



*Our summary of new environmental legislation this year is authored by Gary Lucks and Erin Sullivan of Oakland's Beyond Compliance LLC. The authors' biographies can be found in our last issue.*

In this issue we continue with Part II of our annual survey of new environmental legislation passed by the Legislature and signed into law by Governor Schwarzenegger in 2006. Part I appeared in our last issue (October 16, 2006). Readers should not assume that all of the bills in any particular category will be in this issue. Both issues should be consulted to get the full picture of new legislation in a particular subject area. Unless the bill is noted as "urgency" legislation, its provisions will become effective on January 1, 2007.

As we discussed in Part I, these bill summaries are brief in nature. Thus, anyone with an interest in the described bill should review the full text, either by downloading it from the Internet ([www.leginfo.ca.gov](http://www.leginfo.ca.gov)) or by calling the author's office to obtain a copy. You can also receive a copy by calling the legislative bill room at (916) 445-2323.

### AIR QUALITY AND VEHICLES

**AB 679 (Calderon) Compliant Diesel Fuel.** For more than a decade, strict emissions standards implemented by the California Air Resources Board (ARB) have banned the sale of diesel made at refineries outside the state. This bill prohibits ARB from adopting any regulation that excludes importation of compliant diesel fuel from entities that do not have refineries in California. The ARB may designate a fuel as a compliant diesel fuel if an importer demonstrates that the relevant properties of the diesel fuel to be imported are equivalent to the properties of ARB diesel fuel being certified for sale in California. The ARB must also develop, complete, and submit

results for a test protocol for the evaluation of ARB diesel and its emissions benefits. This must be completed no later than December 31, 2007. Results of the test program must be delivered to the Senate Committee on Environmental Quality, the Senate Committee on Transportation and Housing, and the Assembly Committee on Transportation.

**AB 1407 (Lieber) State-Owned Bay Area Toll Bridges.** This bill provides for construction cost savings from certain toll bridges to be reprogrammed for other projects in the same corridor. It also requires residents of the 9-county Bay Area with hybrid vehicles to obtain and maintain an active FasTrak account in order to apply to the Department of Motor Vehicles (DMV) for a Clean Air decal. The decal is necessary to travel in a carpool lane without having the requisite number of passengers otherwise required to use a carpool lane.

**AB 1430 (Goldberg) Air Contaminants.** Currently, the ARB is required to adopt a methodology for use by air pollution control districts for calculating the value of emissions reduction credits (ERCs) issued for emission reductions from stationary, mobile, indirect, and area-wide air emissions sources, including those issued under market-based incentive programs, when those credits are used interchangeably. This bill requires the ARB Advisory Committee on Environmental Justice to review each updated methodology. The bill is designed to ensure that any methodology used to create ERCs will be used in a way that does not further expose environmental justice communities to particulate matter and other air toxics.

**AB 2804 (Salinas) Sacramento Metropolitan Air Quality Management District.** This bill requires the Sacramento Metropolitan Air Quality Management District (SMAQMD) to re-

imburse board members for actual and necessary expenses and specifies that the district may compensate board members for attending meetings. Any compensation paid for meeting attendance must be determined by the SMAQMD board, via ordinance, and cannot exceed \$100 per day or a total of \$6,000 per year. Passed as urgency legislation, this bill is effective immediately.

**AB 2843 (Saldana) Air Pollution.** Under existing law, regional air quality districts and local air pollution control districts operating within jurisdictions with one million or more residents must spend at least 50% of specified diesel emission reduction funds in a manner that reduces pollution in communities with the most significant levels of air contamination, including communities of minority and low-income populations. This bill eliminates the existing January 1, 2007 sunset date.

**SB 225 (Soto) Carl Moyer Program.** Existing law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program), which provides grants to offset the incremental cost of qualified projects that reduce oxides of nitrogen from heavy-duty mobile sources in the state. This bill provides additional Carl Moyer funding for heavy-duty diesel vehicles by allowing the ARB to determine a higher cost effectiveness threshold (in \$/ton of NOx) for the purpose of making grants under the program, based on consumer price index adjustments.

**SB 1686 (Kuehl) Greenhouse Gases: Wildlife Conservation.** This bill authorizes the Wildlife Conservation Board (when funds are available) to take into account the potential of forestlands to beneficially reduce or sequester greenhouse gas (GHG) emissions when prioritizing proposed acquisitions. This bill further authorizes the Wildlife Conservation Board to use policies, protocols, and other

relevant information developed by the California Climate Action Registry in determining a project's potential to reduce or sequester GHG emissions.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

**AB 1387 (Jones) Residential Infill Projects.** This bill allows a local government to approve an environmental impact report (EIR) for specified infill projects without making a statement of overriding considerations for traffic impacts from specified residential projects. These include residential projects not exceeding 100 units, with a minimum residential density of 20 units per acre, and within one-half mile of a transit stop, on an infill site, and in an urbanized area. The project must be in compliance with the traffic, circulation, and transportation policies of the general plan, applicable community plan, applicable specific plan, and applicable ordinances of the local government, and the mitigation measures approved in a previously certified project area EIR applicable to the project must be incorporated into it.

## **COASTAL**

**SB 201 (Simitian) Sustainable Oceans Act.** This bill was signed by the Governor in May (CEI May 31, 2006) to regulate the establishment of fish farming (aquaculture) operations off of the California coast should anyone ever attempt to place one there. The bill enacts the Sustainable Oceans Act and, among other things, requires that if a final programmatic EIR is prepared for coastal marine finfish aquaculture projects approved by the Fish and Game Commission (Commission), the report must provide a framework for managing marine finfish aquaculture in a sustainable manner. The framework must consider specified environmental factors, including but not limited to: (1) location, (2) effects on sensitive ocean and coastal habitats, (3) effects on marine ecosystems, (4) effects on commercial and recreational fishing, and (5) effects on other plant and animal species.

This bill also prohibits a person from engaging in marine finfish aquaculture in state waters without a lease from the Coastal Commission. All leases must meet the following standards: (1) the site must be appropriate for marine finfish aquaculture, (2) the lease must not unreasonably interfere with fishing or public trust values or unreasonably disrupt wildlife or harm the environment, (3) the operation must minimize the use of fish meal and fish oil, (4) minimize use and amounts of all drugs, chemicals, and antibiotics, (5) lessees must establish best management practices approved by the Commission, which include a regular monitoring, reporting, and site inspection program, (6) all farmed fish must be marked, tagged, or otherwise identified as belonging to the lessee in a manner determined appropriate by the Commission unless the Commission determines that identifying farmed fish is unnecessary for protecting wild fish stocks, the marine environment, or other ocean uses, and (7) all facilities and operations must be designed to prevent the escape of farmed fish and to withstand severe weather conditions and marine accidents.

**SB 497 (Simitian) Ballast Water Discharges.** This bill regulates the ballast water discharges of invasive species into state waters. It requires ships entering California ports to treat ballast water in compliance with ballast water treatment and performance standards to be adopted by the California State Lands Commission (SLC) by January 1, 2008. The discharge of invasive species in ballast water must be entirely prohibited by the Commission by 2020.

## **CONTAMINATED PROPERTIES**

**SB 354 (Escutia) California Land Environmental Restoration and Reuse Act (CLERRA).** CLERRA establishes procedures for the selection of an oversight agency for a property subject to a Phase I environmental assessment by representatives of DTSC and the SWRCB. CLERRA defines the term "property" as meaning real property but excludes from that definition, among other things: (1) a site

that is or becomes subject to a specified enforcement action or order issued by a RWQCB or a specified enforcement action by DTSC; (2) a site that is or becomes subject to a corrective action requirement or for which a no-further-action determination has been issued by a RWQCB or a local oversight agency; (3) a site that is or becomes subject to a corrective action order; or (4) a site that is or becomes authorized or permitted for the treatment, storage, or disposal of hazardous waste. This bill deletes these exclusions from the definition of "property" under CLERRA.

**SB 989 (Committee on Environmental Quality) Bona Fide Ground Tenant.** The California Land Reuse and Revitalization Act (CLRRRA) provides that an innocent landowner, a bona fide purchaser, or a contiguous property owner, as defined, qualifies for immunity from liability from certain state laws for pollution conditions caused by a release or threatened release of a hazardous material if certain conditions are first satisfied. This bill creates a similar program for "bona fide ground tenants." The bill defines the term "bona fide ground tenant" to mean a person who, among other things, is deemed acceptable by DTSC for entering into a lease agreement with a term of 25 years or more for a site pursuant to the CLRRRA.

**SB 1689 (Perata) Housing and Emergency Shelter Trust Fund Act of 2006.** SB 1689, or Proposition 1C, is a \$2.85 billion general obligation bond to build emergency shelter, affordable homes, and housing-related infrastructure throughout California. The measure will be presented to voters on November 7, 2006. Proceeds from the sale of these bonds would be used to finance various state housing programs, capital outlay related to infill development, brownfield cleanup that promotes infill development, and housing-related parks. If adopted, the bill would make findings and declarations as to the severe lack of affordable housing in California, make findings and declarations as to traffic congestion and the

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## New Legislation

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impact longer commutes have on California families, and establish programs such as the Transit-Oriented Development Implementation Program that would facilitate the development of higher density uses within close proximity to transit stations so as to increase public transit ridership. Passed as urgency legislation, this bill would become effective immediately following Election Day.

### ENERGY

**AB 1925 (Blakeslee) Geologic Sequestration.** This bill requires the California Energy Commission (CEC) in coordination with the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation to submit a report to the Legislature containing recommendations for how the state can apply geothermic sequestration strategies for the long-term management of industrial carbon dioxide. This report must be submitted on or before November 1, 2007.

**AB 1969 (Yee) Electric Generation Facilities.** This bill requires electrical corporations to purchase renewable energy from water and wastewater agencies. Allowing certain water and wastewater agencies to sell renewable energy produced by their facilities to electrical companies could result in up to 250 new megawatts (MW) of energy into the state's grid.

**AB 2021 (Levine) Public Utilities: Energy Efficiency.** This bill requires all electric and natural gas utilities to meet energy efficiency savings targets set by the CEC and the PUC. This effort is expected to reduce forecasted electricity demand by 10% over the next decade. Specifically, on or before November 1, 2007, and by November 1 of every third year, the CEC, in consultation with the PUC and municipal utilities, must develop a statewide estimate of all potentially achievable cost-effective electricity and natural gas efficiency savings and establish statewide targets for energy efficiency and demand reduction for the next 10 years.

**AB 2264 (Pavley) State Fleet.** This bill requires the Department of General Services (DGS), in consultation with CEC, on or before June 1, 2007, to establish a minimum fuel economy standard for the purchase of passenger vehicles and light-duty trucks for the state fleet that are powered solely by internal combustion engines utilizing fossil fuels. In addition, on or after January 1, 2008, new state fleet purchases of these vehicles by all state agencies, as defined, must meet this minimum fuel economy standard.

**AB 2390 (Committee on Utilities and Commerce) PUC: Reporting Requirements.** This bill requires the PUC to report to the Legislature by July 15, 2009, and triennially thereafter, on the energy efficiency and conservation programs it oversees. The report must include, among other things, information regarding authorized utility budgets and expenditures and projected and annual actual energy savings over the program cycle.

**SB 1 (Murray) Million Solar Roofs Bill.** SB 1 complements the California Solar Initiative established by the PUC by helping to move California toward the goal of building one million solar roofs by 2018. The bill increases the net metering cap from 0.5% of a utility's aggregate customer peak demand to 2.5% to accommodate net solar energy generated. SB 1 also requires all local publicly owned electrical utilities that sell electricity at retail to adopt, implement, and finance a solar initiative program by January 1, 2008. Beginning January 1, 2011, sellers of production homes, as defined, must also offer the option of a solar energy system to all customers negotiating to purchase a new production home constructed on land meeting certain criteria.

**SB 1059 (Escutia) Electric Transmission Corridors.** In order to identify and reserve for future use land that is suitable for high-voltage transmission lines, this bill authorizes the CEC to designate electric transmission corridor zones in which high-voltage electric transmission lines may be built in the future. This designation is subject to CEQA, and this

bill designates the CEC as the lead agency for CEQA purposes.

**SB 1368 (Perata) GHG Emissions.** This bill requires the CEC to set greenhouse gas (GHG) emission standards for those entities providing electricity in the state. It also requires the PUC to prohibit electricity providers and corporations from entering long-term contracts that do not meet the CEC's emission standard. The bill is intended to prevent long-term investments in power plants with GHG emissions at levels higher than emission levels from new combined-cycle natural gas turbines. The bill is more thoroughly described in a Special Report in our September 15 issue.

### HAZARDOUS WASTE/ HAZARDOUS MATERIALS

**SAB 289 (Chan) Chemical Testing.** Under existing law, the California Environmental Protection Agency (Cal-EPA) uses taxpayer dollars to develop detection methods for chemicals. This legislation shifts the testing burden by authorizing certain state agencies (*i.e.*, the ARB, Department of Food and Agriculture, DHS, or the Department of Toxic Substances Control (DTSC)) to ask manufacturers to provide the state agency with specified information regarding the chemical. The type of information the state agency can request includes, but is not limited to, an analytical test method for that chemical, the octanol-water coefficient and bioconcentration factor for humans for the chemical, and other information relevant to the fate and transport of the chemical into the environment. The manufacturer must provide the requested information within one year. The agency is required to seek the information from available sources prior to asking a manufacturer for it, and provisions in the bill provide the manufacturer with protection for genuine trade secrets.

**AB 1681 (Pavley) Lead in Jewelry.** This bill prohibits a person, on or after March 1, 2008, from manufacturing, shipping, selling, or offering for sale jewelry, children's jewelry, or jewelry used in body piercings unless



the jewelry is made entirely from Class 1, Class 2, and/or Class 3 materials. Under the bill, Class 1 materials contain no lead. Class 2 materials include, among other things, metal alloys with less than 10% lead that are electroplated with suitable under- and finish coats before August 31, 2009, and 6% on and after August 31, 2009. Finally, Class 3 materials are defined as materials that are not Class 1 or Class 2 materials and contain less than 600 parts per million (ppm) of lead. This bill is aimed at reducing the levels of lead in costume jewelry, particularly in jewelry sold to children and teenagers.

**AB 2155 (Wolk) Pharmaceutical Activities.** Under existing law, most hazardous waste facilities operate under hazardous waste facility permits or other grants of authorization issued by DTSC. This bill provides an exemption for “pharmaceutical neutralization activities” from the requirement to obtain a hazardous waste facilities permit if the operator of the pharmaceutical neutralization unit meets certain requirements. “Pharmaceutical neutralization activity” is defined as the deactivation of a material generated by, or used in, pharmaceutical manufacturing or pharmaceutical process development activities through the addition of a reagent before management of the material as a hazardous waste.

## LAND USE

**AB 2259 (Salinas) Local Agency Formation Commission.** The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 authorizes local agency formation commissions (LAFCOs) to review and approve proposals that extend services into previously unserved territories within unincorporated areas and to review the creation of new service providers to extend urban type development into previously unserved territories within unincorporated areas to ensure that the proposed extension is consistent with the policies of the commission and certain policies under state law. This bill extends this authority until January 1, 2013, and clarifies that each county’s LAFCO

authority is to “review and comment” rather than to “review and approve.”

**AB 2751 (Wyland) Development Project Fees.** The existing Mitigation Fee Act of 1987 allows a local agency to charge a variety of fees, dedications, reservations, or other exactions in connection with the approval of certain development projects. This bill prohibits these fees from including the costs attributable to existing deficiencies in public facilities. However, permit development project fees may include the costs attributable to increased demand on public facilities reasonably related to the development project.

**AB 2867 (Torrico) Land-Use Notifications.** The existing Planning and Zoning Law and the Subdivision Map Act require local governments to hold public hearings regarding various land-use actions contemplated by those governments. This bill requires that notice of a hearing must be mailed or delivered at least 10 days prior to the hearing to the owner of the subject real property as shown on the latest equalized roll. However, local governments can use county assessor or tax collector records if those sources contain more recent information. In addition, for purposes of Subdivision Map Act notice requirements, notice must now also be given to those owners of a mineral right pertaining to the subject real property who have expressed the intent to preserve that mineral right.

**SB 1650 (Kehoe) Eminent Domain.** Under existing law, a governing body or a public entity must adopt a resolution of necessity, as specified, and send related notices before commencing an eminent domain proceeding. In response to the Supreme Court’s holding in *Kelo v. City of New London* (2005), this bill declares that the property may only be used for the public use stated in the resolution unless the governing body adopts a resolution authorizing a different use by a vote of at least 2/3 of all members of the governing body. Also, SB 1650 requires a public entity to sell property that is not used for the public use

stated in the resolution within 10 years of the adoption of the resolution *unless* the government decides by a 2/3 vote to retain the land. The original owner has a right of first refusal if this 10-year limit is exceeded.

## MISCELLANEOUS AND MULTIMEDIA

**AB 127 (Nunez) Schools: Green Building.** This bond bill (Proposition 1D) would enact the Kindergarten-University Public Education Facilities Bond Act of 2006 to authorize more than \$10 billion of state general obligation bonds to provide aid to school districts, county superintendents of schools, county boards of education, California Community Colleges, the University of California, the Hastings College of the Law, and the California State University to construct and modernize education facilities. This is the first school bond bill of its kind to be placed on the ballot. By constructing and modernizing these facilities, the bond is designed to yield results in educational environments that are more efficient, healthier, and more comfortable places to learn. The bill authorizes the State Allocation Board (SAB) to include green building designs and materials in the construction plans it develops for use by school districts. This bond will only become operative if approved by voters at the November 7, 2006 election. If passed, the bill would become effective immediately.

**AB 2160 (Lieu) Green Building Projects.** This bill directs the state to identify and develop appropriate financing and project delivery mechanisms for state green building projects, define a life cycle cost analysis model to evaluate the cost-effectiveness of state building environmental projects, and identify incentives for private sector green building projects. Findings must be reported to the Governor’s “Green Action Team” by January 1, 2008.

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## New Legislation

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### NATURAL RESOURCES

**AB 984 (Laird) Tamarisk Plant Control.** Since its introduction in the 1800s, tamarisk has rapidly spread and invaded almost all waterways and other wetland habitats throughout the Southwest, taking over more than one million acres of wetlands. It overcomes native habitat and evaporates significantly more water than native vegetation. In response, this bill authorizes the Department of Water Resources, in partnership with the U.S. Department of Agriculture (USDA), the Department of Fish and Game, and the Colorado River Board of California, to prepare a plan to control or eradicate tamarisk in the Colorado River watershed. The plan must also provide for the reestablishment of native vegetation and must identify potential funding sources for implementation.

**AB 2746 (Blakeslee) Mitigation for Adverse Impacts: Nonprofits.** Historically, certain state agencies or entities have been able to acquire fee title in land or conservation or open-space easements from property owners to mitigate any adverse impact resulting from the development of a project or facility. AB 2746 confirms that these agencies may allow nonprofits (*i.e.*, land trusts) to accept and hold real property interests required by an agency to mitigate adverse impacts of a permitted project or facility. Although this is a common practice by many public agencies today, the relationship has never been codified. To qualify, the nonprofit must be a 501(c)(3) organization recognized as tax-exempt by the Internal Revenue Service. Additionally, the nonprofit must be a "qualified organization" as defined by Section 170(h)(3) of the Internal Revenue Code in order to hold conservation easements.

**AB 2900 (Plescia) California Natural Landmarks Program.** The federal National Natural Landmarks Program recognizes and encourages the conservation of outstanding examples of our country's natural history. The

National Park Service administers the program and establishes procedures and requirements for designating an area as a national natural landmark. This bill enacts a similar state program called the California Natural Landmarks Program. The state program establishes a procedure for designating, modifying, and rescinding the designation of California natural landmarks and requires the owner of the property to initiate or agree to that designation.

**SB 1360 (Kehoe) Conservation Easement Registry.** This bill requires the Secretary of the Resources Agency to establish a central public registry of all conservation easements held or required by the state or purchased with state grant funds provided by any agency, department, or division of the state on or after January 1, 2006. This registry must be available to the public on or before January 1, 2009, and updated biennially. The types of information that must be provided on the Internet include the purpose, location, and size of the easement, the identity of the easement holder, and the date the easement transaction was recorded.

### PESTICIDES

**AB 2865 (Torrico) School Safety.** The existing Healthy Schools Act of 2000 established right-to-know requirements such as notification, posting, and recordkeeping for pesticides used at schools. This bill expands the definition of "schoolsite" to also include private child day care facilities, as defined. This bill also requires property owners to notify tenants who operate a child day care facility of their pest management practices and to provide a specified notice before any application of pesticides.

### SOLID WASTE AND RECYCLING

**AB 1992 (Canciamilla) Dumping.** This bill strengthens the existing prohibitions against illegal dumping of solid waste on public and private property by clarifying that placing, depositing, dumping, or overflow of solid waste on private property without the owner's consent is a misdemeanor. The bill also includes a local

enforcement agency (LEA) within the group of entities that determine whether the dumping of solid waste is a public health and safety hazard. Under the new law, the associated minimum fines for these violations are a mandatory fine of at least \$250 for a first violation, \$500 for a second violation, and \$750 upon a third or subsequent conviction.

**AB 2211 (Karnette) Solid Waste Disposal Site Cleanup.** This bill adds solid waste facilities and sites involving solid waste handling to those sites eligible for emergency action funding from the Solid Waste Disposal Site Cleanup Trust Fund. This bill further authorizes the California Integrated Waste Management Board (IWMB) to fund the cleanup of a publicly owned site if the IWMB determines that the public entity lacks resources or expertise to timely manage the cleanup itself. The bill also deletes the requirement that the grants provided be matching grants and instead authorizes the IWMB to provide partial grants to public entities to assist in site cleanup.

**AB 3056 (Committee on Natural Resources) Beverage Containers.** The California Beverage Container Recycling Act (Bottle Bill) provides consumers with a 4¢ refund value for containers less than 24 ounces and 8¢ for containers 24 ounces and above. This bill is designed to increase recycling rates by allowing the Department of Conservation (DOC) to pay refund values to consumers at a higher level but not more than an additional 1¢ for a 6-month period (until July 1, 2007). AB 3056 makes changes to the term "convenience zone" and expands the Quality Incentive Payment program to include all container types (*i.e.*, empty glass, plastic, and aluminum) so as to increase the recovery and quality of materials collected through curbside recycling programs. This bill also authorizes DOC to expend up to \$20 million, from January 1, 2007, until January 1, 2008, in competitive grants to certified community conservation corps. Passed as urgency legislation, this law is effective immediately.

**SB 369 (Simitian) Tire Recycling.**

Under the rubberized concrete asphalt (RAC) grant program, the IWMB may award grants of up to \$50,000 to cities, counties, districts, and other local governmental agencies for funding public works projects that use rubberized asphalt concrete and meet specified qualifications, including that the project will use between 2,500 and 20,000 tons of rubberized asphalt concrete and 20 pounds or more of crumb rubber per ton of rubberized asphalt concrete. The law became inoperative on June 30, 2006, and otherwise would have been repealed on January 1, 2007. This bill preserves and enhances the program and revises the eligibility qualifications for those grants by requiring the project to use at least 1,250 tons of rubberized asphalt concrete. It also increases the maximum grant from \$50,000 to \$250,000. Finally, this bill recommences the grant program on January 1, 2007, makes the program inoperative on June 30, 2010, and extends the repeal date to January 1, 2011.

