use. SB 356 would provide that appropriate crop sheets shall be developed and distributed to health care providers and employers by no later than March 1, 1991. Finally, this bill would provide that any waiver by an employee of the benefits or requirements of the Hazardous Substances Information and Training Act is against public policy, is void, and any employer's request or requirement that an employee provide such a waiver is a violation of the act. This bill is pending in the Assembly inactive file.

The following is a status update on bills described in CRLR Vol. 9, No. 4 (Fall 1989) at pages 106-07:

SB 970 (Petris) would enact the Child Poisoning Act and would prohibit the CDFA Director from renewing the registration of a household pesticide after December 31, 1990, if there is an acute effects data gap, as defined, for the product. This bill would also require CDFA to provide to the California Toxic Information Center a listing of all ingredients in any household pesticide registered in this state. This bill is pending in the Assembly Agriculture Committee.

SB 1251 (Mello), which would require the CDFA Director to establish the Task Force on Alternatives to Agricultural Chemicals, is pending in the Assembly Agriculture Committee.

SB 952 (Petris), which would require CDFA to report pesticide active ingredient data gap and other specified information to the legislature by March 1, 1990, is pending in the Assembly Health Committee.

AB 563 (Hannigan) would require CDFA to develop and establish a program for the collection of banned or unregistered agricultural waste on or before July 1, 1990, if specified funds are made available. This bill is pending on the Senate floor.

AB 618 (Speier) would provide that any packaged food distributed on or after January 1, 1991, is misbranded unless it bears a label disclosing specified nutritional information on the fat and cholesterol content of the food. This bill is pending in the Senate Health and Human Services Committee.

AB 1681 (Burton), which would have required the Occupational Safety and Health Standards Board of the Department of Industrial Relations to adopt mandatory data requirements for quarantine periods to protect field workers from hazardous pesticide residues in labor intensive crops, died in committee.

SB 1610 (Petris), which would have established the Sustainable Agricultural Research and Education Fund in the State Treasury, died in committee.

AB 417 (Connelly) would have, among other things, shifted the exclusive responsibility for the establishment, adoption, and revision of pesticide tolerances in raw agricultural commodities and processed foods from CDFA to DHS. This bill died in committee.

AB 311 (Felando), which would have required every food facility which sells any meat, poultry, vegetable, or fruit to post conspicuous signs identifying food additives in the food for sale, died in committee.

LITIGATION:

On May 25, 1989 in *People v. Reilly*, No. 89-0752-RAR-EM, Attorney General John Van de Kamp, the AFL-CIO, and several public interest groups sued the EPA in federal court in Sacramento, alleging that the agency has failed to enforce a provision of the federal Food, Drug, and Cosmetic Act known as the Delaney Clause, which bans the use of known carcinogens in foods. The suit seeks to outlaw the use of seven chemicals which leave concentrated residues in processed foods and to force EPA to gather new data on all pesticides approved for use on raw foods in order to determine whether they reach unsafe concentrations in processed foods.

In its answer filed on October 31, EPA said it does not yet have complete data and is in the process of obtaining additional data and issuing tolerances where appropriate. On November 20, several growers, food processors, and chemical industry groups filed a motion to intervene as co-defendants, arguing they have a right to intervene because disposition of the action may affect the food crops, processed foods, and agricultural chemicals that they produce. Also, the industry groups state they have a strong interest in maintaining tolerances for pesticide residues and the use of the associated agricultural chemicals. The Attorney General agreed to allow the industry groups to intervene. In the near future, the Attorney General plans to file a motion for summary judgment, and expects the EPA and industry groups to file a procedural motion to dismiss.

FUTURE MEETINGS:

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

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:

Aerosol Spray Regulations. The California Clean Air Act (Chapter 1568, Statutes of 1988) requires ARB to develop regulations to control consumer product emissions (Health and Safety Code section 41712). The Board is required to adopt regulations to achieve the "maximum feasible reduction" in consumer product emissions, but must find that the required reductions are "technologically and commercially feasible", and necessary.

Thus, at its November 8 meeting in Sacramento, ARB adopted new regulations intended to reduce volatile organic compound (VOC) emissions from antiperspirants and deodorants. VOC emissions from consumer products contribute significantly to California's serious air quality problems. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 110 for background information.)

Sections 94500-94506, Title 17 of the CCR, specify the allowable VOC content of antiperspirant and deodorant products to be attained. The reductions would be achieved primarily by requiring manufacturers to reformulate their products, with emphasis on eliminating the use of VOC propellants. These propellants are used to apply the products, but are generally not integral to the active formulation of the product.

