to pay an assessment on the vertebrate pest control materials sold, distributed, or applied by the county for vertebrate pest control purposes. This bill is pending in the Senate Committee on Agriculture and Water Resources.

AB 2665 (Seastrand), as amended March 21, would require county Agricultural Commissioners to include, in their annual reports to the Director, information on what is being done to manage rather than destroy pests, and actions taken relating to the exclusion of pests. The report would include information relating to organic farming methods, biotechnology, integrated pest management, and biological control activities in the county. This bill is pending in the Senate Committee on Agriculture and Water Resources.

AB 4176 (Bronzan). Under existing law, the Department is required, commencing in 1990, to expand and maintain its pesticide residue monitoring program beyond the 1988 level. The program requires prioritization by degree of health concern and contribution to dietary exposure and for various sensitive subpopulations, including children. As amended March 2, this bill would require the program to be prioritized for various subpopulations which may be uniquely sensitive to pesticide residues, with special emphasis on infants and children. The bill would also repeal existing law requiring commercial laboratories which conduct pesticide residue analysis on produce or plant tissues to register annually with the Department. Additionally, the bill would require the Department to establish a competitive grant program to make funds available to qualified public and private entities to conduct pest management research projects, with an emphasis on projects that will result in the reduction of pesticide use, the use of safer pesticides, or minimizing pesticide residues. This bill is pending in the Senate Committee on Agriculture and Water Resources.

The following is a status update of bills reported in CRLR Vol. 10, No. 1 (Winter 1990) at pages 122-23:

SB 356 (Petris) would enact the Agricultural Hazard Communication Act, which would require the CDFA Director to adopt regulations setting forth an employer's duties towards its agricultural laborers, and to develop crop sheets for each labor intensive crop to be printed in English and Spanish. This bill is still pending in the Assembly inactive file.

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 for the product. This bill is still pending in the Assembly Agriculture Committee.

SB 952 (Petris), which would require CDFA to report pesticide active ingredient data gaps and other specified information to the legislature by March 1, 1991, is still pending in the Assembly Health Committee.

AB 563 (Hannigan), which would require CDFA to develop and establish a program for the collection of banned or unregistered agricultural waste, is pending in the Senate Committee on Toxics and Public Safety Management.

AB 618 (Speier), as amended June 19, 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 being held in the Senate Committee on Health and Human Services.

LITIGATION:

CDFA has spent considerable time fending off lawsuits challenging its aerial malathion spraying program, including *City of Huntington Beach v. Department of Food and Agriculture*, No. 363384 (Sacramento County Superior Court); *City of San Bernardino v. Henry Voss*, No. C256105 (San Bernardino County Superior Court); *City of El Cajon v. State of California*, No. EC-002333 (San Diego County Superior Court); and *City of Los Angeles v. Deukmejian*, No. C753054 (Los Angeles County Superior Court). Motions for preliminary relief were denied in all cases, thus enabling CDFA to carry out its scheduled spraying. Several of the cases are still pending, either in the trial court or on appeal. (*See supra* MAJOR PROJECTS, FEATURE ARTICLE, and COMMENTARY for related information.)

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.

On November 20, 1989, 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 they produce. Also, the industry groups stated they have a strong interest in maintaining tolerances for pesticide residues and the use of associated agricultural chemicals. The Attorney General stipulated to allow the industry groups to intervene.

Recently, the Attorney General filed a motion for summary judgment; EPA filed a motion to dismiss; and the intervenors (industry groups) filed a motion for judgment on the pleadings.

FUTURE MEETINGS:

The State Board of Food and Agriculture usually meets on 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 attain-

ment 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:

New Exemption Criteria for Add-on and Modified Parts. At its February meeting, ARB held a public hearing and adopted proposed revisions to the current "Criteria for the Evaluation of Add-on and Modified Parts" (Criteria). ARB originally adopted the Criteria in 1977, in response to directives in California Vehicle Code sections 27156 and 38391. These sections provide that no person shall install, sell, offer for sale, or advertise any device, apparatus, or mechanism intended for use with, or as a part of, any required motor vehicle pollution control device or system which alters or modifies the original design or performance of any such motor vehicle pollution control device or system. They also provide that the Board may grant an exemption from the prohibition of the statute, provided that it finds the device, apparatus, or mechanism satisfies either of two conditions: (1) it can be demonstrated that the device does not reduce the effectiveness of any required emission control device; or (2) the modified or altered vehicle demonstrates compliance with the California emission standards for the model year in which the modified vehicle was produced. The Criteria are the detailed procedures to be followed in obtaining exemptions from the section 27156 and 38391 prohibitions.

Sections 27156 and 38391 of the California Vehicle Code charge ARB with the responsibility to ensure that aftermarket parts used on emission controlled vehicles do not have an adverse impact on emissions. These parts have traditionally fallen into two groups. Replacement/consolidated parts, which have typically been designed to replace the original equipment manufacturer (OEM) parts, have not required an exemption from the prohibitions of sections 27156 and 38391, provided that data are available which demonstrate the required functional identity to the original part. Add-on/modification parts are designed to be added to, or alter, the OEM design and have required emission testing. The regulatory revisions adopted by the Board will affect the requirements for exemption for these add-on and modified parts.

The Criteria were last amended in May 1981; since that time, there have been many changes in the design of new motor vehicles and add-on or modified parts, which have in turn resulted in the need for amendments to the Criteria. The Board adopted proposed amendments to sections 1900(b)(2), 2222(e), and 2224(b), Chapter 3, Title 13 of the CCR, and to the "Procedures for Exemption of Add-on and Modified Parts," formerly entitled "Criteria for the Evaluation of Add-on Parts and Modified Parts," incorporated therein. The amendments adopted by ARB fall into two broad categories.