**SB 1305 (Figueroa) Home Generated Sharps Waste.** The existing Medical Waste Management Act regulates the management and handling of medical waste. Under existing law, certain items, such as household waste, are excluded from the definition of medical waste. This law also excludes home-generated sharps waste from the definition. The new law defines "home-generated sharps waste" to mean "hypodermic needles, pen needles, intravenous needles, lancets, and other devices that are used to penetrate the skin for the delivery of medications derived from a household, including a multifamily residence or household." This bill prohibits a person from knowingly placing home-generated sharps waste in the commercial and residential solid waste collection containers on or after September 1, 2008. In addition, this bill requires by the same date that home-generated sharps waste be managed only at facilities and transported only in sharps containers approved by the State Department of Health Services (DHS) or local en-

forcement agency.

**SB 1344 (Chesbro) Plastic Packaging Containers.** Under the California Integrated Waste Management Act of 1989, every rigid plastic packaging container (RPPC) sold or offered for sale in the state must generally meet one of a number of specified criteria, including being made of 25% post-consumer material. This bill revises the conditions by which a manufacturer may demonstrate compliance with that 25% requirement. Adding more options to comply with the state's RPPC recycling requirements makes it easier for an RPPC manufacturer to continue to self-certify that it complies with one or more of these requirements.

**WATER QUALITY AND SUPPLY**

**AB 140 (Nunez) Disaster Preparedness and Flood Prevention Bond Act of 2006.** AB 140, or Proposition 1E, creates the Disaster Preparedness and Flood Prevention Bond Act of 2006, which would authorize and subject to voter approval at the November 7, 2006, election the issuance and sale of general obligation (G.O.) bonds in the amount of more than \$4,000,000,000 for the purposes of financing certain disaster preparedness and flood prevention projects. Passed as urgency legislation, this bill would become effective immediately following Election Day if Prop. 1E passes.

**AB 1752 (Levine) Publicly Owned Treatment Works.** Under the existing Porter-Cologne Water Quality Control Act, civil penalties may be imposed for certain violations of the Act relating to waste discharge requirements (WDRs). The Act also authorizes the State Water Resources Control Board (SWRCB) or a California regional water quality control board (RWQCB) in lieu of assessing specified mandatory minimum penalties against a publicly owned treatment works (POTW) serving a small community to allow the POTW to spend an equivalent amount towards the completion of a compliance project if the SWRCB or RWQCB makes a specified determination. This bill extends the operative date for a

determination of whether a small community is eligible for an exception to the mandatory minimum penalties from January 1, 2007, to July 1, 2007. Passed as urgency legislation, this bill is effective immediately.

**AB 2515 (Ruskin) Progress Reports.** On December 15, 2005, the Public Utilities Commission (PUC) approved a Water Action Plan (WAP) identifying policy objectives to guide the PUC in regulating investor-owned water utilities. The PUC's objectives in regulating water utilities rest on four key principles: 1) safe, high quality water; 2) highly reliable water supplies; 3) efficient use of water; and 4) reasonable rates and viable utilities. This bill requires the PUC to prepare a report describing the progress achieved toward implementing the policy objectives of this WAP.

**SB 1070 (Kehoe) California Water Quality Monitoring Council.** SB 1070 requires the establishment of the California Water Quality Monitoring Council (Council). Under the new law, the Council must review existing water quality monitoring, assessment, and reporting efforts and recommend actions and funding needs to coordinate those efforts. SB 1070 will also increase transparency in government by requiring the State Water Board to implement a public information program on matters involving water quality. The Board must place on its website an information file on water quality monitoring, assessment, research, standards, regulations, enforcement, and other pertinent information.

**SB 1574 (Kuehl) Sustainable Delta.** This bill requires the Secretary of the Resources Agency to convene a committee to develop and submit to the Governor and the Legislature, on or before December 31, 2008, a Strategic Vision for a Sustainable Sacramento-San Joaquin Delta. The vision must address sustainable ecosystem functions, sustainable land use and land use patterns, sustainable transportation uses, sustainable utility uses, sustainable water supply uses, sustainable recreation uses, sustainable flood

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## New Legislation

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management practices, and other aspects of sustainability as determined by the committee.