The regulations will apply to any person who sells, supplies, offers for sale, or manufactures antiperspirants or deodorants in the state of California. Manufacturers are also required to display the date of manufacture on each product container, and to submit annual reports specifying the total number of antiperspirant and deodorant units sold in California and the VOC content of each unit.

Statewide implementation of the regulations is expected to ultimately reduce VOC emissions from the use of antiperspirants and deodorants by approximately 80%. The regulations will phase in control in several stages, with final compliance by January 1995.

A large number of consumer products contain varying quantities of VOCs. The VOCs contained in antiperspirants and deodorants evaporate on use and are carried outdoors to participate in chemical reactions which produce ozone, secondary particulates, and other ambient pollutants. The use of antiperspirants and deodorants results in statewide VOC emissions of approximately five tons per day.

ARB staff estimates the new aerosol regulations will add 25-50 cents to the cost of a product. Industry representatives, however, placed the cost between 31 cents and $2.36 per can. Aerosol spray cans make up approximately 25% of the California deodorant/antiperspirant market.

Those opposed to the regulations challenged the need for the rule, arguing that they would cost millions of dollars for little or no improvement in air quality. Additionally, manufacturers contend it will be difficult to achieve an 80% reduction from current levels by 1995. ARB staff conceded that work will be required to develop substitutes that neither contribute to smog, global warming, or depletion of the ozone layer.

Following the November 8 public hearing, the Board adopted the proposed regulations, with several modifications to the originally proposed language to accommodate public comment. The Board released the modified language for another comment period, which closed on December 20. These regulations also await Office of Administrative Law (OAL) review and approval.

New Emission Control System Warranty Requirements. At its December 15 meeting in Los Angeles, ARB considered proposed amendments to sections 2035-2041, Title 13 of the CCR, and the proposed adoption of section 1977 in Title 13, concerning emission control system warranty requirements and the use of common nomenclature for certification and service documents.

SB 1997 (Presley), enacted in 1988 and effective January 1, 1989, made substantial changes to the emission warranty requirements for 1990 and subsequent model passenger cars, light-duty trucks, and medium-duty vehicles. These requirements are contained in Health and Safety Code section 43205, which was subsequently amended by 1989 legislation (SB 1276 (Presley), Chapter 1154, Statutes of 1989), effective January 1, 1990.

As amended, section 43205 requires that manufacturers (1) provide an emissions-related "defects warranty" for three years or 50,000 miles; (2) provide an extended seven-year or 70,000-mile "extended defects warranty" for emission-related parts costing more than $300 to replace; (3) provide what is often known as a "performance warranty" under which the manufacturer warrants the vehicle will pass a Smog Check Program test for three years or 50,000 miles; and (4) warrant the vehicle is designed, built, and equipped so as to conform with applicable emission standards. SB 1997 left the emission warranty requirements largely unchanged for 1989 and prior model vehicles and engines, and for 1990 and subsequent model vehicles and engines other than light- and medium-duty vehicles (Health and Safety Code sections 43204, 43205.5).

The warranty legislation necessitates revisions to the Board's emission warranty regulations. These regulations, which were first adopted in 1978, still reflect the statutory warranty requirements before the enactment of SB 1997 and SB 1276. ARB staff therefore recommended that the Board amend its emissions warranty regulations (sections 2035-2041) to interpret and implement the new statutes and to improve the effectiveness of the warranty program. The amendments would be implemented for 1990 and subsequent model passenger cars, light-duty trucks, and medium-duty vehicles.

First, staff proposed a defects warranty period of three years or 50,000 miles, whichever first occurs. Prior to SB 1997, the defects warranty period for light- and medium-duty vehicles was five years or 50,000 miles, whichever first occurs, except that specified fuel metering and ignition system components only had to be warranted for two years or 24,000 miles. The proposed amendments would require manufacturers to warrant that their vehicles comply with applicable emission requirements and are free from defects in materials and workmanship in emission-related components for three years or 50,000 miles. The warranty coverage would also be extended to cover all emission-related parts, replacing the list of warranted parts previously utilized. The legislative background associated with the enactment of SB 1997 indicated an intent that reference to the parts list be deleted in favor of a broader "bumper-to-bumper" warranty for emission-related parts. The "bumper-to-bumper" warranty means that any part which affects emissions is covered.