The first category is "Compliance Criteria Parts." This category will be a new class of add-on or modified parts. Those parts which meet the requirements of the proposed "compliance criteria" may be granted an exemption from sections 27156 and 38391, after submission of documentation attesting that specific design requirements which ensure emission compliance of the part have been satisfied. Under the proposed regulations, the manufacturer of the compliance criteria part would not be required to perform any exhaust emission testing. Engineering evaluations indicate that compliance criteria parts will not cause a significant increase in emissions; therefore emission testing of vehicles equipped with these parts is unnecessary. Compliance criteria designation is proposed for exhaust headers for non-feedback controlled catalyst equipped vehicles, intake manifolds for vehicles that are not equipped with an exhaust gas circulation system, and ignition system components (excluding distributors), to name a few.

The second category is "General Criteria Parts." These are parts which cannot be evaluated on the basis of engineering analysis or where the engineering analysis is not supported by confirming emission test data; these may require emission testing in order to demonstrate that they will not increase emissions.

This category has been further divided into generic categories. A generic category is a category of parts which share some common salient feature, such as exhaust headers on non-feedback controlled catalyst equipped vehicles, or intake manifolds for non-EGR (Exhaust Gas Recirculation) engines. A major provision of the proposed regulations specifies the number and type of test vehicles required for each generic category. The number of vehicles which a manufacturer must test in order to satisfy the requirements for a given generic category is equal to the number of vehicle manufacturers for which the product can be applied, up to a maximum of four. The proposed procedures also define the vehicles to be tested as the "worst case" and/or "most popular" models. The "worst case" test vehicles are defined by the engine displacement and vehicle weight which produce the greatest stress on the emission-related components. Selection of the "most popular" test vehicle is to be based on the vehicle with the highest projected sales volume of the add-on or modified part.

Testing procedures for General Criteria Parts are divided between light-duty and heavy-duty testing. For light-duty emissions testing, manufacturers may choose either of two emission test procedures to satisfy the emission testing requirements for General Criteria Parts: (1) the full CVS-75 Federal Test Procedure (FTP); or (2) the "Cold 505" portion (the first 505 seconds of the driving cycle) of the FTP. The FTP is the test procedure that all new vehicle manufacturers are required to use when testing vehicles for certification to California or federal emission standards. The "Cold 505" is a portion of the FTP which usually produces the highest emissions. Manufacturers will have the option of meeting either of two emission compliance procedures: (1) certification to emission standards—here, the applicant would be required to demonstrate that the emissions from the test vehicle(s) with the aftermarket device installed do not exceed the applicable new vehicle emission standards; or (2) certification to typical baseline levels—under this procedure, the applicant would perform a baseline emission test, the results of which must be comparable to the expected emissions for that model year. A second emission test would then be performed with the add-on or modified part installed. These emission test results should not exceed the baseline levels by more than the larger of the limits set forth by the proposed regulations.

The proposed heavy-duty emission test procedures would allow any heavy-duty vehicle under 14,000 lbs. gross

vehicle weight rating (GVWR) and originally certified to a chassis dynamometer based emission standard to be tested using the emission tests or compliance procedures described above. Test vehicles which currently meet the specified conditions include all medium-duty vehicles and any heavy-duty vehicles emission standards on an optional basis. Add-on or modified parts exempted for these applications may not use the emission standards method for demonstrating compliance with the proposed procedures. The emission standard method is not available to these vehicles, because an appropriate standard does not exist. Diesel-powered vehicles meeting these criteria would be allowed to utilize the CVS-75 procedure with the required overnight cold soak deleted. Data collected by ARB have shown minimal differences between the "hot start" and "cold start" CVS-75 procedures for these diesel trucks.

For vehicle applications greater than 14,000 lbs. GVWR, the Executive Officer will be allowed to accept any engine or chassis dynamometer test data to demonstrate compliance with the proposed procedures. The emission testing of vehicles in this class is extremely expensive and the number of test facilities which can perform testing is very limited.

In addition, the proposed revisions contain several new requirements applicable to all add-on or modified parts. A manufacturer may be denied an exemption if the add-on modified part causes a vehicle's on-board diagnostic system to function abnormally or to erroneously register a fault code. The on-board diagnostic system is a critical element of the emission control program for new vehicles, since it is designed to alert the owner whenever an emission-related malfunction occurs. Also, the amendments contain modifications to section 2224, Title 13 of the CCR, that strengthen the Board's enforcement program. The proposed revisions will allow ARB to take enforcement action when an aftermarket part causes a failure of the on-board diagnostic system or a vehicle to fail the Smog Check Program. Finally, a proposed revision to section 1900(b)(2), Title 13 of the CCR, will clarify the definition of a consolidated part. These parts will now be defined as replacement parts that are designed to replace more than one part configuration originally supplied by one or more manufacturers on their new vehicles. These parts are functionally identical to the original equipment parts in new vehicles.

Transportation Control Measures Under the California Clean Air Act. At its February meeting, ARB indicated its support of the approach and policies presented by staff on implementing the transportation provisions in the California Clean Air Act (CCAA) (Chapter 1568, Statutes of 1988), for air pollution control districts as well as transportation agencies. More specifically, the Board approved distribution of CCAA Guidance Paper #2, and continued work with the districts and local and regional agencies in this area. The guidance paper outlines the various requirements of the CCAA and recommends ways in which the districts and transportation agencies can address these requirements in their development of 1991 air quality plans.

The Act requires that air quality plans be prepared for areas of the state which have not met state air quality standards for ozone, carbon monoxide, nitrogen dioxide, and sulfur dioxide; these plans are due in July 1991. At the heart of the CCAA's transportation provisions is the requirement that nonattainment areas adopt and implement reasonably available transportation control measures. However, the Act does not provide specific guidance on what particular measures are "reasonably available", how complete the measures included in the 1991 plans must be, how small urban areas and rural areas should be treated, and many other issues of practical concern to those who must prepare air quality plans by July 1991. Thus, the guidance paper addresses these issues and suggest possible ways to achieve the goals of the Act.

