



ronmental Cleanup Initiative" that will address pesticide use and food safety, among other things. The initiative calls for a phase-out, over a five-year period, of pesticides used on food that are classified by the EPA as "known or probable human carcinogens" as well as one other acutely poisonous pesticide. The initiative will transfer responsibility for regulating the public health impacts of pesticide use from CDFA to the DHS, which will be directed to set health-based pesticide residue standards for hazardous pesticides including but not limited to those on the EPA list, according to the standards required to protect

the health of children. Children as a group have been found to be more sensitive to pesticide hazards in the diet than adults. The initiative will establish a program to monitor processed food and improve monitoring techniques for fresh fruits and vegetables, require Cal-OSHA to develop a plan to protect farmworkers, and allocate \$20 million to research alternatives to pesticides that endanger the public health. The Attorney General hopes to qualify this initiative for the November 1990 ballot.

FUTURE MEETINGS:
To be announced.

goals are not sufficient to attain state standards for ozone, PM10, and visibility; and that some of the measures in all three tiers do not contain legally enforceable commitments or are not technologically feasible. Thus, the Plan directs the District and SCAG to pursue the stated reduction goals through technological advancements and to secure additional enforceable commitments from the government agencies responsible for implementing them. The District, with the active cooperation of SCAG, will be required to submit semi-annual reports to ARB to indicate the progress being made in obtaining legally enforceable commitments and in developing technologically feasible measures.

Some of the control measures received full approval, including a heavy-duty vehicle smoke enforcement program, new emission standards for new heavy-duty construction equipment, control of emissions from domestic products, further emission reductions from can, coil, and wood flatstock coating, control of emissions from pleasure boat fueling operations, gasoline transfer, and stationary sources, and banning new drive-through facilities. Other measures received conditional approval, including urban bus system electrification, vanpool vehicle purchase incentives, alternative work weeks and flextime programs, and high-speed rail.

On-Board Diagnostics II Requirement. At its September 14 meeting, ARB adopted section 1968.1, Title 13 of the California Code of Regulations (CCR), which requires vehicle manufacturers to equip 1994 and later model vehicles with advanced on-board diagnostic systems (OBD II). The new computerized warning system will monitor all emission-related components or systems for proper performance. OBD II will provide early detection of pollution-producing malfunctions, thereby leading to prompt and efficient repair. The new regulation supplements 1985 OBD I regulations, section 1968, Title 13 of the CCR, applicable to 1988 and later vehicles. OBD I requires monitoring of some emission-critical systems, though not all. The technological feasibility of OBD II-type monitoring was less certain in 1985.

The OBD II regulation includes new monitoring requirements covering catalyst system condition, engine misfire detection, evaporative control system operation, supplementary air system function, exhaust gas recirculation flow rate, and monitoring of other components or systems which are controlled by the computer. The regulation requires compliance begin-



RESOURCES AGENCY

AIR RESOURCES BOARD

Executive Officer: James D. Boyd
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The California legislature created the Air Resources Board in 1967 to control air pollutant emissions and improve air quality throughout the state. The Board evolved from the merger of two former agencies, the Bureau of Air Sanitation within the Department of Health and the Motor Vehicle Pollution Control Board. The members of the Board have experience in chemistry, meteorology, physics, law, administration, engineering and related scientific fields.

The Board regulates both vehicular and stationary pollution sources. The primary responsibility for controlling emissions from nonvehicular sources rests with local air pollution control districts (California Health and Safety Code sections 39002 and 40000).

The Board develops rules and regulations for stationary sources to assist local air pollution control districts in their efforts to achieve and maintain air quality standards. The Board oversees their enforcement activities and provides them with technical and financial assistance.

The Board's staff numbers approximately 425 and is divided into seven divisions: Technical Services, Legal and Enforcement, Stationary Source Control, Planning, Vehicle Control, Research and Administrative Services.

MAJOR PROJECTS:

ARB Adopts 1989 South Coast Air Quality Management Plan. Following a formal public hearing on June 22-23, ARB at its August 15 meeting approved the 1989 Air Quality Management Plan (1989 Plan) submitted by the South Coast Air Quality Management District and the Southern California Association of Governments (SCAG), with some conditions and clarifications. The 1989 Plan was approved as a revision to the California State Implementation Plan (SIP) which ARB is required to adopt and enforce pursuant to the federal Clean Air Act. The Board found that the state and national health-based ambient air quality standards for carbon monoxide, nitrogen dioxide, ozone, and PM10 (particulate matter) are regularly and significantly exceeded in the South Coast Air Basin. The 1989 Plan identifies measures needed for the attainment of the national ambient air quality standards by the year 2007.

The 1989 Plan includes three tiers. Tier I contains commitments to adopt all reasonably available stationary source, mobile source, and transportation control measures identified. Tiers II and III contain commitments to develop other potentially feasible measures which will apply existing and anticipated control technologies. Tier II includes emission reduction goals which will require deployment of low-emitting and extremely low-emitting motor vehicles by the years 2000 and 2007. In its findings, the Board noted that the Plan's emission reduction



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ning with 1994 model year passenger cars and light- and medium-duty trucks; all vehicles must comply by 1996.

ARB staff estimates the cost of the advanced system at approximately \$45 per vehicle, though manufacturers say the price tag could be as high as \$200. Despite the added cost, the staff believes OBD II will actually result in savings to the consumer because the computer will inform the auto mechanic exactly where the problem lies, thereby reducing labor cost.

Testimony at the September 14 hearing included praise for the advanced system from both environmental groups and auto industry representatives. However, the auto industry also voiced concern that the regulation requires too much too soon. ARB staff describes OBD II regulations as technology-forcing requirements.

This regulatory change awaits filing with and approval by the Office of Administrative Law (OAL).

New Certification Standards and Test Procedures for New Heavy-Duty Vehicles and Engines Fueled with Compressed Natural Gas or Liquefied Petroleum Gas. At its September 15 meeting, ARB approved amendments to section 1956.8, 1965, and 1976(c), Title 13 of the CCR. The existing regulations establish standards and test procedures for the certification of new heavy-duty engines and vehicles fueled by gasoline or diesel fuel; at its March 1989 meeting, the Board approved standards and test procedures for heavy-duty engines and vehicles powered by methanol. (See CRLR Vol. 9, No. 3 (Summer 1989) p. 99 for background information.) The newly-approved amendments will establish similar standards and test procedures for the certification of new 1991 and subsequent model heavy-duty motor vehicle engines fueled by compressed natural gas (CNG) or liquefied petroleum gas (LPG), either separately or in combination with other fuels. The test procedures would be incorporated into the existing heavy-duty gasoline (Otto-cycle) and diesel engine certification test procedures. All classes of heavy-duty gaseous-fuel engines would be required to meet the California exhaust emission standards which are applicable to heavy-duty Otto-cycle and diesel-cycle engines. The Board adopted the amendments at the September 15 meeting, subject to an additional fifteen-day comment period because ARB made minor changes to the proposed language in response to public comment. These regulatory changes await submission to and approval by OAL.

Amendments to Air Toxics "Hot Spots" Regulations. The Air Toxics "Hot Spots" Information and Assessment Act of 1987, Health and Safety Code sections 44300-44384, established a program to inventory emissions of air toxics, to assess the risk to public health from exposure to these emissions, and to notify the public of any significant health risks associated with the emissions from any facility. (See CRLR Vol. 9, No. 3 (Summer 1989) p. 99 for background information.) The Act requires ARB to compile a list of toxic substances and adopt a fee schedule assessing fees on operators of facilities subject to the Act. The fee regulation will enable air pollution control districts and the state to recover their costs of implementing the Act.

At its September 15 meeting, ARB adopted amendments to sections 90700-90704 and 93300-93347, Titles 17 and 26 of the CCR. Pursuant to the amendments, fees will be assessed against all facilities which emit greater than or equal to ten tons per year of specified pollutants. Other amendments relate to updating fiscal year 1989-90 program costs and fee amounts, changing the format and deadlines for submission of program cost information, and adding new or revised district toxic inventories, reports, or surveys. The amendments also include the addition of 59 new substances to the list kept by ARB, which had numbered 326 substances.

These regulatory amendments await approval by OAL.

Update on Other ARB Regulation Changes. The following is a status update on regulatory changes approved by ARB and discussed in detail in CRLR Vol. 9, No. 3 (Summer 1989) at pages 99-100:

ARB's June 8 amendments to sections 1960.1, 1960.5, 2061, and 2112, Title 13 of the CCR, which specify lower new car and light-duty truck emission standards for certain pollutants (hydrocarbon, carbon monoxide, and benzene) and test procedures for certification of motor vehicles for sale in California, have not yet been filed with OAL at this writing.

New sections 70300-70306, Title 17 of the CCR, which implement section 39607(e) of the California Clean Air Act (CCAA) of 1988 (Chapter 1568, Statutes of 1988) by setting forth criteria for the designation of an air basin as attainment or nonattainment for any state ambient air quality standard, were filed with OAL on September 6 and await approval.

New sections 90800-90803, Title 17 of the CCR, which provides for changes in the mechanisms by which the Board

and regional districts collect fees to help defray the costs of implementation of the CCAA, were also filed with OAL on September 6 and await approval.

Finally, new sections 90620-90623, Title 17 of the CCR, which implement the Atmospheric Acidity Protection Act of 1988 (Health and Safety Code sections 39900-39911), have not yet been filed with OAL at this writing.

LEGISLATION:

SB 1022 (McCorquodale) requires ARB to conduct a study of the effects of acid deposition on agriculture in the San Joaquin Valley, and to submit the study to the legislature by July 1, 1992. This bill was signed by the Governor on September 29 (Chapter 991, Statutes of 1989).

SB 1460 (Dills) requires ARB to determine if it has sufficient information to determine whether the plan submitted by the South Coast Air Quality Management District to achieve and maintain state and federal ambient air quality standards meets the requirements of the federal Clean Air Act and the California Clean Air Act of 1988. This bill requires ARB to notify the District of the information needed, and to assist the District as specified. This bill requires ARB to adopt those portions of the plan that comply with the state and federal acts and are adequate to attain state ambient air quality standards. This bill was signed by the Governor on September 29 (Chapter 998, Statutes of 1989). (See *supra* MAJOR PROJECTS for further information.)

AB 2352 (Woodruff) authorizes ARB to establish alternative test procedures to those used in the existing programs for certifying new direct import motor vehicles and direct import used motor vehicles, if the Board determines that those alternative procedures, which would be identical to those contained in federal law, as specified, would be at least as effective as the existing procedures. This bill was signed by the Governor on September 25 (Chapter 859, Statutes of 1989).

SB 1276 (Presley) authorizes the Executive Officer of ARB, or an authorized representative of the Executive Officer, to enter premises, as specified, to inspect vehicles operated for commercial purposes, and related records pertaining to those vehicles for purposes of enforcing existing law which requires that certain motor vehicles be equipped with pollution control devices. This bill was signed by the Governor on September 29 (Chapter 1154, Statutes of 1989).



AB 2532 (Vasconcellos), as amended September 5, would require that ARB adopt regulations for the phase-out of small quantity containers of chlorofluorocarbons (CFC). *AB 2532* is a two-year bill pending in the Assembly Committee on Environmental Safety and Toxic Materials.

The following is a status update of bills described in detail in *CRLR* Vol. 9, No. 3 (Summer 1989) at pages 100-01:

AB 471 (Katz), as amended June 30, was signed by the Governor on July 10 (Chapter 106, Statutes of 1989). This bill increases the state gas tax rate from 9 cents per gallon to 14 cents per gallon on July 1, 1990, and further adjusts the rate every two years thereafter until 1994.

SB 1006 (Leonard), as amended August 28, requires ARB to certify, by June 30, 1991, those motor vehicles that are low-emission vehicles and requires specified labeling of those vehicles. This bill was signed by the Governor on September 29 (Chapter 990, Statutes of 1989).

AB 1050 (Sher), which clarifies existing provisions requiring ARB to classify each air basin according to whether it is in attainment with air quality standards, was signed by the Governor on September 20 (Chapter 557, Statutes of 1989).

SB 54 (Torres), as amended September 14, would have prohibited an air pollution control district or air quality management district from issuing a permit for construction or operation of any project not operating as of July 1, 1989, which burns hazardous waste, except as specified. This bill was vetoed by the Governor on October 2.

SB 231 (Roberti), as amended September 14, would have required ARB to adopt a program to reduce CFC emissions, but was vetoed by the Governor on October 2.

AB 1736 (Friedman) requires ARB to review and evaluate the adequacy of programs to reduce CFC emissions from motor vehicle air conditioning systems. *AB 1736* was signed by the Governor on October 1 (Chapter 1321, Statutes of 1989).

AB 1737 (Friedman). Under existing law, any person who intentionally or negligently violates any order of abatement issued by an air pollution control district, an air quality management district, a district hearing board, or ARB is liable for a civil penalty up to \$25,000 for each day the violation occurs. This bill, as amended September 8, would have deleted the requirement that the violation be intentional or negligent. This bill was vetoed by the Governor on October 1.

AB 2020 (Cortese), as amended September 11, would have prohibited the manufacture, distribution, or sale of any rigid polystyrene foam product made with a CFC, if specified conditions occur. This bill was vetoed by the Governor on September 25.

SB 116 (Rosenthal), as amended September 12, would have required the reuse or recycling of CFCs when servicing or disposing of a refrigeration system containing CFCs. This bill was vetoed by the Governor on October 2.

SB 427 (Torres), as amended September 12, would have required ARB to inventory, as prescribed, sources of greenhouse gases, as defined. This bill was vetoed by the Governor on October 2.

SB 1192 (Marks), as amended September 11, would have prohibited the manufacture, distribution, or sale on and after January 1, 1990, of any polystyrene foam food service product or food packaging product made with specified CFCs, or the manufacture, distribution, or sale on and after December 31, 1991, of any rigid polystyrene foam product made with specified CFCs, if substitutes are available. This bill was vetoed by the Governor on October 2.

SB 1123 (Rosenthal), as amended August 21, requires the Department of General Services to seek to acquire a mix of least-polluting and least-cost-qualifying vehicles available when purchasing low-emission vehicles. This bill was signed by the Governor on September 25 (Chapter 796, Statutes of 1989).

AB 2151 (W. Brown), as amended August 24, would have required ARB to prepare an inventory of greenhouse gases produced both from natural sources and as a consequence of agricultural, economic, and other human activities within the state and from fossil fuel burning power plants that provide power within the state. This bill was vetoed by the Governor on September 25.

The following bills were made two-year bills, and may be pursued when the legislature reconvenes in January: *AB 1718 (Hayden)*, which, as amended August 21, 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; *AB 756 (Killea)*, which, as amended August 25, would require ARB, in consultation with the state Department of Health Services, to study indoor concentrations of carbon monoxide in residential dwellings; *SB 1219 (Rosenthal)*, which would require the Public Utilities Commission (PUC),

whenever it considers the cost of fuel in establishing the rates of an electrical utility, to consult with ARB and any affected air pollution control district concerning the increased costs associated with a utility switching from the use of natural gas to fuel oil in the generation of electricity; *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 combustion process; *SB 361 (Torres)*, which would require ARB to undertake a study to determine the feasibility of requiring large, new, and modified industrial sources of carbon dioxide to offset additional carbon dioxide emissions with reductions of carbon dioxide from other existing sources; *AB 204 (D. Brown)*, which would specify that the term "solid waste disposal site" does not apply to an island in the Pacific Ocean fifteen or more miles from the mainland coast; *AB 2203 (Cortese)*, which, as amended August 22, would require ARB to prepare by September 30, 1990, guidelines for cities and counties to use in developing the air quality elements included in their general plans; *AB 911 (Killea)*, which would make a statement of legislative intent with respect to the attainment of federal and state ambient air quality standards through the purchase and use of low-emission vehicles and fuel; *SB 907 (Vuich)*, which, as amended September 1, would require any bus acquired for public transit service, by any public or private entity on and after January 1, 1992, to be certified by ARB to meet or exceed applicable exhaust emission standards; *SB 1138 (Marks)*, which would prohibit the manufacture, import, or export of any product containing any CFC or halon, and the use of those substances in any application that is harmful to the environment; *SB 718 (Rosenthal)*, which, as amended July 12, would appropriate \$500,000 from federal settlement funds received by the state to the Secretary of the Environmental Affairs Agency for allocation to specified air pollution control districts and air quality management districts to ensure that offshore oil operations conform to federal and state air pollution requirements; *AB 292 (Floyd)*, which would eliminate the requirement that ARB adopt a resolution to exempt modifications that do not reduce the effectiveness of required pollution control devices or which result in emissions that are at levels which comply with existing state or federal standards; and *SB 155 (Leonard)*, which would enact the California



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Clean Transportation Act of 1989, and impose an additional tax under the Motor Vehicle Fuel License Tax Law and the Fuel Tax Law on specified motor vehicle fuels, at designated rates, based on whether the fuel meets specified standards.