Before SB 1997, there was no "extended defects warranty" or "performance warranty" requirement. SB 1997 requires both, and ARB's proposed reg-

ulations address both. The proposed regulations include an extended defects warranty period on specified emission-related components of seven years or 70,000 miles, whichever occurs first. During the certification process, each manufacturer must develop a list of emission-related components costing more than $300 to replace. The extended warranty coverage would be applicable to any diagnosis, repair, or replacement, as necessary, of the listed emission-related components. At the December 15 hearing, pursuant to public comments, ARB staff modified this warranty requirement to limit it to those parts on the existing list. The $300 cost limit would be revised annually by ARB's Executive Officer to reflect changes in the Consumer Price Index (CPI). The staff also modified the use of the CPI: the year-end CPI will be used except for early-introduced models; for those models, the currently available CPI will be utilized. The extended defects warranty is intended to cover critical emission control components such as the catalyst, the on-board computer, and possibly the fuel injection system.

In addition, the amendments will incorporate a performance warranty. The period for this warranty will be three years or 50,000 miles, whichever occurs first. A manufacturer must warrant that its vehicles will pass the California Smog Check Program test for this period. Under the proposed regulations, the manufacturer is also required to repair a vehicle which fails, so that it will pass the test, at no cost to the owner, unless the manufacturer demonstrates that the failure was directly caused by abuse, neglect, or improper maintenance.

Staff also proposed that manufacturers of all 1991 and newer vehicles include in their warranty booklet a standardized statement that clearly explains vehicle owners' rights and responsibilities regarding the emission control system warranty. The manufacturer's detailed warranty statement would follow this specified statement.

ARB staff further proposed that its warranty regulations be restructured to clarify existing requirements and incorporate the SB 1997 requirements. These changes affect all model vehicles which currently are subject to warranty requirements. The warranty requirements would be regrouped by category of warranty (defects or performance), applicable model years, and applicable vehicles and engines. Existing provisions consistent with the new warranty requirements for 1990 and subsequent model passenger cars, light-duty trucks, and medium-duty vehicles would be incorporated for those vehicles. Since the warranty regulations allow warranty coverage for up to ten years for some vehicles, the regulations would be applicable to all 1979 and subsequent model year vehicles and engines. In addition, the regulations would more explicitly provide that they apply to all vehicles certified to the California standards and registered in the state, regardless of the initial point of registration.

Finally, the staff recommended that the Board adopt section 1977, Title 13, which would require manufacturers to use common nomenclature in all emission-related service and certification documents. The Society of Automotive Engineers (SAE) has developed a procedure which standardizes the terms and abbreviations for emission control components. SAE publication J1930 "Diagnostic Acronyms, Terms, and Definitions for Electrical/Electronic Systems," Part C, was adopted in 1989 by the members of SAE to be used on a voluntary basis by the automotive industry. The use of standardized terminology makes it easier for the automotive industry, regulatory agencies, and consumers to understand the meanings of terms used in many vehicle service and certification documents. The proposed regulations would provide that all documents required by the Board's certification procedures, including emission-related vehicle and engine service procedures, must conform to the nomenclature and abbreviations in the SAE publication. The requirement would apply to all documents printed or reprinted by a manufacturer starting with the 1993 model year.

Following the December 15 hearing, the Board approved these proposed changes to existing warranty regulations with some modifications. In particular, the Board requested staff to more clearly define the term "warranted part," and changed the effective date of the regulations. Until 60 days after OAL approval, the definition of "warranted parts" will include all parts on the existing parts list. After the 60-day period, all vehicles will have a bumper-to-bumper warranty. Because of these modifications to the proposed regulations, the public comment period was extended for an additional fifteen days.

Progress Report on Staff's Proposed Regulatory Approach for Low-Emission Vehicles, Clean Fuels, and New Gasoline Specifications. At its December meeting, ARB endorsed staff's approach to the development of proposals for the introduction of vehicles meeting new, low-emission standards (low-emission vehicles), the introduction of new, cleaner-burning fuels (clean fuel), and new specifications on gasoline. The low-emission vehicle component of staff's proposed program would augment the *Post-1987 Motor Vehicle Plan,* which is the Board's adopted list of vehicular control measures to be developed according to a set timetable. The proposal would go beyond the recently adopted emission standard for non-methane hydrocarbons, 0.25 gram/mile, both by lowering the standard and by setting the standard according to the ozone-forming potential of emissions from different fuels. The proposal is designed to help fulfill the Air Quality Management Plan (AQMP) for the South Coast Air Basin, which the Board approved at its August 1989 meeting. Tiers II and III of the AQMP envision the introduction of low- and ultra-low-emission vehicles. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 107 for background information.)

Staff's proposal for clean fuels is designed to fulfill the intent of the recommendations of the AB 234 Advisory Board on Air Quality and Fuels. This component of the program is directed toward the fuels to be used in the vehicles meeting the new, low-emission standards. Proposed new specifications for conventional gasoline would reduce emissions from the existing fleet of gasoline-fueled vehicles, which will also help to fulfill the South Coast AQMP requirements. The program is designed to be a single comprehensive package of regulations which specifies all future requirements at one time.

By reducing emissions of hydrocarbons and nitrogen oxide, the proposed program would assist in attaining the federal and state ambient ozone standards and the emission reductions required by the California Clean Air Act. By reducing emissions of benzene and other potential toxic air contaminants, the program will help implement the directives of AB 1807 (which established the ARB's program for identifying and controlling toxic air contaminants) and of AB 4392 (which calls for expeditious control of toxic pollutants

from motor vehicles). The program also satisfies the requirements in the California Clean Air Act for the Board's consideration of a lower aromatic content, lower volatility, and the use of additives in gasoline.

The staff's proposal is comprised of a short-term program for conventional gasoline and a long-term program for phasing in low-emission vehicles and clean fuels. The short-term program is a set of specific compositional regulations proposed for gasoline. They include, at a minimum: (1) requirements for lower benzene content, and, possibly, a lower aromatic content; (2) lower Reid vapor pressure (a measure of the gasoline's tendency to evaporate); and (3) the inclusion of deposit-control additives. These regulations would go into effect within a few years. Staff will also consider requiring improvements in the composition of gasoline that is intended for older vehicles.

The long-term program would result in a phase-in of clean fuels over time. The phase-in of clean fuels would be timed to support the introduction of transitional low-emission vehicles (TLEVs), low-emission vehicles (LEVs), and ultra-low-emission vehicles (ULEVs) by the motor vehicle industry. The TLEVs would meet emission standards less stringent then LEV standards but more stringent than the standards recently adopted by the Board. The introduction of each progressively cleaner class of vehicle would begin as soon as is technologically possible. According to staff's initial proposed timetable, in 1994, up to 10% of each vehicle manufacturer's sales would be required to meet TLEV standards; by 1997, one-fourth of each manufacturer's sales would be required to meet LEV emission standards. A much smaller fraction would have to meet ULEV emission standards beginning in 1995. The LEV and ULEV sales requirements would increase in subsequent years to induce manufacturers to apply the respective advanced technologies to more models.

Fuel suppliers would be required to sell a certain percentage of fuel as clean fuel, commensurate with the number of TLEVs, LEVs, and ULEVs on the road. To qualify as a clean fuel, a fuel would have to meet the following emission criteria in selected test vehicles: (1) the appropriate exhaust emission standards for hydrocarbons, carbon monoxide, and nitrogen oxide; and (2) the toxic pollutant emission standards for benzene and formaldehyde. ARB staff is evaluating the desirability and feasibility of phasing in clean fuels not only with time but also geographically. For example, during initial years the clean fuel requirement might be limited to southern California. Staff is also evaluating the effects clean fuel use would have on emissions of greenhouse gases (such as carbon monoxide and methane).

Concerns voiced by industry and suggestions by Board members will also be considered by the staff. The industry is primarily concerned with the limited time frame and the lack of trained personnel to meet the requirements. Industry members also expressed their desire for the data upon which the staff relied in preparing its proposals. The Board recommended revisiting, at a later time, a credit-system for consumers in the clean fuel phase of the program.

Identification of Air Pollution "Transport Couples." The California Clean Air Act significantly revised Division 26 of the Health and Safety Code by adding several requirements concerning plans and control measures to attain and maintain the state ambient air quality standards. One of these provisions, Health and Safety Code section 39610(a), requires the Board, based upon the preponderance of available evidence, to identify each air pollution control district in which transported air pollutants from upwind areas outside the district cause or contribute to a violation of the state ambient air quality standard for ozone within the district, as well as the district of origin of the transported pollutants. Health and Safety Code section 40911(b) requires any district which is a receptor or contributor of transported air pollutants, as determined under section 39610(a), to prepare and submit a plan for attaining and maintaining specified state ambient air quality standards to ARB not later than June 30, 1991.

At its December meeting, ARB approved proposed section 70500, Title 17 of the CCR. Table 1 of the new section identifies "transport couples" (contributor and receptor districts). Some of the couples identified are the San Diego Air Basin, as impacted by the South Coast Basin; the San Joaquin Valley Air Basin, as impacted by San Francisco Bay Area Air Basin and the Broader Sacramento Air Basin; and the Southeast Desert Air Basin, as impacted by transport from the South Coast Air Basin and the San Joaquin Valley Air Basin.

