful,