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*
*(916) 322-3330*

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-

ties. The local governments must outline in their CIWMPs 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.

On January 1, George Larson assumed his duties as the new Executive Officer of CIWMB. Larson replaces George Eowan, who resigned to work as a consultant to the waste and recycling industries.

MAJOR PROJECTS:

*Emergency Regulations Implementing AB 939.* On March 19, the Office of Administrative Law (OAL) approved CWMB's emergency regulations implementing AB 939 (Sher), which overhauled the structure and purpose of CWMB (*see supra* INTRODUCTION for further information). OAL approved CWMB's adoption of new sections 18720 (Article 3: Definitions); 18722, 18724, and 18726 (Article 6.1: Solid Waste Generation/Characterization Study); 18730-18738.5, 18740, 18744, 18746, and 18748 (Article 6.2: Source Reduction and Recycling (SRR) Elements); 18760-18775 (Article 7: Procedures for Preparing, Revising, and Amending SRR Elements); and 18776-18791 (Article 8: Procedures for Preparing, Revising, and Amending Countywide Siting Elements) of Chapter 9, Division 7, Title 14 of the CCR. (See CRLR Vol. 10, No. 1 (Winter 1990) pp. 129-30 for background information.)

The Board adopted these emergency regulations at its February 22-23 meeting in Sacramento after a series of protracted public comment forums, workshops, and public hearings were held on the matter since at least October 1989. (Articles 7 and 8 were not drafted in time to be noticed and discussed publicly, but the Administrative Procedure Act (APA) does not require input from the public on the drafting and adoption of emergency regulations.) The emergency regulations were generally well received by city and county governments, environmental and public interest organizations (*e.g.*, Sierra Club, Californians Against Waste, the Planning and Conservation League, and the Center for Public Interest Law), and the waste management/recycling industry. At the same time, however, these groups each voiced their own concerns and critiques over the regulatory action.

In particular, local governments expressed a two-fold concern: first, a March 1, 1990 deadline mandated by AB 939 was fast approaching for county and city leaders to analyze waste streams ("waste characterization studies") which will be used as the critical benchmark (or baseline) figures for determining year 2000 diversion achievements. The terms "diversion goals" or "diversion achievements" refer to the AB 939 mandate requiring all cities and counties to reduce garbage disposal to landfills (by means of source reduction and recycling (SSR) elements) 25% by 1995 and 50% by the year 2000. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 129-30 and Vol. 9, No. 4 (Fall 1989) pp. 111-12 for background information.) The local governments hope the eventually-adopted permanent regulations implementing AB 939 are not substantially different from the emergency regulations, because the local governments will be grounding their entire integrated waste management plans and determinations of benchmark figures on the procedures and standards set forth in the emergency regulations.

Second, the local governments claim that they may be overwhelmed by the impracticalities and costs involved if the waste characterization studies are construed to require such detailed analysis that nearly every individual's garbage can must be inspected. County and city officials raise this extreme example in countering environmental groups which insist on very detailed analyses to ensure that counties strictly adhere to the 1995 25% and 2000 50% diversion goals, rather than subvert or defeat these goals via non-concrete values or data derived from mere projections and extrapolations. During the public comment period of the February 22 Board meeting, Board member Ginger Bremberg, a former mayor and city councilperson of Glendale, sharply criticized Cory Brown of the Planning and Conservation League for being "nit-picky" and "more interested in regulations than in accomplishments" in his attempt to include in the emergency regulations more detailed environmental analysis and waste characterization reporting standards.

The emergency regulations are effective for 120 days (until July 17, 1990). Because Board staff was not able to notice and schedule a public hearing on the proposed permanent regulations by the end of that 120-day period, the Board sought and has received an additional 120-day extension (that is, until approximately November 17). The Board hopes to publish the permanent regulations and commence rulemaking before the end of August.

To ensure effective and immediate implementation of these emergency regulations, Public Resources Code section 40950 requires that a local task force be established in each county. As of April 18, the formation of local task forces had been completed in nine counties; in fifteen additional counties, local task forces have just obtained board of supervisors' approval. The local task forces will ensure close coordination between the cities and the respective county as the local jurisdictions prepare their SRR and siting elements (*i.e.*, guarantees of future landfill sites and anticipated solutions for future waste stream increases) to be included in Countywide Integrated Waste Management Plans (CoIWMPs).

AB 1820 (Sher), recently signed by the Governor, extends the AB 939-mandated deadline of CoIWMP SRR element submissions to the Board to July 1991, in contrast to the previous deadline of January 1991. (*See infra* LEGISLATION.) This change in the law will certainly benefit the local task forces as they prepare not only to comply with the emergency regulations, but with the much more significant impending permanent regulations.

*Implementation of AB 2448.* On March 23, OAL for the second consecutive time extended for an additional 120 days the Board's emergency regulations implementing AB 2448 (Eastin) (Chapter 1319, Statutes of 1987). These emergency regulations govern closure and postclosure management and financial plans for landfills. The emergency regulations appear under Title 14 of the CCR, Chapter 5, Article 3.5 (sections 18280-18297) (Financial Responsibility for Closure and Postclosure Maintenance); Chapter 3, Article 7.8 (sections 17760-17796) (Disposal Site Closure and Postclosure); and Chapter 5, Article 3.4 (sections 18250-18277) (Application and Approval of Closure and Postclosure Maintenance Plans). These

emergency regulations were first approved by OAL on August 18-19, 1989; they were extended 120 days by OAL on December 18-19, 1989, and again on March 23, 1990 (as noted above). (See CRLR Vol. 10, No. 1 (Winter 1990) pp. 130-31; Vol. 9, No. 4 (Fall 1989) pp. 111-12; and Vol. 9, No. 3 (Summer 1989) p. 102 for background information.)

At its April 18-19 meeting, the Board adopted a modified version of the present emergency regulations as permanent regulations, by voting in favor of CIWMB Resolution 90-20.

The controversial amended section 17796 of Article 7.8, contained within the emergency regulations and dealing with Postclosure Land Use, survived the transition into the permanent regulations. The resulting provision underwent substantial liberalization in permitting the construction of more extensive foundational and large-scale building improvements on retired landfills than was originally intended. Despite the Board's original stated concern over the noxious gases and fumes trapped within the various layers of retired landfills, in addition to the highly seismologically sensitive and unstable disposition of landfill soils in supporting structures containing basements and deep foundations, the resulting provision represents at least some deference to the pressures brought on by the construction industry; representatives of the construction and development industry who spoke at the public comment periods still expressed some dissatisfaction even over this final compromise draft. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 130 for background information.)

OAL approved the permanent regulations on June 18.

*Financial Certifications.* The Chapter 5, Article 3.5 emergency regulations discussed above attempt to implement provisions of AB 2448 requiring all solid waste landfill operators to make an initial financial certification to the Board and their local enforcement agency (LEA) by January 1, 1989. However, this legislative mandate has not been fulfilled because, as late as January 1990, only three of the subject 338 landfill operators had their certification applications approved by the Board. More significantly, as recently as April 18, the Board reported that only nine of the subject 338 landfill operators had their applications approved by the Board. Although most landfill owners/operators have failed to complete an initial certification, AB 939 required most owners/operators to *re*certify by January 1990.

However, CWMB staff place these figures in context by noting that most landfill operators have submitted applications for certification in good faith. Local governments and private landfill operators are not experienced in complying with such demanding and complicated financial mechanisms. Additionally, the Board notes that financial certification is only one of several components involved in the permit to operate a well-managed landfill; the Board claims that a majority of the operators substantially comply with the other components for gaining a permit, such as adequate closure and postclosure management plans and state-of-the-art gas collection systems. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 131 and Vol. 9, No. 4 (Fall 1989) p. 112 for background information.)

*Loan Guarantees.* On April 2, OAL approved permanent regulations governing the Board's $5 million per year program to guarantee loans to landfill operators to finance corrective actions. These regulations implement a provision of AB 2448 which amended section 66799.30 of the Government Code. The adopted sections constitute sections 18400-18413, Title 14 of the CCR. The Board will accept loan guarantee applications after July 1, 1990. (For forms, call the Board's Finance Unit at (916) 322-2903.) Under this new program, the Board can guarantee loans from approved lending institutions for up to $1 million or up to 90% of the loan amount, whichever is less. The guarantees will be effective for up to sixty months or until the loan is repaid, whichever comes first. These regulations were originally adopted by the Board in its August 1989 meeting held in Sacramento. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 112 for extensive background information.)

*HHW Program Grant Regulations.* On March 30, the Board published notice of its intent to adopt regulations governing the disbursement of grants to local governments which will fund household hazardous waste (HHW) collection plans implemented by the local governments. The proposed regulatory action is being taken pursuant to the Solid Waste Disposal Site Hazard Reduction Act of 1989 (now found in Public Resources Code section 46000 *et seq.*) to ensure that hazardous waste, including but not limited to HHW, is not improperly disposed of in a solid waste landfill in California. Through the Solid Waste Disposal Site Clean-up and Maintenance Account, $4 million will be available annually for a grant program. The proposed regulations (sections 18500-18537.5, Chapter 7, Articles 1, 2, and 3, Title 14 of the CCR) include general provisions and definitions pertaining to current and proposed HHW programs; the information needed from an applicant in order to be reimbursed for an HHW program through a non-discretionary grant; and the information needed by an applicant in order to compete for a discretionary grant for a proposed HHW program.

Following a public hearing at its May 17-18 meeting, the Board adopted the proposed regulations. Board staff submitted the rulemaking file on the regulatory action to OAL on June 13.

In a related action, the HHW section of CIWMB also plans to publish, as features in the Board's monthly *CIWMB Update* newsletter, helpful hints and suggestions relating to alternative non-hazardous household cleaning agents, in an attempt to encourage the public to reduce the incidence of HHW. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 131 for background information.)