LITIGATION:

In *Western Oil and Gas Ass'n v. Monterey Bay Unified Air Pollution Control District*, No. 5006708 (Aug. 17, 1989), the California Supreme Court ruled that the 1983 Tanner Act does not preclude air pollution control districts from regulating nonvehicular emissions of a substance before ARB has identified the substance as a toxic air contaminant (TAC). In so holding, the court reversed a Sixth District Court of Appeal judgment. (See CRLR Vol. 8, No. 4 (Fall 1988) pp. 99-100 for background information.)

The Tanner Act, Health and Safety Code sections 39650-39674, establishes an elaborate process for ARB's identification of substances as TACs and authorizes it to adopt airborne toxic control measures for those contaminants. In its decision, the Supreme Court noted that the Tanner Act does not expressly preclude regional districts from regulating emissions of a substance prior to ARB's identification of that substance as a TAC, and recognized that regional districts had such authority prior to the enactment of the Tanner Act. The court found no evidence that the legislature had intended to repeal by implication that pre-existing authority of the districts.

In reaching its conclusion, the court stated that since the enactment of the Tanner Act in 1983, ARB has identified only nine substances as TACs. The court added that if ARB identification and regulation were a prerequisite for district control, nearly all substances would remain unregulated for the foreseeable future. The court concluded that the purpose of the Tanner Act is to improve air pollution regulation, not to eviscerate it.

RECENT MEETINGS:

At its July 13 meeting in Sacramento, ARB adopted sections 1990-1994, Title 13 of the CCR, which provide the mechanism for collecting annual new motor vehicle certification fees to fund mobile source activities required under the CCAA. In response to testimony by the Motor Vehicle Manufacturers Association that the regulations would impose a financial hardship, the Board directed staff to schedule the collection of fees on a quarterly basis beginning in fiscal

year 1990-91. These regulatory changes await filing with the OAL.

Also at the July meeting, ARB adopted an amendment to section 93000, Titles 17 and 26 of the CCR, to identify methylene chloride as a TAC. This proposal also awaits review and approval by OAL.

Also on July 13, ARB staff presented a two-part informational report on current activities and future plans pertaining to the control of volatile organic compound (VOC) emissions from solvent use sources. The report separately addressed industrial applications and consumer products. Regarding industrial application, the Board's function is to provide technical assistance to the districts, which have the primary authority to develop regulations. Regarding consumer products, however, the CCAA mandates that the Board adopt regulations by January 1, 1992 to achieve the maximum feasible reduction in VOC emissions. Toward this end, staff outlined the activities currently scheduled to meet this mandate. The preliminary goal is to achieve a 50% reduction in VOC emissions from consumer products by the year 2000. Staff will present a progress report to the Board annually.

After an August 10 public hearing, ARB adopted section 86000, Title 17 of the CCR, which will amend the New and Modified Stationary Source Review Rules of the eight San Joaquin Valley County Air Pollution Control Districts. Upon consideration of public comments and information from the districts, interested persons, the Basinwide Air Pollution Control Council (BCC), and ARB staff, the Board concluded that the Valley has not attained the state and national ambient air quality standards for ozone and particulate matter. Thus the Board adopted the proposed regulation which would apply threshold levels of zero pounds per day for best available control technology (BACT), and 150 pounds per day for emissions offsets to sources whose applications for authority to construct were pending on or received after March 10, 1989. In addition, those sources which have received authority to construct permits or renewals of authority to construct permits, but have not yet acquired a vested right under California law to proceed in accordance with those permits, are also within the scope of the amended regulation. This regulatory change awaits approval by OAL.

FUTURE MEETINGS:

December 14-15 in Los Angeles.

CALIFORNIA WASTE MANAGEMENT BOARD

Executive Officer: George T. Eowan
Chairperson: John E. Gallagher
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Created by SB 5 in 1972, the California Waste Management Board (CWMB) formulates state policy regarding responsible solid waste management. 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.

The Board consists of the following nine members who are appointed for staggered four-year terms: one county supervisor, one city councilperson, three public representatives, a civil engineer, two persons from the private sector, and a person with specialized education and experience in natural resources, conservation, and resource recovery. The Board is assisted by a staff of approximately 92 people.

On June 27, Governor Deukmejian appointed Leslie Brown, the president and general manager of a farming company, to the Board. The Governor also reappointed Ginger Bremberg, a member of the Glendale City Council, to the Board's city councilperson position.

MAJOR PROJECTS:

Integrated Waste Management Approach Prevails. California's waste management crisis—that is, the fact that many counties will run out of landfill capacity within the next decade—has spurred a tremendous amount of legis-