Transportation control measures (TCM) are defined in the Act, section 40717(g) of the Health and Safety Code, to mean "...any strategy to reduce vehicle trips, vehicle use, vehicle miles traveled, vehicle idling, or traffic congestion for the purpose of reducing motor vehicle emissions." This definition clearly includes many measures to influence travel habits. Thus, staff recommends that districts and other agencies separate measures into two broad categories: regulatory measures and transportation system measures. Regulatory measures include those which can be implemented through district regulations or local government ordinances, those which are used to regulate traffic volumes or flow, and those which affect individual travel choices. Examples would include employer-based trip reduction rules or vehicle operation restrictions. Transportation system measures are those which would be implemented by transportation providers, *e.g.*, CalTrans or transit districts. These measures are meant to influence travel behavior to reduce vehicle use, vehicle miles traveled, vehicle idling, or traffic congestion. Transportation system measures can be further divided into short- and long-term measures. Short-term measures include tolls on bridges and improved transit services. Long-term measures include fixed-rail transit systems and long-range land development policies that support reductions in vehicle trips. The long-term measures are generally out of the control of the air districts, and often cannot be accomplished by any single unit of local or regional government.

ARB has oversight duties to determine if the attainment plans contain reasonably available TCMs, and if all alternatives have been included. Thus, prior to approving district plans, ARB must concur with the districts' decisions regarding which TCMs are reasonably available and necessary for attainment, or must find the plan deficient and seek changes through a conflict resolution process.

The districts must also include in their attainment plans "...provisions to develop area source and indirect source control programs," Health and Safety Code section 40918(a)(4). Although the CCAA does not have a specific definition of "indirect source", a definition is included in the federal Clean Air Act: "...a facility, building, structure, installation, real property, road, or highway which attracts, or may attract mobile sources of pollution." Examples of indirect sources include shopping centers, schools, sports facilities, and housing developments.

Indirect source control measures are measures which seek to reduce the mobile source emissions that emanate from these and other indirect sources. They can be divided into two categories: measures to reduce emissions from existing sources, and measures to reduce or mitigate emissions from new or modified sources (*e.g.*, partial or full subsidization of parking for ridesharing employees, compressed work weeks, facility improvements to encourage use of bicycles, telecommuting, or working at home). The guidance paper discusses several suggested ways to regulate such sources and other issues related to such regulation.

Beyond these very specific suggestions, the guidance paper also has recommendations regarding other areas of concern. These include performance standards and emission reduction targets, control measure definition and analysis, monitoring and reporting mechanisms, integration of transporta-

tion and air quality plans, and public education and involvement. Board members suggested that, in addition to continued study of the areas covered by the guidance paper, staff and districts focus on implementation of the plans.

Asbestos-Content Limits for Serpentine Rock Use. At its April 12 meeting, ARB adopted an airborne toxic control measure regulating permissible levels of asbestos-content serpentine rock used in surfacing applications, and corresponding regulations establishing a test method for the determination of such content. The test method was adopted as proposed by staff; however, the control measure adopted was a modified version of that proposed. The Board considered both the uncertainty of available findings as well as industry opposition in reaching its decision.

The asbestos-content limit, set forth in new section 93106, Titles 17 and 26 of the CCR, would prohibit the sale and application of asbestos-containing serpentine material for surfacing application in California. Asbestos-containing serpentine material is defined as serpentine material with an asbestos content of greater than 5% as measured by ARB Test Method 435. Staff had proposed a 1% limit of asbestos content. Various testing, recordkeeping, and notice requirements are also imposed on sellers, suppliers, and users of both asbestos-containing and non-asbestos-containing serpentine material.

In California, serpentine rock is used as a surfacing material for unpaved areas such as unpaved roads, playgrounds, and parking lots. Serpentine often contains veins of chrysotile asbestos. Asbestos fibers from the rock's surface are released into the ambient air by physical disturbances, such as vehicle travel on unpaved roads. The proposed regulation would substantially reduce asbestos emissions from unpaved areas surfaced with asbestos-containing serpentine by eliminating its future use as a surfacing material. Before selling serpentine as a surfacing material, suppliers would have to test the rock and report the asbestos content to the buyer. Suppliers of serpentine would also be required to inform buyers if the serpentine material they are purchasing is illegal for use on surfaces—that is, if it contains greater than 5% asbestos.

In March 1986, the Board identified asbestos as a toxic air contaminant (TAC) (section 93000, Titles 17 and 26 of the CCR). As part of the asbestos identification regulation, the Board has determined that asbestos is a TAC for which there is not sufficient available scientific evidence to identify a threshold exposure level below which no significant adverse health effects are anticipated. After asbestos was identified as a TAC, the Board's Executive Officer prepared a report on the need and appropriate degree of regulation of asbestos emissions from serpentine material. The report, upon which the staff relied in making its recommendation, was prepared with the participation of local air pollution control districts, and in consultation with affected sources and the interested public.

State law requires reductions in emissions of TACS, which must be achieved by control measures designed and adopted by the Board (Health and Safety Code section 39666). For TACs such as asbestos, for which the Board has not specified a threshold exposure level, the control measure must be designed to reduce emissions to the lowest achievable level through application of best available control technology or a more effective method.

Available data indicate that high asbestos concentrations can occur near serpentine roads with vehicle travel and when serpentine rock is otherwise disturbed by human activities. The estimated potential risks associated with these concentrations are as high as hundreds of thousands of cancer cases per million people exposed. The staff admitted that uncertainty exists regarding such data. This uncertainty, combined with the potential economic impacts of the regulation, led the Board to approve the measure with a 5% asbestos limit versus the 1% limit sought by staff.

If serpentine quarries choose to market serpentine rock for surfacing applications, they would incur costs due to testing for asbestos, loss of market, and reduced demand for serpentine. The costs due to testing are estimated to range from $100 to $230 for each 1,000 tons of material tested (about a 4% increase in the current price of serpentine material). Buyers of road surfacing material would incur increased costs by having to choose an alternative to serpentine rock for their surfacing applications, or choosing to pave. The most likely alternatives are more expensive, partly because of increased transportation costs. The total costs of building a road with either limestone or river rock are estimated to be about 25-35% higher than building an unpaved road.

Additionally, some air pollution control districts would incur costs due to routine inspections of serpentine rock sellers and buyers, and possible testing of serpentine rock that is offered for sale.

Representatives from the California Mining Association and the National Stone Association opposed the regulation based on the potential financial impact on serpentine quarries, buyers of road surfacing material, and air pollution control districts. However, representatives of several air quality management districts urged the Board to adopt the measure as proposed by staff with the 1% limit.

Health and Safety Code section 39666(d) requires local districts to adopt the control measure or one equally effective or more stringent. The districts must propose regulations enacting a control measure within 120 days of the effective date of Board adoption and must adopt the regulations within six months following the effective date of Board adoption.

Regarding the test method, new section 94147, Title 17 of the CCR, incorporates by reference Test Method 435. The test can be used to determine the asbestos content in serpentine aggregate in piles, on conveyor belts, or on surfaces such as roads and parking lots. The sampling method is adapted from a number of American Society for Testing Materials sampling methods. A minimum of three grab samples are taken per 1,000 tons of serpentine aggregate. The samples are composted and crushed to produce a material of which the majority will be less than 200 mesh in size. The analytical method employs polarized light microscopy and a particle counting technique. The number percent of asbestos concentration is the percent asbestos fiber present in 400 random chosen particles. Dispersion staining is used to determine whether the fiber is asbestos.

The regulations regarding both the test method and the asbestos-containing serpentine limit await review by OAL.

Permit Fee Regulations for Nonvehicular Sources. At its May meeting, ARB adopted proposed new section 90800.1 and amendments to section 90800, 90802, and 90803, Title 17 of the CCR. These proposed regulations would require the collection of permit fees from specified facilities.

In the CCAA, the legislature imposed a number of requirements on ARB and the air pollution control and air quality management districts, and provided a mechanism to help defray the costs of implementation of these requirements. This mechanism, designed to offset increased costs of additional state programs, is included in section 39612 of the Health and Safety Code. Section 39612 authorized the Board, beginning July 1, 1989, to

require districts to collect fees from holders of permits for facilities which emit 500 tons or more per year of any nonattainment pollutant or its precursors. The total amount of funds collected by these fees, exclusive of district administration costs, may not exceed $3 million in any fiscal year. The authorization to assess fees expires on July 1, 1997.

In 1989, ARB adopted section 90800-90803, Title 17 of the CCR, establishing the California Clean Air Act Nonvehicular Source Fee Regulations. These sections set the fee rate and amounts to be remitted to ARB by the districts for the first year of the program, fiscal year 1989-90. (See CRLR Vol. 9, No. 3 (Summer 1989) p. 100 for background information.) Proposed new section 90800.1 specifies the fee rate and amount to be remitted to ARB for the 1990-91 fiscal year. The other sections would be amended to reflect these change. The proposed regulations provide for: (1) the collection of emission fees by districts on a dollar-per-ton basis; (2) recovery of administrative costs by the districts; (3) imposition of additional fees on facilities that do not pay in a timely manner; and (4) exemption of districts from the fee collection requirements for demonstrated good cause.

This regulatory action awaits review and approval by OAL.

Atmospheric Acidity Protection Program Fees. Also in May, ARB adopted proposed new section 90621.1 and conforming amendments to sections 90620, 90621, 90622, and 90623, Title 17 of the CCR. These proposed regulations would require local air pollution control and air quality management districts to collect permit fees from major nonvehicular sources of sulfur oxides and nitrogen oxides to fund, in part, the Board's Atmospheric Acidity Protection Program for fiscal year 1990-91.

In the Atmospheric Acidity Protection Act of 1988 (Health and Safety Code sections 39900-39911), the legislature made a finding that the deposition of atmospheric acidity resulting from other than natural sources is occurring in various regions of California. Furthermore, it concluded that the continued deposition of this acidity, alone or in combination with other human-made pollutants and naturally occurring phenomena, could have potentially significant adverse effects on public health, the environment, and the economy. Therefore, the legislature directed ARB to adopt and implement the Atmospheric Acidity Protection Program, to determine the nature and extent of potential damage to public health and the state's ecosystems which may be expected to result from atmospheric acidity. The Board must also develop measures which may be needed for the protection of public health and sensitive ecosystems within the state.

To enable ARB to carry out these activities, the Act authorized the Board to require the districts, beginning July 1, 1988, to impose additional variance and permit fees on nonvehicular sources which emit 500 tons or more of either sulfur oxides or nitrogen oxides. The total amount of funds collected from additional fees, exclusive of district costs, shall be $1,500,000 for any fiscal year or the amount appropriated from state funds by the legislature for the Atmospheric Acidity Protection Program, whichever is less.