*Review and Enforcement of Solid Waste Facilities Permits.* Public Resources Code (PRC) section 44002 prohibits the operation of any solid waste facility in the state except as authorized by the terms and conditions of a solid waste facilities permit. Pursuant to PRC section 44015 and section 18213(a)-(c), Title 14 of the CCR, each facility operator must cooperate with the local enforcement agency (LEA) in a permit review at least once every five years.

In February 1988, 79% of the active, permitted sites were overdue for permit review. This fact prompted an increase in interest in the five-year permit review process. In May 1988, Board staff began mailing notices to operators of all sites overdue for five-year permit review. As of the January 24-26, 1990 Board meeting, 33% (or 169) of the permitted active solid waste facilities in California were overdue for five-year permit review. The staff states that between January 1, 1990 and July 1, 1990, the primary emphasis of the permit review program will be to reduce the number of overdue permit applications to zero by means of notices, phone calls, meetings, and—when necessary—enforcement action.

As noted, some LEAs have responded to the program and have completed permit review reports on permitted sites within their jurisdictions. However, a review of these reports indicates the following:

-Many LEAs do not understand that older permits (those prepared prior to 1988) contain limits. Some LEA reports

readily identify tonnage increases at some sites of 200-300% over the limits specified in their permits. Yet those LEAs concluded that there had been no significant change, and thus no need to revise the permit or conduct an environmental review. Those LEAs also saw no need to initiate any enforcement action.

-Many LEAs acknowledge that older permits have limits. Their reports identify significant change and require a permit revision. Yet few LEAs have initiated any enforcement action. Most have opted instead to develop a compliance agreement with the operator that would accommodate a permit revision over a period of one to two years.

The Board has responded to these two problems by conducting training seminars on permit review and enforcement. In spite of this training, some LEAs still do not acknowledge that older permits have limits in areas such as authorized daily tonnage, authorized types of wastes, expansion of the landfill site, and fill height.

In November, noting that more than 100 of the approximately 400 landfill sites in the state may be operating in excess of their permitted terms and conditions, Board staff drafted a proposed Permit Enforcement Policy and distributed it to the LEAs for comment. The policy would affirm the Board's position that when permit limits are exceeded, the LEAs should take enforcement action. The policy would further state that the CCR requires that enforcement action to be taken in the form of a notice and order. In recognition of the numerous facilities in the state which may be operating in excess of their permits, staff also included in the proposed policy the opportunity for a Board hearing where strict enforcement by the LEA is impractical. Where the operator can demonstrate to the Board that there is a hardship and the Board believes there is no threat to the environment or the public health and safety, forebearance may be granted in order to give the operator time to revise the permit.

Approximately 26 LEAs responded, expressing their concerns with the policy. (At CIWMB's April 18-19 meeting, Board staff noted that this policy generated more response from the LEAs than any other issue in the history of the Board.) The concerns expressed included the following: (1) the matter is of "local" concern and should be handled by the LEAs; (2) LEAs generally have solved the problem at the local level by requiring permit revisions according to a compliance agreement with the operator (staff noted they believe this statement to be false; many LEAs have taken no enforcement action in response to permit violations); (3) the policy is counterproductive; it requires operators to take valuable time petitioning the Board for forebearance when they should be working on environmental reviews and permit revisions; (4) the policy is in reality rulemaking and is therefore subject to the Administrative Procedure Act (APA); and (5) the Enforcement Advisory Council (EAC) had not been given an opportunity to review the policy and make its own recommendations to the Board. (The recently reconstituted EAC has twelve members, all of whom are representatives of LEAs throughout the state of California.)

At the Board's April 18-19 meeting, staff suggested that the Permit Enforcement Policy contain the following concepts: (1) all solid waste facilities permits were and are intended to establish limits on the design and operations of facilities; (2) all permit reviews that are due or overdue should be completed by some date certain; (3) exceeding the limits of a permit is a violation of the permit and requires enforcement action; the only appropriate action by an LEA to remedy permit violations is to issue a notice and order that will bring the facility into compliance; (4) no protracted compliance schedule should be incorporated into any notice and order for any facility that has known environmental or public health or safety problems; (5) a notice and order should include a schedule that will bring the facility into compliance within a reasonable time, but in no case beyond August 1, 1992; and (6) the notice and order shall prohibit the operator from further violating the same or different permit conditions, specifications, or prohibitions.

At the April meeting, Board staff stated they feel the LEAs have gotten the message that the Board is serious about enforcing permits and revising permits as anticipated changes in operation require. The Board directed staff to work with the EAC to develop a permit enforcement policy based on the guidelines presented above, and to submit the proposed policy to the Board for consideration at the August meeting.

*Waste Tire Stockpile Registration Program.* Government Code section 66799.70(a), added by AB 1843 (W. Brown) (Chapter 974, Statutes of 1989), requires "every person who, at any time in a calendar year, stores or stockpiles more than 500 waste tires at a specific location, and every owner and operator of an existing waste tire facility with a stockpile of 500 or more waste tires shall file with the board a waste tire registration statement." In addition, Government Code section 66799.73(a) states that "[a]ny person who fails to submit the waste tire registration statement on or before April 1, 1990...shall be liable civilly to the board in an amount of not less than $100 per day nor more than $1,000 per day for each day the statement has not been received." Board staff developed and sent Waste Tire Registration Statements to 287 facilities identified as having more than 500 waste tires. Staff identified these facilities by contacting numerous local and state agencies asking them to identify waste tire facilities. Two hundred thirty-five facilities have returned registration statements to the Board. Based on the statements returned, staff determined that only 77 of the 235 facilities meet the criteria of "waste tire stockpile", and that there are 45 million waste tires stored in stockpiles in California.

At CIWMB's April 18-19 meeting, Board members expressed their concern that the number of waste tires reported by staff is far under estimates of the actual number. They also expressed concern that under existing law, there is no deterrent to and possibly an incentive (avoiding disposal fees) for dumping tires in unauthorized areas. The Board stated that one major problem is identifying "waste tire stockpiles". The Board believes that many more facilities are operating than were identified by the local and state agencies contacted by staff. CIWMB criticized AB 1843 for its failure to provide the funds necessary to locate such facilities and enforce the provisions of the bill.

*Permits.* The immediate construction and operation of the Twin Bridges landfill is crucial to the waste disposal needs of the Simpson Paper Mill in Shasta County. At its January 24-26 meeting, the Board considered a proposed permit for the Twin Bridges landfill. Previously, at its October 1989 meeting, Board staff reported that the proposed permit was deficient in two notable areas. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 132 for background information.)

First, the LEA maintained that daily cover is not necessary to maintain compliance with minimum state standards; Board staff disagreed, stating that allowing an unrestricted area of uncovered waste has the potential to cause a number of environmental and public safety problems. Second, the proposed site would receive sludge and dredgings from the paper mill. Staff noted that this material would readily absorb moisture.

The increase in water content during the rainy season could make the fill slopes more unstable.

Despite its previously expressed concerns, at the January meeting Board staff recommended that the Board concur in the issuance of the permit. Staff cited section 17682, Title 14 of the CCR, which provides that "the Board shall consider any application for different cover and compaction requirements for special operating practices...." Staff also stated that the LEA had provided substantiation for its determination that (1) daily cover is not necessary; (2) cover applied just before the onset of the rainy season is sufficient to prevent rain from entering fill, producing leachates and unstable slopes; and (3) the refuse itself—paper sludge—hardens, providing slope stability. The Board concurred in the permit.

*Enforcement Action.* As reported in CRLR Vol. 10, No. 1 (Winter 1990) at page 132, the Nevada County Health Department (the LEA) issued Notice and Order No. 89-01 to the operator of McCourtney Landfill to halt discharges of leachate from that site into the French Ravine Creek in May 1989. The order required the operator to implement certain corrective actions by October 1, 1989 with full compliance by October 1, 1990. Although the operator spent $3 million in an effort to implement the Board-ordered corrective actions, several actions were not completed as ordered, and the landfill experienced a leachate spill into French Ravine Creek on November 25, 1989. Additionally, during inspections of the site, Board staff discovered that the operator was accepting twice the daily tonnage specified in the site's 1978 permit, and was accepting sewer sludge in violation of its permit. Samples taken from the sites drainage system on January 13 and February 23 contained high levels of biological contamination.

Based on these circumstances, the Board voted to issue another notice and order directing the operator to comply with the original notice and order, to cease violating its permit by April 1, 1990, and to address other miscellaneous deficiencies the Board staff noticed during their inspections. The operator was apparently unable to revise its permit by April 1. Instead, the operator has stated that it no longer accepts asbestos and infectious wastes. However, the City of Grass Valley claims that any change in the current sludge disposal program or further reduction in the daily waste accepted at McCourtney would place the city in a crisis situation. At the Board's March 22-23 meeting, representatives of the cities and County of Nevada petitioned the Board to relax the prohibition on the acceptance of sewage sludge and daily waste exceeding the permitted amount at the landfill; the Board refused. The cities and county made the same request at the April 18 meeting, and again the Board declined.

In an October 1989 report, Board staff noted several deficient areas in the operation of the Tuolumne County LEA. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 133 for background information.) The staff found a conflict of interest, because the LEA was also an operator of three of the county's landfills and two transfer stations. The staff also noted that five permits in that county were delinquent, and the certifications for the closure/postclosure financial mechanism for two sites scheduled to close in the next three years were delinquent. At the Board's January 24-26 meeting, staff reported that in response to the October report, the county will transfer the responsibility for solid waste facility operations to the Department of Transportation and Engineering Services by July 1, 1990. Staff stated that it will continue to monitor the implementation of the new operator/LEA relationship to ensure that the conflict of interest does not resurface. Staff also reported that it is satisfied with the LEA's schedule for resolving the remaining deficiencies, and that it plans to continue to monitor the LEA for compliance with its corrective action schedule.

LEGISLATION:

*AB 1820 (Sher)* was signed by the Governor on June 18 (Chapter 145, Statutes of 1990). The bill makes numerous changes in the Integrated Solid Waste Management Act (IWMA) of 1989 (AB 939-Sher), including the following: it redefines the terms "source reduction" and "compost" for purposes of IWMA; changes the conflict of interest provisions for members of CIWMB; changes the content of the city and county source reduction, composting, waste characterization, and solid waste facility capacity components of the city and county source reduction and recycling (SRR) elements incorporated into the CoIWMPs under IWMA; requires that the city and county waste characterization components of an SRR element, and subsequent revisions thereto, contain specified information; changes the date that the counties are required to prepare and adopt the county SRR elements from January 1, 1991 to July 1, 1991, but authorizes exceptions to the deadline; and requires the special waste component SRR elements of cities and counties to address the disposition of the sewage sludge generated in the jurisdiction of the city or county.

*AB 2296 (Cortese)*, as amended May 22, would repeal existing provisions which require counties to revise their CoIWMPs to include a specified recycling plan, and which prohibit—until a CoIWMP has been approved by CIWMB—any transfer or processing station or disposal sites from being established in a city or county without a specified finding by the Board. Instead, this bill would prohibit any person from establishing a new, or expanding an existing, solid waste facility or transformation facility, until a CoIWMP has been approved by the Board, without meeting specified requirements. The bill would provide for the review and approval of a solid waste facility or transformation facility which has not been identified or described in an existing approved CoSWMP; and would prohibit a county and city from disapproving a proposed site identification and description for a new or expanding solid waste facility or transformation facility without a specified determination. This bill is pending in the Senate Governmental Organization Committee.

*SB 2700 (Keene)*, as amended April 16, would require CIWMB to conduct a study of the feasibility of requiring that all telephone directories which are issued or sold in California be made of materials which would make them acceptable to most recycling operations. This bill, which would also require the Board to report the results of the study to the legislature by January 1, 1992, is pending in the Assembly Natural Resources Committee.

*AB 109 (Hayden)* would revise the definition of hazardous waste to exclude infectious waste and delete infectious waste from under the hazardous waste control law. The bill would also enact provisions governing the handling, storage, treatment, disposal, and transportation of medical wastes; and provide that after treatment, as prescribed, medical waste may be handled, transported, and disposed of in the same manner as solid waste. The bill would require generators of medical waste which generate onsite more than a specified monthly amount of medical waste, and facilities that treat offsite medical waste to obtain a medical waste treatment permit. This bill is in the Senate inactive file.

*SB 2292 (Morgan)*. Under IWMA, various programs are established to promote recycling of materials. As amended May 20, this bill would authorize the

Reduction Advisory Committee to take specified facts into consideration when making recommendations concerning product durability standards. This bill is pending in the Assembly Natural Resource Committee.

*SB 1805 (Torres).* For the purposes of IWMA, transformation is defined to include incineration. As amended March 26, this bill would exclude incineration of municipal waste in a mass burning facility from the definition of transformation. This bill is pending in the Assembly Natural Resources Committee.

*SB 1998 (Bergeson).* Existing law provides for the Source Reduction Advisory Committee to make specified recommendations to the Board relating to source reduction. As amended May 30, this bill would create the Local Government Technical Advisory Committee in the Board, whose members would be appointed, as specified by the Board, for terms of two years. The bill would specify the duties of the advisory committee. This bill is pending in the Assembly Natural Resources Committee.

*SB 2091 (Hart),* as amended April 16, would amend section 40600 of the Public Resources Code to specify additional requirements for the Board's required report on the most effective means of enacting and implementing a disposal cost fee system on goods which are sold in California but not recyclable under the California Beverage Container Recycling and Litter Reduction Act. That report is currently due on January 1, 1991. This bill, which would take effect immediately as an urgency statute, is pending in the Assembly Natural Resources Committee.

*SB 2092 (Hart)* would, on and after January 1, 1993, prohibit the sale or offer for sale, to a retailer of any film plastic grocery or trash bag which is 1.0 mil or more in thickness, not intended for food storage and made from less than 10% recycled postconsumer film plastic, as defined. As amended May 15, the bill would, on and after January 1, 1995, prohibit the sale or offer for sale of any film plastic grocery or trash bag which is 0.75 mil or more in thickness, not intended for food storage, and made from less than 30% recycled postconsumer film plastic. The bill would also require each person who supplies a retailer of film plastic trash or grocery bags to certify the percentage by weight of recycled postconsumer film plastic in each shipment to each retailer and to maintain specified records. Violations of these provisions would be infractions with specified fines. This bill is pending in the Assembly Natural Resources Committee.

*SB 2139 (Davis).* Existing law requires each county to prepare a countywide siting element for inclusion in the CoIWMP, to include—if remaining disposal capacity is less than that needed for a fifteen-year period—an identification of an area or areas for the location of new solid waste transformation or disposal facilities or the expansion of existing facilities. The selected areas are required to be consistent with specified county plans. As amended April 23, this bill would expressly require the proposed Elsmere Canyon Municipal Landfill in Los Angeles County to meet that requirement. This bill is pending in the Assembly Natural Resources Committee.