Table 2 of proposed section 70500 contains potential transport areas requiring further research. Some of the areas listed in Table 2 include the Southeast Desert Air Basin, as possibly impacted by transport from the San Diego Air Basin and Mexico; the North Central Coast Air Basin, as possibly impacted by the Outer Continental Shelf; and the "Upper Sacramento" Valley, as possibly impacted by the San Francisco Bay Area Air Basin. During public comment, several additions were made to Table 2. These additions include San Joaquin Valley as possibly impacting the Bay Area; the North Central Coast as possibly impacting the San Luis Obispo area; the San Joaquin Valley Air Basin as possibly impacting the San Luis Obispo area; the South Coast as possibly impacting the San Joaquin Valley area; the South Central Coast as possibly impacting the San Joaquin Valley area; and the North Coast as possibly impacting the Bay Area. Further, the Tahoe Basin was suggested by a Board member as an addition to the receptor list in Table 2.

The rulemaking package on the addition of section 70500 is currently being prepared 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 CRLR Vol. 9, No. 4 (Fall 1989) at pages 107-10:

-New section 1968.1, Title 13 of the CCR, which requires vehicle manufacturers to equip 1994 and later model vehicles with advanced on-board diagnostic systems (OBD II), has not yet been filed with OAL at this writing.

-ARB's September 15 amendments to sections 90700-90704 and 93300-93347, Titles 17 and 26 of the CCR, which assess fees against all facilities which emit greater than or equal to ten tons per year of specified pollutants, have not yet been filed with OAL at this writing.

-Also awaiting submittal to OAL for approval are the Board's June 8 amendments to sections 1960.1, 1960.5, 2061, and 2112, Title 13 of the CCR, which specify lower new car and light-duty truck emission standards for certain pollutants; the Board's July amendment to section 9300, Titles 17 and 26 of the CCR, which identifies methylene chloride as a toxic air contaminant; new sections 1990-1994, Title 13 of the CCR, which provide the mechanism for col-

lecting annual new motor vehicle certification fees; and amendments to sections 1956.8, 1965, and 1976(c), Title 13 of the CCR, approved by ARB in September. These amendments set new certification standards and test procedures for new heavy-duty vehicles and engines fueled with compressed natural gas or liquefied petroleum gas.

-New sections 90800-90803, Title 17 of the CCR, which provide for changes in the mechanisms by which the Board and regional districts collect fees to help defray the cost of implementation of the California Clean Air Act, were approved by OAL on October 6.

-New sections 90620-90623, Title 17 of the CCR, which implement the Atmospheric Acidity Protection Act of 1988 (Health and Safety Code sections 39900-39911), were approved by OAL on December 7.

-New sections 70300-70306, Title 17 of the CCR, which set forth criteria for the designation of an air basin as attainment or nonattainment for any state ambient air quality standard, were approved by OAL on October 6.

-Finally, new section 86000, Title 17 of the CCR, which amends the New and Modified Stationary Source Review Rules of the eight San Joaquin Valley County Air Pollution Control Districts, was approved by OAL on October 23.

LEGISLATION:

The following is a status update on bills described in CRLR Vol. 9, No. 4 (Fall 1989) at pages 109-10:

AB 2532 (Vasconcellos) would require that ARB adopt regulations for the phase-out of small quantity containers made of chlorofluorocarbons (CFCs). This bill is pending in the Assembly Committee on Environmental Safety and Toxic Materials.

AB 1718 (Hayden) would require the use of refrigerant recycling equipment approved by ARB in the servicing of vehicle air conditioners having CFC coolants and would prohibit selling those coolants in specified small quantities. This bill is pending in the Senate Natural Resources and Wildlife Committee.

SB 1677 (Garamendi) would require local air pollution control districts to designate persons as voluntary clean fuel consumers by virtue of their use of clean fuels rather than fuel oil in the combustion process. This bill is pending in the Assembly Natural Resources Committee.

AB 911 (Killea) would make a statement of legislative intent with respect to the attainment of federal and state ambient air quality standards through the purchase and use of low-emission vehicles and fuel. This bill is pending in the Senate Transportation Committee.

SB 907 (Vuich) would require any bus acquired for public transit service, by any public or private entity on and after January 1, 1992, to be certified by ARB to meet or exceed applicable exhaust emission standards. This bill is pending in the Assembly inactive file.