During the first year of the program, ARB adopted sections 90620-90623, Title 17 of the CCR, establishing the fee program and including the fee rate and amounts to be remitted to ARB by the districts. These regulations were applicable to the first year of the program (which is a five-year program), and were based on emissions data for calendar year 1987. (See CRLR Vol. 9, No. 3 (Summer 1989) p. 100 for background information.) Proposed new section 90621.1 would apply to fiscal year 1990-91. The new section provides for the collection of fees by the districts and forwarding of the fees to ARB for deposit into the Air Pollution Control Fund, for the collection of additional fees by the districts to cover administrative costs, and for exemption from the fee collection requirements for good cause. The regulations would specify that compliance with the fee requirements shall be based on the amount of emissions from affected sources as determined by ARB's Executive Officer on March 5, 1990, and that the permit fees shall be collected from sources identified as emitting 500 tons or more per year of sulfur oxides or nitrogen oxides. The regulations would also require the collection of fees from sources identified as emitting 500 tons or more per year of sulfur oxides or nitrogen oxides after March 5, 1990.

The proposed fee schedule for fiscal year 1990-91 is based upon a charge for the amount of sulfur oxides or nitrogen oxides emitted. Facilities subject to the fee schedule would be assessed a fee of $8 per ton. For fiscal year 1990-91, this charge was calculated by dividing the $1,500,000 by the total statewide emissions of sulfur oxide and nitrogen oxides from sources emitting 500 tons or more per year of sulfur oxides or nitrogen oxides, respectively, in calendar year 1988. The proposed fees have been adjusted in order to avoid undercollection for reasons such as the unanticipated closings of businesses or refusal to pay for other reasons.

This regulatory action awaits review and approval by 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:*

-ARB's December 1989 adoption of new section 70500, Title 17 of the CCR, which identifies "transport couple" air districts, was approved by OAL on April 9. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 126 for background information.)

-The rulemaking file on ARB's December 1989 adoption of amendments to sections 2035-2041, Title 13 of the CCR, concerning emission control system warranty requirements, still awaits review and approval by OAL. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 124 for background information.)

-The language of new sections 94500-94506, Title 17 of the CCR, which would reduce volatile organic compounds from aerosol antiperspirants and deodorants, adopted by ARB at its November 1989 meeting, has been modified. The new language was circulated for public comment in April; these regulations still await review and approval by OAL. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 124 for background information.)

-ARB's September 1989 adoption of 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, has not yet been submitted to OAL. Language modifications were released for public comment through May 14. (See CRLR Vol. 9, No. 4 (Fall 1989) pp. 107-08 for background information.)

-ARB's September 1989 amendments to sections 90700-90704 and 93300-93347, Titles 17 and 16 of the CCR, which assess fees against all facilities which emit greater than or equal to ten tons per year of specified pollutants, were approved by OAL on March 26. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 108 for background information.)

-ARB's September 1989 amendments to sections 1956.8, 1965, and 1976(c), Title 13 of the CCR, which set new certification standards and test procedures for new heavy-duty vehicles and engines fueled with compressed nat-

ural gas or liquefied petroleum gas, were approved by OAL on June 14. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 108 for background information.)

-ARB's June 1989 amendments to section 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, were approved by OAL on May 21. (See CRLR Vol. 9, No. 3 (Summer 1989) p. 99 for background information.)

-ARB's July 1989 amendment to section 93000, Titles 17 and 26 of the CCR, which identifies methylene chloride as a TAC, was approved by OAL on June 7. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 110 for background information.)

-ARB's July 1989 adoption of new sections 1990-1994, Title 13 of the CCR, which provides the mechanism for collecting annual new motor vehicle certification fees, was approved by OAL on February 27. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 110 for background information.)

LEGISLATION:

AB 3152 (Tanner), as introduced February 22, would require ARB, in consultation with the state Department of Health Services, other agencies, and an ad hoc advisory committee, to report to the Governor and the legislature by January 1, 1992, with recommendations for a plan to reduce or prevent public exposure to indoor air pollutants. This bill is pending in the Senate Committee on Toxics and Public Safety Management.

AB 3153 (Tanner), also introduced February 22, would apply criminal and additional civil penalties to violations of toxic air contaminant (TAC) provisions. Existing law requires ARB to adopt airborne toxic control measures to reduce emissions of TACs from nonvehicular sources, but only provides civil penalties for violations. This bill is pending in the Senate Judiciary Committee.

AB 3555 (Sher) would delete the September 30, 1989 due date in existing law which requires ARB to classify each air basin according to whether it has or has not attained state ambient air quality standards, and make conforming changes in those provisions. Existing law requires ARB to establish, by regulation, maximum standards for the volatility of gasoline; this bill would require ARB to establish the maximum level for gasoline blends consisting of at least 10% ethyl alcohol at or below nine pounds per square inch. The bill, introduced February 28, is pending in the Senate Governmental Organization Committee.

AB 3783 (Campbell), as amended May 2, would prescribe a civil penalty for violation of a rule or regulation of an air pollution control district or air quality management district limiting emission of a TAC identified by ARB. The bill would increase the civil penalties and fines for persons who violate any statutory provision or any order, permit, rule, or regulation of ARB or of a district relating to nonvehicular air pollution control, or who in violation thereof emits an air contaminant, or falsifies specified documents. The bill would also impose a civil penalty for violation of a specified injunction, and revise the distribution of fines and civil penalties. The bill is pending in the Senate Judiciary Committee.

AB 3898 (Brown, W.), as amended April 25, would provide that it is the policy of the State of California that other state agencies implementing small business assistance programs, in cooperation with the districts and ARB, are encouraged to provide technical and financial assistance to small businesses to facilitate compliance with air quality regulations. The bill would require the Office of Small Business to assist businesses to comply with environmental requirements and regulations. This bill is pending in the Senate Governmental Organization Committee.

SB 1905 (Hart), as amended June 12, would enact the Demand-based Reduction in Vehicle Emissions (DRIVE) Program of 1990, which would require ARB to adopt regulations that would apply sales tax credits and surcharges on the sale or lease of new automobiles and specified trucks on the basis of the level of specified pollutants emitted. This bill is pending in the Assembly Transportation Committee.