*SB 2221 (Vuich),* as amended May 15, would authorize the Board to grant waivers of individual standards adopted pursuant to IWMA or the terms or conditions of specified solid waste facility permits, if the Board makes specified determinations, and would require the Board to examine each waiver at least annually to determine if it needs changes. This bill is pending in the Assembly Natural Resources Committee.

*AB 4193 (Sher).* Existing law requires the Board to report to the legislature on or before January 1, 1991, on the most effective means of enacting and implementing a disposal cost fee system. As amended May 2, this bill would, instead, require the report to be on the enactment and implementation of an effective disposal cost fee system. This bill is pending in the Senate Governmental Organization Committee.

*AB 2622 (Eastin),* as amended May 31, would require every glass container manufacturer, commencing October 1, 1991, to report to the Department of Conservation on a monthly basis the amount of glass containers that manufacturer has sold in California and the percentage of recycled glass used in those containers. This bill would also require glass manufacturers to use a minimum percentage of recycled glass in the manufacturing of glass containers after 1993. The minimum percentage of recycled glass would be 25% in 1993, rising to 65% by 2005, unless the Department determines that 65% is unfair; the manufacturer would then have to abide by the Department's determination of the maximum feasible recycling percentage in 2005. The bill also requires creation of a process for determining the reasons for loads of recycled glass being rejected by glass container manufacturers. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

*AB 2641 (Wright and Tanner),* as introduced January 22, would authorize local agencies which operate programs for household hazardous waste to allow small-quantity commercial generators to participate in household hazardous waste collection programs administered by local agencies, if the generators meet specified criteria. This bill is pending in the Senate Committee on Toxics and Public Safety Management.

*AB 2707 (La Follette),* as amended May 23, would impose a state-mandated local program by requiring each city to prepare, adopt, and submit by July 1, 1991, to the county in which it is located, a household hazardous waste element of specified content for inclusion in the county's CoIWMP. The bill would require each city and county to prepare and submit to the Board with its CoIWMP all city household hazardous waste elements and a county household hazardous waste element for residences in the unincorporated area of the county. The bill would thereby delete the inclusion of the household hazardous waste components from the city and county SRR elements as provided by IWMA, and make other conforming changes. This bill is pending in the Senate Governmental Organization Committee.

*SB 1804 (Torres),* as introduced January 18, would limit the requirement on the state Department of Health Services to classify as nonhazardous waste ash or residues generated solely from the combustion of biomass material, if the biomass materials do not contain municipal solid waste, industrial sludge, or hazardous waste. The bill would repeal provisions which prohibit the repeal or modification of a determination that the ash or residue is nonhazardous. The bill would revise the provision requiring an operator to notify the Department. Also, the bill will specify that the term "biomass" does not include certain wastes. This bill is pending in the Assembly Committee on Environmental Safety and Toxic Materials.

*SB 2310 (Bergeson).* Existing law requires operators of solid waste landfills to pay fees to the Board of specified amounts which are required to be used by the Board to carry out IWMA. As amended on May 21, this bill would make local governmental agencies and private business entities within a recycling marketing development zone eligible for low-interest loans from revenues from those fees for the purpose of expanding recycling efforts. The bill would also authorize the Board to estab-

lish a revolving loan fund in order to accomplish these provisions. This bill is pending in the Assembly Natural Resources Committee.

*SB 2342 (Killea)*, as amended June 18, would prohibit a child day care facility, including but not limited to any family day care home or day care center, from refusing to care for a child if the parent furnishes or authorizes the use of reusable diapers. This bill would require a facility to develop a written policy regarding the use and condition of use of disposable or reusable diapers at the facility. A facility would be required to inform parents or other persons responsible for the child of this policy prior to admission or enrollment of the child in the facility. The bill would also authorize a facility to charge and collect a fee for diaper handling practices described in the written policy, in an amount not to exceed the actual costs incurred therefor by the facility. This bill is pending in the Assembly Human Services Committee.

*SB 2551 (Marks)*, as amended April 30, would—on and after January 1, 1993—prohibit furnishing to the U.S. Postal Service for distribution any advertisements, billing statements, or solicitations which contain nonrecyclable materials. The bill would require the Board to determine which materials are recyclable for purposes of the bill, and would authorize the Board to waive the prohibition if it makes a specified determination. The bill would also require the waivers to be reviewed annually, as specified. A violation of the prohibition would be an infraction with specified penalties. This bill is currently in the Senate Appropriations Committee suspense file.

*SB 2837 (Killea)*, as introduced March 2, would prohibit—on and after January 1, 1992—the sale or offer for sale of single use disposable diapers for use in this state that are not in a package labeled as specified in the bill. This bill is pending in the Assembly Natural Resources Committee.