SB 718 (Rosenthal) would appropriate $500,000 from federal settlement funds received by the state to the Secretary of the Environmental Affairs Agency for allocation to specified air pollution control districts and air quality management districts to ensure that offshore oil operations conform to federal and state air pollution requirements. This bill is pending in the Assembly Ways and Means Committee's suspense file.

AB 756 (Killea), which would require ARB, in consultation with the state Department of Health Services, to study indoor concentrations of carbon monoxide in residential dwellings, is pending in the Senate Appropriations Committee's suspense file.

AB 2203 (Cortese), which would require ARB to prepare by September 30, 1990, guidelines for cities and counties to use in developing the air quality elements included in their general plans, is pending in the Senate Appropriations Committee's suspense file.

AB 204 (D. Brown) would have specified that the term "solid waste disposal site" does not apply to an island in the Pacific Ocean fifteen or more miles from the mainland coast. This bill died in committee.

SB 1219 (Rosenthal) would have required the Public Utilities Commission (PUC), whenever it considers the cost of fuel in establishing the rates of an electrical utility, to consult with ARB and any affected air pollution control district concerning the increased costs associated with a utility switching from the use of natural gas to fuel oil in the generation of electricity. This bill died in committee.

SB 361 (Torres), which would have required ARB to undertake a study to determine the feasibility of requiring large new and modified industrial sources of carbon dioxide to offset any additional carbon dioxide emissions, as a result of new or modified sources, with reductions of carbon dioxide from other existing sources, or with the preservation of tropical rain forest land, died in committee. SB 427 (Torres), which contained similar language, was vetoed by the Governor on October 1 (see CRLR Vol. 9, No. 4 (Fall 1989) p. 109 for background information).

SB 1138 (Marks) would have prohibited the manufacture, import, or export of any product containing any CFC or halon, and the use of those substances in any application that is harmful to the environment. This bill died in committee.

AB 292 (Floyd) would have eliminated the requirement that ARB adopt a resolution to exempt modifications that do not reduce the effectiveness of required pollution control devices or which result in emissions that are at levels which comply with existing state or federal standards. This bill died in committee.

SB 155 (Leonard), which would have enacted the California Clean Transportation Act of 1989, and would have imposed an additional tax under the Motor Vehicle Fuel License Tax Law and the Fuel Tax Law on specified motor vehicle fuels, at designated rates, based on whether the fuel meets specified standards, died in committee.

LITIGATION:

Citizens for a Better Environment v. Deukmejian, et al., No. C-89-2044-TEH (N.D. Cal.), filed on June 12, 1989, is a Clean Air Act section 304 citizen suit. Citizens for a Better Environment and an individual are suing the state of California, the Air Resources Board, the San Francisco Bay Area air pollution control authorities, and several other defendants. Plaintiffs allege defendants have insufficiently enforced air pollution control requirements, thereby violating the mandate of the federal Clean Air Act.

In 1982, the U.S. Environmental Protection Act (EPA) approved a state implementation plan (SIP) that required attainment of the national ambient air quality standards (NAAQS) for ozone and carbon monoxide in the Bay Area by December 31, 1987. The SIP requires that reasonable progress be made towards attainment in the interim. Plaintiffs allege that the state and regional authorities have failed to achieve certain control measures. These

include pollution control measures for reciprocating engines, auto refinishing, pesticides, consumer solvents, and commercial bakeries. Plaintiffs also assert in their complaint that the defendants have not achieved the requirements for preparation of biennial SIP updates; adoption of controls to meet ozone attainment; and promulgation of regulations to assure attainment. Finally, plaintiffs contend that defendants have not disapproved projects and programs that fail to conform to the SIP's attainment requirements, have not determined whether regional transportation plans conform to the SIP, and have not implemented a contingency plan for transportation measures to achieve attainment by the deadline.

Plaintiffs seek injunctive relief, asserting that this is the only relief which can serve the public interest in the face of such a total violation of the will of Congress. Plaintiffs allege they are entitled to such relief because defendants are clearly violating the requirements of the Clean Air Act and the approved SIP. Without such relief, plaintiffs claim that they will suffer irreparable injury. The continuing failure of defendant to attain federal air quality standards forces plaintiffs to breathe polluted air, thus exposing them to a greater risk of serious health problems.

Citizens for a Better Environment has been consolidated with *Sierra Club v. Metropolitan Transportation Commission, et al.*, No. C-89-2064-TEH (N.D. Cal.). *Sierra Club* was filed within a few days of *Citizens for a Better Environment* and is based substantially on the same grounds. The two cases are being heard together in the U.S. District Court for the Northern District of California.