SB 2330 (Killea), as amended April 25, would require ARB, if it determines that heavy-duty diesel motor vehicles or a class of those vehicles cannot be modified to achieve compliance with applicable emissions standards, to report thereon to the legislature by January 1, 1994. The bill is pending in the Assembly Transportation Committee.

SB 2331 (Killea), as amended June 12, would allow those districts designated by ARB as a nonattainment area for state ambient air quality standards for ozone or carbon monoxide to adopt regulations to require operators of public and commercial fleet vehicles, except as specified, when adding or replacing vehicles or when purchasing vehicles to form a new 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 Assembly Transportation Committee.

SB 2521 (Davis), as amended April 24, would provide that any retailer who knowingly sells or supplies motor vehicle fuel which was delivered to the retailer by, or on behalf of, a noncomplying motor vehicle fuel distributor is liable for a civil penalty not to exceed $10,000 for each transaction. Additionally, any retailer who sells motor vehicle fuel that does not comply with ARB regulations, after both oral and written notice to cease have been delivered to the owner, manager, or attendant on duty at the facility, and upon failure to comply with that notice, is subject to the issuance of a cease and desist order by ARB and a penalty of $10,000 for each day of noncompliance with the cease and desist order. However, any person who transports, or provides vehicles to transport, motor vehicle fuel for a distributor who is in possession of a current certificate of compliance shall not be liable for any penalties unless that person has specified knowledge of noncompliance. The bill is pending in the Assembly Transportation Committee.

AB 1332 (Peace), as amended January 22, would prohibit the certification by ARB of a 1995 or later model year motor vehicle which has an air conditioning system that uses chlorofluorocarbons (CFCs). It would also prohibit the installation, sale, or offer for sale of such system for intended use in 1995 or later model year vehicle. The bill would authorize ARB to delay the prohibitions, as specified. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

AB 2727 (Waters), as amended June 13, would require ARB to evaluate and report to the Governor and the legislature on the acute and chronic adverse health effects of agricultural burning. This bill is pending in the Senate Governmental Organization Committee.

SB 1764 (Roberti), as amended May 1, would make a statement of legislative intent and require ARB to adopt a program to reduce CFC emissions. It would require the Board to report to the Governor and legislature periodically on the program. The Board would be required to adopt a system for charging and collecting a fee from users and handlers of CFCs to produce sufficient revenue to implement the provisions of this bill. The revenue collected would be deposited in the Ozone Depletion Control Account created in the General Fund. The bill would also require the Board to inventory sources of gases and

would require persons who handle CFCs to furnish information to the Board. This bill is pending in the Assembly Committee on Environmental Safety and Toxic Materials.

SB 1817 (Roberti), as amended June 7, would enact the Toxic Air Pollution Prevention Act of 1990, and declare the intent of the legislature to more effectively reduce pollution and its sources and encourage state departments and agencies to promote the prevention of environmentally harmful releases into the air, land, and water. The bill would require specified facilities to conduct a pollution prevention order and establish a plan, both of which would be submitted to the appropriate air pollution control district or air quality management district initially, and every two years thereafter. The bill would impose various duties on ARB relating to reduction of TACs, including the adoption of regulations and a fee schedule. The bill would require the Auditor General to report to the legislature by July 1, 1994, regarding the performance of ARB and the effectiveness of the orders and plans. This bill is pending in the Assembly Committee on Environmental Safety and Toxic Materials.

SB 1874 (Presley) would require ARB to request the Bureau of Automotive Repair (BAR) to implement the Smog Check Program in districts which are in nonattainment for ozone or carbon monoxide and in which it is not already being implemented, unless ARB determines that the problem is predominantly caused by transport and the program would not mitigate or resolve the problem. The bill would not apply to the Lake Tahoe Air Basin. As amended May 5, this bill would also increase the charge for a certificate of compliance with the Smog Check Program from $6 to $7. This bill is pending in the Assembly Transportation Committee.

SB 2400 (Marks), as amended April 12, would prohibit the manufacture, distribution, or sale on or after January 1, 1991, of any polystyrene foam for food service products or food packaging made with specified CFCs. This bill would prohibit the manufacture, distribution, or sale on or after December 31, 1991, of any rigid polystyrene foam product made with specified CFCs; and on or after January 1, 1994, of any nonrigid polystyrene foam product made with those CFCs, if substitutes are available. The bill would require a 25% annual reduction in CFC emissions by those manufacturers or a report to the legislature as to why they cannot comply. This bill is pending in the Assembly Natural Resources Committee.

SB 1770 (McCorquodale), as amended June 11, would create the San Joaquin Valley Air Quality Management District to include all of the counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare. The district would assume the functions of the county air pollution control districts in those counties on July 1, 1991. The bill would also provide for a district board with appointed members, specify the duties and functions of the district, and permit the district board to adopt a schedule of fees levied on sources of air pollution. This bill is pending in the Assembly Natural Resources Committee.

AB 4093 (Roybal-Allard), as amended May 23, would make it a misdemeanor to deny a right of entry to an official of an air pollution control district or air quality management district. This bill would additionally allow the air pollution control officer of a district to issue a cease and desist order as to a release or threatened release into the air of hazardous substances, or a release of air contaminants which poses a substantial endangerment to public health or safety or the environment. The bill would provide for an appeal of the order and impose civil and criminal penalties on a violator. This bill is pending in the Senate Judiciary Committee.

AB 4070 (Connelly), as amended April 26, would require ARB to request BAR to implement the Smog Check Program in all districts, except in the Lake Tahoe Air Basin, designated as nonattainment for ozone or carbon monoxide, in which it is not already implemented, unless the problem is caused by transport, or the program would not mitigate or resolve the problem. This bill is pending in the Senate Transportation Committee.