*AB 2868 (Bader)*, as amended on March 26, would revise the requirements which used oil and material burned for energy recovery used to produce a fuel or contained in a fuel are required to meet in order to be exempted from the list of recyclable materials which are hazardous wastes and subject to regulation even if the recycling meets specified conditions. The bill is pending in the Senate Committee on Toxics and Public Safety Management.

*AB 3992 (Sher)*. Existing law requires the Board to file a biennial report, with the legislature, which summarizes progress achieved by the Board in implementing programs relating to solid waste. As amended April 26, this bill would require the Board to file that report by March 31, 1991, and each March 31 of each odd-numbered year thereafter. Existing law requires each county to prepare and submit to the Board, in accordance with a prescribed schedule, a CoIWMP, which includes a county SRR element. This bill would require each county to prepare and adopt that element by July 1, 1991. The bill would also require the county education and public information component of the SRR element to describe how the county will educate and inform its citizens about the source reduction program. Finally, the bill would make additional technical corrections. It is pending in the Senate Governmental Organization Committee.

*AB 4032 (Harvey)*, as amended June 13, would require the Board, in consultation with the Air Resources Board, to adopt regulations which establish monitoring and control standard for the subsurface migration of landfill gas, and which require owners and operators of disposal sites to report monitoring data to the Board and to perform site inventories and evaluations. The bill would also require the Board to include, as part of its biennial report to the legislature, a report on the implementation of these requirements. This bill is pending in the Senate Governmental Organization Committee.

*SB 2910 (Calderon)*, as introduced on April 26, would require each county to conduct public hearings to obtain public comment on the results of the solid waste assessment test reports required of operators of solid waste landfills. This bill is pending in the Assembly Natural Resources Committee.

*SB 1813 (McCorquodale)*, as amended on May 29, would authorize the Board to conduct a study on the disposal and recyclability of household batteries. This bill, which would make a statement of legislative findings, is pending in the Assembly Committee on Environmental Safety and Toxic Materials.

*AB 3530 (Margolin)*, as amended June 13, would require CIWMB to conduct a study on the disposal and potential recyclability of household batteries, and submit the study and its recommendations to the legislature by March 1, 1992. This bill is pending in the Senate Committee on Governmental Organization.

*AB 3749 (Sher)*, as amended on June 4, would establish a comprehensive deposit and refund program for used oil, to be administered by the Board. This bill is pending in the Senate Committee on Natural Resources and Wildlife.

The following is a status update on bills reported in CRLR Vol. 10, No. 1 (Winter 1990) at page 133:

*SB 937 (Vuich)*, which makes nonsubstantive, technical changes to IWMA, was chaptered on March 30 (Chapter 35, Statutes of 1990).

*AB 2199 (Bates)*, which would require the inclusion of plastics in any waste characterization study prepared prior to designing and implementing a local recycling plan, is pending in the Senate inactive file.

*SB 1260 (Bergeson)*, which would require CIWMB to implement specified state programs to promote integrated waste management, develop markets for recovered materials, and provide technical assistance and public information, is still pending in the Senate inactive file.

*SB 65 (Kopp)*, which—subject to approval of the electors—extends Proposition 65's discharge and exposure prohibitions to public agencies, with specified exceptions, became law without the Governor's signature (Chapter 407, Statutes of 1990).

*SB 12 (Robbins)*, which would have prohibited any city, county, or city and county from authorizing the use of land for specified purposes if the land use will be located within 2,000 feet of an existing and operating solid waste disposal site or area, was dropped by its author.

*SB 1200 (Petris)*, as amended April 23, would enact the Used Oil Recycling Grant Program Act of 1989. This bill is pending in the Senate Appropriations Committee's suspense file.

*AB 1377 (Bates)*, which would require all state agencies and public entities, as defined, and the legislature to give preference to recycled products, is pending in the Senate Revenue and Taxation Committee.

*AB 1293 (Filante)*, which would require CIWMB to consult with representatives from specified industries and organizations in developing state policy for the resource recovery component of an integrated approach to waste management, is in the Senate inactive file.

LITIGATION:

As reported in CRLR Vol. 10, No. 1 (Winter 1990) at page 134, in September 1989 the Los Angeles County Superior Court issued a writ of mandate preventing CIWMB from enforcing the terms and conditions of a 1978 granted to Lopez Canyon Sanitary Landfill. Had the Board prevailed, Lopez Canyon would have been closed down. In *City of Los Angeles v. California Waste*

*Management Board,* No. C730900, the court ruled that Lopez Canyon (which is operated by the City of Los Angeles) is instead required to comply with a July 21, 1989 order issued by the Los Angeles County Department of Health Services (the LEA), which in turn requires Lopez Canyon to comply with recommendations contained in a 1983 engineering study.

At the same time, the court ordered CIWMB to vacate its July 14, 1989 decision to concur in a modified permit for Lopez Canyon; the modified permit was essentially the same as the original 1978 permit. At its April meeting, the Board voted to vacate its July 1989 decision, in compliance with the court order.