RECENT MEETINGS:

At ARB's November 8 meeting in Sacramento, the Board approved a suggested control measure to limit emissions of particulate matter and other pollutants from residential wood-burning appliances. Approximately six million tons (or 2.7 million cords) of wood are burned annually in residential wood-burning appliances in California. The resulting combustion emits particulate matter, carbon monoxide, and polycyclic aromatic hydrocarbons into the atmosphere. Furthermore, during the winter, temperature inversions trap these air pollutants near the ground.

ARB has established state ambient air quality standards for particulate matter and carbon monoxide. Concentrations of these pollutants exceed the respective standards in several air basins in California. The suggested control measure includes the following emission reduction strategies:

-a requirement that a retailer, with each sale of a wood heater or fireplace, must supply public awareness information on clean-burning practices;

-a requirement that, upon the sale of any real property containing a conventional (high-polluting) wood heater, the heater must be made inoperable to avoid further use, removed from the property, replaced with a certified wood heater, or retrofitted to meet certification standards;

-a prohibition on the sale or installation of used conventional wood heaters, unless they are inoperable; and

-a prohibition on the sale of wood that is advertised or represented as "seasoned wood," unless the wood has a moisture content of 20% or less by weight.

The suggested control measure is now being distributed to appropriate air pollution control and air quality management districts. Each district will then consider the measure and, if applicable, adopt such in regulatory form to the extent necessary to achieve and maintain the state ambient air quality standards. Until formally adopted as a rule by a district, the suggested control measure remains non-binding, and compliance with its provisions is not required.

Also at the November 8 meeting, the Board approved a modification to the procedure under which emissions offset credits are determined for facilities which utilize agricultural/forestry wastes, as opposed to open burning disposal. The change will add a quarterly emissions profiling requirement for new and modified facilities. This means that any proposed emission increase may be offset only by a matching emission reduction during the same time period. The intent of this change is to prevent the transfer of emissions from one time of year to another.

In June 1988, the Board approved the initial procedure for the calculation and use of agricultural/forestry emission offset credits. These credits are available to facilities which use agricultural, forestry, or similar wastes as fuel to produce steam or electricity, or as a feedstock in a facility which produces animal feed. The credit recognizes the reduction in emissions that can occur when these wastes are not open-burned. Air pollution control districts and air quality management districts currently use the procedure as part of the process for deciding whether to authorize construction of projects which burn or digest agricultural waste.

Also at the November 8 meeting, the Board postponed until January a public hearing to consider the adoption and amendment of regulations regarding test methods for determining emissions from non-vehicular sources.

At its November 9 meeting in Sacramento, the Board adopted Resolution 89-95, which maintains as is the airborne toxic control measures ("Control Plan") for hexavalent chromium previously adopted by the Board on February 18, 1988 (section 93102, Title 17 of the CCR). (See CRLR Vol. 9, No. 2 (Spring 1989) p. 97 for background information.) The Control Plan sets forth an overall course of action for controlling the sources of hexavalent chromium emissions.

Hexavalent chromium has been listed by ARB as a toxic air contaminant (section 93000, Titles 17 and 26 of the CCR). However, the Board determined that there is not sufficient available scientific evidence to identify a threshold exposure level below which no significant adverse health effects are anticipated.

The February 1988 Control Plan included a stringent requirement for control of hexavalent chromium emissions from high-emitting facilities. The degree of emission control necessary to meet this requirement had not been documented at that time, but was determined to be necessary based on an assignment of risk.

At the February 1988 ARB hearing on the issue, the Metal Finishing Association of Southern California expressed concern over the inclusion in the measure of a requirement that had not been demonstrated to be achievable. The Board, therefore, directed staff to participate in a demonstration project to assess the achievability of the most stringent requirement of the measure. The Board agreed to review the requirement if there was evidence that the requirement could not be met.

The resulting report concludes that the stringent requirement of the control measure was consistently met during the project at shops that are believed to be typical of those that are subject to the requirement. Staff, therefore, recommended that the requirement remain as is.

Also at the November 9 meeting, Carl B. Moyer of the Accurex Corporation presented to ARB the *Report of the Advisory Board on Air Quality and Fuels* (Report). ARB Chair Jananne Sharpless noted that this portion of the meeting was not regulatory in nature, but informational only. Among its key findings, the Report determined that the use of alternative fuels will provide improvements in air quality beyond what is achievable from conventionally-fueled vehicles using the most advanced emission controls. Since it is likely that additional improvements in air quality will be needed, the Report continued, the use of alternative fuels can make an important contribution. Moyer noted that this fundamental issue is still being debated at the national level.