SB 1790 (Rosenthal), as introduced January 12, would make a statement of legislative intent, define terms, and require any owner or operator of a retail store, cold storage warehouse, or commercial or industrial building, when servicing or disposing of refrigeration systems containing CFCs, and any person who installs, replaces, or services those refrigeration systems, to reuse or recycle the CFCs. The bill would prohibit intentionally venting or disposing of the CFCs. The requirements would become operative January 1, 1991 for some CFCs, and on January 1, 1992, for others. The bill would require the owner or operator of these refrigeration systems to establish and revise an inventory of the systems, containing specified information, and to make the inventory available to specified public agencies. The bill would require the recycling of refrigerants into the marketplace to be done in accordance with a specified standard. This bill would impose civil and criminal penalties with regards to violations of these requirements. The bill would exempt recyclable CFCs from the hazardous waste control law if they contain no hazardous constituents listed as a hazardous waste and are recyclable or reused, as specified. This bill is pending in the Assembly Natural Resources Committee.

The following is a status update on bills described in CRLR Vol. 10, No. 1 (Winter 1990) at page 127:

AB 2532 (Vasconcellos), as amended January 29, would require ARB to adopt regulations for the phase-out of small quantity containers made of CFCs. This bill is pending in the Senate Natural Resources and Wildlife Committee.

AB 1718 (Hayden), which 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, is still pending in the Senate Natural Resources and Wildlife Committee.

SB 1677 (Garamendi), which 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, is pending in the Assembly Natural Resources Committee.

AB 911 (Katz), as amended June 11, would increase the fines for discharging, below an elevation of 4,000 feet, air contaminants from a vehicle with a gross weight rating of 6,001 or more pounds. The bill would limit the penalties for a second or subsequent offense to violations involving the same vehicle. The bill is pending in the Senate Transportation Committee.

SB 907 (Vuich), as amended June 11, would provide for a 10% reduction in the vehicle license fee for specified low-emission motor vehicles, commencing with the 1992 model year. The bill would require every dealer and lessor-retailer to certify to the Department of Motor Vehicles whether a new motor vehicle is or is not a low-emission motor vehicle. This bill is pending in the Assembly Transportation Committee.

SB 718 (Rosenthal), which would appropriate funds 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, is being held in the Assembly Ways and Means suspense file.

AB 756 (Killea), which would have required ARB to study indoor concentrations of carbon monoxide in residential dwellings, was dropped.

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

LITIGATION:

Citizens For a Better Environment, et al., v. Deukmejian, No. C89-2044-TEH, and *Sierra Club v. Metropolitan Transportation Commission, et al.*, No. C89-2064-TEH, filed in June 1989, are consolidated Clean Air Act section 304 citizen suits. Plaintiffs sued the state of California, the Air Resources Board, and several San Francisco Bay Area air pollution control authorities, among others, alleging that defendants failed to fully implement the federal Clean Air Act, 42 U.S.C. §§7401 *et seq.* Oral argument was heard on plaintiffs' motion for summary judgment on September 18-19, 1989; an oral ruling was issued at that time, but no formal opinion was released until March 5, 1990.

In 1970, Congress amended the Federal Clean Air Act (Act) by directing the U.S. Environmental Protection Agency (EPA) to set limits on the atmospheric concentration that can be tolerated for pollutants that may endanger public health and welfare. These limits are known as the National Ambient Air Quality Standards (NAAQS), and they represent the minimum standards deemed necessary to protect public health and welfare. These amendments required the states to develop and submit, for the EPA's approval, State Implementation Plans (SIPs), for achieving and maintaining NAAQS no later than 1977. When it was obvious that many states were not going to meet their SIPs, Congress amended the Act again. Thus, by January 1, 1979, states with nonattainment areas were to submit revised SIPs containing strategies to meet NAAQS no later than December 31, 1982.

States with especially bad pollution problems could receive an extension to December 31, 1987, if their revised SIPs demonstrated that NAAQS could not be attained by 1982, despite implementation of all reasonable control measures. But this extension was conditioned on these states' submission of a second revised SIP by July 1, 1982, which contained additional clean-up provisions and enforceable measures to assure attainment of NAAQS by 1987.

California failed to meet these deadlines. It failed to submit a revised SIP to the EPA by January 1979, and the SIP it later submitted was disapproved in 1980. The EPA approved the second revised SIP in 1983. At this point, California was required to carry out this revised plan, including the portion applicable to the San Francisco Bay Area. However, the San Francisco Bay Area has still not attained NAAQS for either ozone or carbon monoxide.

The 1982 Bay Area Plan provided that NAAQS would be attained by 1987 primarily through a motor vehicle inspection and maintenance program. The plan also called for the implementation of control measures for 23 stationary sources of hydrocarbon emissions between 1983 and 1987. As of 1989, controls for four of these sources had yet to be adopted. These sources were reciprocating engines, pesticides, consumer solvents, and large commercial bakeries. There were also problems with the number of contingency measures adopted. The Metropolitan Transportation Commission (MTC) is required to activate contingency plans upon a determination that "reasonable further progress" has not been made. Finally, with respect to the transportation sector, the Plan called for the MTC to consider delaying highway projects shown to have a significant adverse impact on air quality; and to adopt and implement transportation control measures to bring the Bay Area back within the reasonable further progress line.

In a March 5 opinion, Judge Thelton E. Henderson of the U.S. District Court for the Northern District of California granted plaintiffs' motion to the extent that he found that MTC and ARB are liable for failing to adopt and implement control measures designed to achieve at least the target emissions reductions set forth in the 1982 Plan for consumer solvents, pesticides, reciprocating engines, and large commercial bakeries. MTC is also liable for failing to implement the transportation contingency plan. However, plaintiffs' motion was denied with respect to the Plan's provisions for contingency measures for stationary sources. The court found no language in the Plan expressly linking the number of such measures to the attainment of NAAQS or expressly committing to sufficient contingency measures to attain NAAQS. Given that the District adopted nine stationary source contingency measures between 1984 and 1987, and resolved to consider the adoption of nineteen more in 1989, defendants were not found to have violated this requirement.