The court also directed the Board to use the 1983 engineering report as a basis for negotiating in a new operating permit for Lopez Canyon. The LEA, Board staff, and the City of Los Angeles are working on a new permit, in order to avoid further litigation. In his March report to CIWMB, Richard Hanson, Director of the Solid Waste Management Program, County of Los Angeles Department of Health (LEA), stated that the LEA has submitted a draft proposed permit to Board staff for preliminary review. Because the proposed permit calls for an expansion of the landfill described in the 1978 permit, California Environmental Quality Act (CEQA) review is required. Mr. Hanson reported that the LEA, along with other agencies, is preparing the CEQA documentation. As part of that effort, the LEA has begun an initial study to determine the possible significant effects of the proposed expansion on the environment.

However, additional litigation addressing operation at Lopez is pending. In February, citizens living next to Lopez Canyon filed suit against the City in Los Angeles County Superior Court. The citizens claim that the purpose of the suit is to force the City to comply with the court's September 26 decision. However, there is disagreement regarding the precise terms of the September 26 decision, particularly concerning fill height. Los Angeles Deputy City Attorney Christopher Westoff claims that the decision allows the City to operate Lopez pursuant to the LEA's July 21 order, which specifies that fills may be as high as 1,770 feet. The citizens claim that the decision limits the height of fills at Lopez to 1,725 feet. The citizens also contend that city surveyors recently measured the height of fills at Lopez, and found some fills were as high as 1,770 feet without cover. The citizens also claim that the City is beginning to dump in areas at Lopez without authority via permit or court order. The City claims that it is dumping only in areas included in the 1978 permit, but admits that it plans to include an expansion area in its permit application.

These issues promise to be debated for sometime, because Lopez takes in the bulk of Los Angeles' solid waste, and because citizens are outraged that the City, county (LEA), and CWMB failed to comply with state-mandated permitting process between 1983 and 1989. The City is considering a new site, located east of Los Angeles near Magic Mountain, to eventually replace Lopez Canyon. However, the City is already encountering strong opposition from citizens.

Oral argument in the citizens' case was set for April 20; however, prior to the hearing, the City negotiated a settlement with the citizens' group. The group is holding the lawsuit in abeyance.

RECENT MEETINGS:

At its January 24-26 meeting, the Board review staff's draft report on Used Oil Recycling in 1988. The report concluded that despite efforts under Article 13, Chapter 6.5, Division 20 of the Health and Safety Code to increase control over used oil, large amounts of used oil continue to be disposed of illegally. On the other hand, the report showed that the intent of SB 86 (Presley), enacted in 1986, is being realized and that programs developed by the Board and local governments have helped to increase used oil collection and recycling. The report enthusiastically endorsed SB 86 as a model law for the entire nation to embrace.

At the Board's March 22-23 meeting, staff presented its report on California's recycling markets for the period July-December 1989. Given the recent reports of the landfilling of glass collected for recycling, the report dealt at length with the market for recycled glass. The report noted that the market prices for glass were down slightly during both third and fourth quarters. The report attributed the decline primarily to widespread problems with marketing of two- and three-color mixed glass.

Glass containers are manufactured in three colors: green, amber, and flint. To achieve one of the three colors, only small percentages of the other two colors can be used in the manufacturing process. Most waste glass arrives at a certified processor mixed. Because the waste glass is mixed, only a small portion of the glass can be used in the manufacture/processing of one of the three colors of glass containers. Therefore, most of the mixed-color waste glass cannot be recycled as glass containers.

One solution is to encourage color-sorting through a tiered price system which pays collectors more for color-sorted waste glass. The sorting process may also help spot and remove contaminants. (Glass is also rejected by processors because of the presence of contaminants.) Another solution is the production of "ecology glass", which uses a very high percentage of mixed color waste glass. The appearance of ecology glass varies from batch to batch, depending on the color-composition of the waste glass. Shades include variations of yellow, green, brown, and gray-black. While the glass industry maintains that ecology glass is not as aesthetically pleasing as pure-color glass and will not sell, the report states there is reason to believe it could be a marketable product. At CIWMB's April 18-19 meeting, the Board also noted the possibility of using waste glass in the production of cement.

FUTURE MEETINGS:

September 27-28 in Sacramento.

## COASTAL COMMISSION

*Executive Director: Peter Douglas*
*Chairperson: Thomas Gwyn*
*(415) 543-8555*

The California Coastal Commission was established by the California Coastal Act of 1976, Public Resources Code section 30000 *et seq.*, to regulate conservation and development in the coastal zone. The coastal zone, as defined in the Coastal Act, extends three miles seaward and generally 1,000 yards inland. This zone, except for the San Francisco Bay area (which is under the independent jurisdiction of the San Francisco Bay Conservation and Development Commission), determines the geographical jurisdiction of the Commission. The Commission has authority to control development of, and maintain public access to, state tidelands, public trust lands within the coastal zone, and other areas of the coastal strip. Except where control has been returned to local governments, virtually all development which occurs within the coastal zone must be approved by the Commission.

The Commission is also designated the state management agency for the purpose of administering the Federal Coastal Zone Management Act (CZMA) in California. Under this federal statute,