### SB 1733 (Aanestad) Water Quality.

The existing Porter-Cologne Water Quality Control Act gives the State Water Board and the regional boards principal authority over water quality issues. Under existing law, the State Board must provide annual training to regional board members to improve public participation. Under this new law, the training must also be aimed at improving adjudication procedures at the regional level. This bill also gives the State Board and the regions more discretion to work with POTWs serving small communities with financial hardship to correct violations. For example, the State and regional boards may allow non-compliant facilities to invest in the infrastructure upgrades they need to come into compliance in lieu of paying discharge violation fines.

## HAZARDOUS WASTE AND MATERIALS

### New Legislation and Other Green Chemistry Issues Discussed at Cal/EPA Symposium

The California Legislature is likely to be considering legislation establishing a “green chemistry” program in California during next year’s session. The possibility was one of several subjects addressed in a short but wide-ranging morning symposium on green chemistry held by Cal/EPA on October 24.

The symposium is a follow-up to a report to the Legislature earlier this year recommending an overhaul of California law to encourage the development of safer alternatives to the most toxic of existing chemicals (CEI April 17, 2006). That report was authored by U.C. Berkeley researcher Michael Wilson under a contract issued by the Senate Environmental

Quality Committee. Wilson was one of a number of speakers from academia, government, and industry who discussed the green chemistry subject.

What is meant by “green chemistry” was the subject of the most entertaining of the presentations by Professor John C. Warner, Director of the Center for Green Chemistry at the University of Massachusetts in Lowell. Dr. Warner pointed out that no university in the U.S. requires its PhD candidates to demonstrate any knowledge about toxicity or the environmental impact of chemicals. Warner said this lack of concern over such impacts throughout college chemistry departments is particularly pernicious given that 50.9% of undergraduate degrees in chemistry are awarded to women, who should be concerned over the impacts of chemicals on childbearing. In contrast, Warner noted that undergraduates in chemistry in China are required to take 1 year of green chemistry.

So what is “green chemistry?” Warner cited what he described as the “Twelve Principles of Green Chemistry.” These include actions built into the chemical design process that minimize waste, use, and result in chemicals that are either non-toxic or have minimal toxicity (e.g., safer solvents), use as little energy as possible, use renewable feedstocks, and lead to chemicals that at the end of their function do not persist in the environment.

Warner was followed by Michael Wilson, who reprised his April report to the Legislature. Wilson advocates a system that would eliminate any cost advantage associated with producing chemicals with a high toxicity. Wilson concedes that it is difficult for California to accomplish this by itself. He reiterated the problems with the Federal Toxic Substances Control Act (TSCA) that have resulted in a “data gap” of information about the majority of chemicals used nationally and in California. That data gap in turn creates both a “safety gap” (e.g., the inability

of chemical users to obtain information on the safety of the chemicals they use) and a “technology gap” that gives the chemical industry little incentive to invest in safer chemicals. In his report, Wilson recommended that California adopt legislation closing all three gaps.

It is not clear that the Legislature is willing to go this far. Dr. Bruce Jennings, the Conference’s closing speaker, described his efforts as the principal consultant to the Senate Environmental Quality Committee to draft green chemistry legislation for introduction in next year’s session. While Jennings made it clear some bill is likely to be introduced, he confessed that as of yet there is no consensus on what should go into it, with several drafts having been circulated among interested parties. Jennings said that the bill is likely to address the data gap in some form since it is a constant complaint by state environmental agencies that they lack data on many of the chemicals they are asked to consider during regulatory proceedings.

California did move in a small way to address the chemical data gap with two pieces of legislation signed by Governor Schwarzenegger this year. One of the bills, AB 289 (Chan), will require manufacturers or others introducing specific chemicals to provide testing methodology to evaluate their safety at the request of any Cal/EPA agency. The second bill, SB 1379 (Perata), establishes a statewide biomonitoring program to measure the type and amounts of chemicals in the bodies of Californians who volunteer for the program.

The Conference also featured presentations by California and U.S. EPA officials, including OEHHA head Joan Denton, who described Proposition 65, which OEHHA administers, as the only truly “green chemistry” statute in California. There were also several presentations by representatives of the chemical industry, who vowed to work with the state in any green chemistry effort, and by a couple of entrepreneurs describing safe chemical processes that they have developed