The court concluded that its involvement was necessary to ensure timely compliance. Therefore, it set forth a timetable for compliance with the 1982 Plan. The court ordered the District or ARB, as specified, to adopt, implement, and enforce control measures for the following classes of stationary sources: (1) large commercial bakeries—adoption by District by September 30, 1989; (2) pesticides—adoption by ARB by June 1, 1990; (3) reciprocating engines—adoption by the District or ARB by June 1, 1990; and (4) consumer solvents—adoption by the District or ARB by June 1, 1990. MTC was ordered to adopt sufficient transportation control measures within six months to bring the region back within the "reasonable further progress" line; conclude hearings with respect to the criteria for delaying projects; and, after public hearing, apply those criteria to projects in transportation improvement programs and make a determination as to whether any projects should be delayed due to their significant adverse impact on air quality.

RECENT MEETINGS:

At its January 11 meeting in Sacramento, ARB adopted new sections 94146-94149, Title 17 of the CCR, which establish a new test method for determining emissions from nonvehicular (stationary) sources, as well as amendments to six existing test methods. Specifically, the tests will apply to gasoline vapor recovery systems installed at bulk plants and gasoline terminals. The new regulations are intended to assist local air pollution control districts, which have the primary responsibility in California for controlling air pollution from nonvehicular sources. The new test methods shall be used by the local districts to determine compliance unless the district has already established its own test method concerning the subject. The new regulations await review by OAL.

Also at the January meeting, the Board affirmed staff's finding that the current statewide California ambient air quality standards for carbon monoxide are adequately protective of public health, and therefore need not be revised at this time. Staff based its recommendation on a review of recent health effects studies on the carbon monoxide standards. ARB staff and the Department of Health Services concur that the studies substantiate the basis of the current standards.

At its February meeting, ARB adopted the latest update to the list of substances in the Board's Toxic Air Contaminant Program, 0Health and

Safety Code section 39650 *et seq.* This list contains substances identified as TACs by the Board and those w000hich are candidate TACs. The list is prepared and used by staff in setting priorities for evaluating TACs. In setting priorities for which substances should be evaluated and regulated as TACs, ARB must consider factors relating to "the risk of harm to the public health, amount or potential amount of emissions, manner of usage in California, persistence in the atmosphere, and ambient concentrations in the community."

The first list was approved by the Board in January of 1984 and the list has been updated each year since that time. The list serves several functions. It identifies substances of potential concern as TACs, and fulfills the requirements of state law by setting priorities for the review of these substances. Publication and annual review of the list serves to inform the public of the substances under evaluation and provides the public with an opportunity to comment on the priorities of the Toxic Air Contaminant Program.

At its May 11 meeting in Sacramento, the Board adopted an airborne toxic control measure which requires facilities using ethylene oxide (EtO) to reduce the amount of that substance emitted to the atmosphere by applying best available control technology. EtO is widely used as a biocide to sterilize medical products and fumigate foodstuffs or other materials. Section 93108, Titles 17 and 26 of the CCR, requires facilities to reduce EtO emissions by specific degrees, without dictating the type of control equipment that must be used. The degree of control required is in proportion to the amount of EtO used by the facility. Source testing is required to demonstrate compliance with the control efficiency requirements. Facilities which use a total of four or less pounds of EtO per year are exempt from the emission control and source testing requirements. However, all facilities are subject to notification and reporting provisions contained in the measure.

ARB has listed EtO as a TAC (section 93000, Titles 17 and 26 of the CCR). EtO has been classified as a probable human carcinogen by the International Agency for Research on Cancer and by the Department of Health Services. Inhalation of EtO may lead to an increased risk of contracting leukemia and stomach cancer. As part of the EtO identification regulation, the Board determined that EtO is a TAC for which there is not sufficient available scientific evidence to identify a threshold exposure level. A threshold exposure level is that level below which no significant adverse carcinogenic health effects are anticipated.

About 1.4 million pounds of the colorless gas EtO were used in 1989 for sterilization and fumigation. Users include medical products manufacturers, contract sterilizers, food fumigators, and hospitals and clinics. The measure would not require any changes in the way EtO is used, nor would it restrict or prohibit the pesticidal use of EtO.

Most sterilization is carried out in a chamber where the material to be sterilized is exposed to the EtO. After sterilization is complete, the EtO is vented out to the open air. Presently, only a few large facilities in California use control equipment to reduce emissions from the sterilizer. Emissions of EtO were estimated to be 800,000 pounds in 1989. Eighty percent of the emissions comes from fewer than 10% of the estimated 650 sources. These high-emitting facilities are primarily commercial facilities including medical and food product manufacturers, and contract sterilizers.

The control measure is expected to reduce statewide EtO emissions by about 99% relative to 1989 emissions. This corresponds to a reduction of potential excess cancer burden statewide from the current level of 360-510 excess cases over a 70-year period to about 4-6 cases.

FUTURE MEETINGS:

September 13-14 in Sacramento (tentative).

October 11-12 in Sacramento (tentative).

November 8-9 in Sacramento (tentative).

CALIFORNIA INTEGRATED WASTE MANAGEMENT AND RECYCLING BOARD

Executive Officer: George Larson
Chairperson: John E. Gallagher
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Currently in a state of transition, the California Waste Management Board (CWMB) formulates state policy regarding responsible solid waste management. Created by SB 5 in 1972, 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 facili-