The Report used methanol as a case study on the costs of alternative fuels, since most feel that methanol has the best chance of any of the alternative fuels to achieve a substantial market penetration. The majority contributing to the Report found that methanol pump prices are likely to be 5-10 cents per gallon of gasoline equivalent higher than premium gasoline prices in low oil price scenarios. These extra costs would be justified by the air quality benefits obtained. However, a minority found that methanol prices are likely to be 30-40 cents per gallon of gasoline equivalent higher than premium gasoline prices. At these prices, methanol is at the high end of reasonable costs for air quality strategies.

Following the presentation, Sharpless thanked Moyer for the Report and noted that "the ball is now in ARB's court."

FUTURE MEETINGS:

To be announced.

CALIFORNIA WASTE MANAGEMENT BOARD

Executive Officer: George T. Eowan
Chairperson: John E. Gallagher
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Created by SB 5 in 1972, the California Waste Management Board (CWMB) formulates state policy regarding responsible solid waste management. The Board is authorized to adopt implementing regulations, which are codified in Chapters 1-8, Division 7, Title 14 of the California Code of Regulations (CCR). Although the Board once had jurisdiction over both toxic and non-toxic waste, CWMB jurisdiction is now limited to non-toxic waste. Jurisdiction over toxic waste now resides primarily in the toxic unit of the Department of Health Services. CWMB considers and issues permits for landfill disposal sites and oversees the operation of all existing landfill disposal sites. Each county must prepare a solid waste management plan consistent with state policy.

Other statutory duties include conducting studies regarding new or improved methods of solid waste management, implementing public awareness programs, and rendering technical assistance to state and local agencies in planning and operating solid waste programs. The Board has also attempted to develop economically feasible projects for the recovery of energy and resources from garbage, encourage markets for recycled materials, and promote waste-to-energy (WTE) technology. Additionally, CWMB staff is responsible for inspecting solid waste facilities, *e.g.*, landfills and transfer stations, and reporting its findings to the Board.

AB 939 (Sher), the California Integrated Waste Management Act of 1989, Public Resources Code section 40000 *et seq.*, was signed into law by Governor Deukmejian on October 2 (Chapter 1095, Statutes of 1989). AB 939 repeals SB 5, which created CWMB in 1972, thus abolishing the California Waste Management Board. In its place, AB 939 creates the California Integrated Waste Management and Recycling Board (CIWMB). (See CRLR Vol. 9, No. 4 (Fall 1989) pp. 110-11 for extensive background information.)

CIWMB will be comprised of six full-time members: one member appointed by the Governor who has private sector experience in the solid waste industry; one member appointed by the Governor 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; 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. CWMB will automatically dissolve once the appointments to the new CIWMB are completed; these appointments are expected to be made by January 1, 1991.

CIWMB's chief functions will include its authority to require counties and cities to prepare Countywide Integrated Waste Management Plans (CoIWMPs), upon which the Board will review, permit, inspect, and regulate solid waste handling and disposal facilities. The local governments must outline in their CoIWMPs concrete data and programs which will verify that the local government is reducing the total waste stream in that locality by 25% by 1995 (via source reduction, recycling, and composting) and by 50% by the year 2000.

CIWMB will inherit other statutory duties from CWMB. These duties include conducting studies regarding new or improved methods of solid waste management, implementing public awareness programs, and rendering technical assistance to state and local agencies in planning and operating solid waste programs. The Board will also attempt to develop economically feasible projects for the recovery of energy and resources from garbage, encourage markets for recycled materials, and promote development of environmentally safe waste-to-energy (WTE) technology. Additionally, CIWMB staff will be responsible for inspecting solid waste facilities, e.g., landfills and transfer stations, and reporting its findings to the Board.

MAJOR PROJECTS:

Proposed Emergency Regulations to Implement AB 939. Among other things, AB 939 (Sher) charges CWMB with the duty of drafting regulations to implement the source reduction and recycling requirements contained in this new law by January 1990.

Counties and other local governments need guidance from the Board through these new regulations in order to lawfully and efficiently abide by the 1995 25% diversion goal required by AB 939. These regulations are expected to give local governments the standards and methodology necessary for them to accurately measure elements of the waste stream; without clear standards, a local government would not know whether its calculations and measurements of the waste stream and its diversion programs will be found acceptable and in conformance with the CoIWMP policies of the new state Board.

At this writing, however, CWMB has not drafted any such proposed regulations, thus overriding the statutory deadline of January 1, 1990. To assist it in drafting the regulations, CWMB recruited three consulting firms—Resource