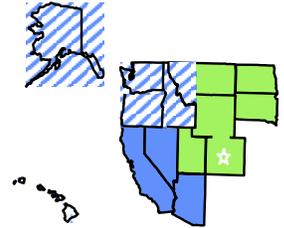




**US Army Environmental Center  
Western Regional Environmental Office  
REGION 9 – JUNE 2004**



# WESTERN REGION REVIEW

The WESTERN REGION REVIEW provides current information on significant regulatory & legislative developments, as well as related information affecting US Army activities & operations in the Federal Region 9 area: Arizona, California, Hawaii and Nevada. We appreciate your feedback. Please contact the Western Regional Environmental Office, U.S. Custom House, 721 19<sup>th</sup> Street, Room 427, Denver, CO 80202-2500; phone: (303) 844-0954, or fax: (303) 844-0951.

## WREO STAFF

Gerald Owens  
Regional Chief/DOD REC Region 8  
(303) 844-0953  
[gowens@rma.army.mil](mailto:gowens@rma.army.mil)

Regional Counsel (Acting)  
(816) 983-3448

Tim Blume  
Army REC Region 8  
(303) 844-0958  
[tblume@rma.army.mil](mailto:tblume@rma.army.mil)

Mark Mahoney  
Army REC Region 9  
(303) 844-0957  
[mmahoney@rma.army.mil](mailto:mmahoney@rma.army.mil)

Mike Flannery  
Army REC Region 10  
(including Hawaii & Pacific)  
(303) 844-0959  
[mflanner@rma.army.mil](mailto:mflanner@rma.army.mil)

Project Manager (Acting)  
(303) 844-0952

Regulatory Affairs Specialist (Acting)  
(303) 844-0954

Administrative Assistant  
(303) 844-0950

## Regional Environmental Coordinator (REC) Contacts

DOD REC Region 9  
RADM Jose Betancourt, Jr.  
(619) 532-2925  
[betancourt.jose@cnrsw.navy.mil](mailto:betancourt.jose@cnrsw.navy.mil)

Army REC Region 9  
Mark Mahoney  
(303) 844-0957  
[mmahoney@rma.army.mil](mailto:mmahoney@rma.army.mil)

Navy/DOD REC POC Region 9  
CAPT Anthony J. Gonzales  
(619) 553-7400  
[anthony.j.gonzales@navy.mil](mailto:anthony.j.gonzales@navy.mil)

Air Force REC Region 9  
Ron McRobbie  
(415) 977-8886  
[ronald.mcrobbe@brooks.af.mil](mailto:ronald.mcrobbe@brooks.af.mil)  
Baha Zarah  
(415) 977-8843  
[baha.zarah@sanafcee.brooks.af.mil](mailto:baha.zarah@sanafcee.brooks.af.mil)

Marine Corps REC Region 9  
Colonel Joe Wendel  
(760) 725-2631  
[wendelAJ01@mail.cpp.usmc.mil](mailto:wendelAJ01@mail.cpp.usmc.mil)

DLA REC Region 9  
John Guzman  
(209) 439-4129  
[jguzman@ddc.dla.mil](mailto:jguzman@ddc.dla.mil)

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## FEDERAL AGENCY NEWS & REGULATORY DEVELOPMENTS



### ENVIRONMENTAL PROTECTION AGENCY (EPA) INFORMATION

#### AIR INFORMATION:

**FINAL RULE – NESHAP FOR IRON AND STEEL FOUNDRIES** – On 22 April 2004 (69 FR 21905), EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for iron and steel foundries. EPA has identified iron and steel foundries as a major source of hazardous air pollutant (HAP) emissions. These standards require all major sources to meet HAP emissions standards reflecting application of the maximum achievable control technology (MACT). The HAP emitted by facilities in the iron and steel foundries source category include metal and organic compounds. When fully implemented, the final rule will reduce HAP emissions by over 820 tons per year. The standards were effective 22 April 2004. For further information, contact Kevin Cavender, EPA at (919) 541-2364.

**FINAL RULE – NESHAP FOR SURFACE COATING OF AUTOMOBILES AND LIGHT DUTY TRUCKS**  
On 26 April 2004 (69 FR 22601), EPA promulgated NESHAP for automobile and light-duty truck surface coating operations located at major sources of HAP. The final rule requires these operations to meet HAP emission standards reflecting the application of the MACT. The final standards are expected to reduce nationwide organic HAP emissions from major sources in this source category by approximately 60 percent. EPA also amended the Surface Coating of Miscellaneous Metal Parts and Products and the Surface Coating of Plastic Parts and Products NESHAP to clarify the interaction between these rules and the Surface Coating of Automobiles and Light-Duty Trucks NESHAP. Additionally, EPA amended the Resource Conservation and Recovery Act (RCRA) Air Emission Standards for Equipment Leaks for owners and operators of hazardous waste treatment, storage, and disposal facilities to exempt air emissions from certain activities covered by the final NESHAP from these RCRA standards. The rule will be effective 25 June 2004. For further information, contact David Salman, EPA at (919) 541-0859.

**FINAL RULE – IMPLEMENTATION OF 8-HOUR OZONE STANDARD – PHASE 1** – On 30 April 2004 (69 FR 23951), EPA took final action on key elements of the program to implement the 8-hour ozone national ambient air quality standard (NAAQS). This final rule addresses the following topics: classifications for the 8-hour NAAQS; revocation of the 1-hour NAAQS; how anti-backsliding principles will ensure continued progress toward attainment of the 8-hour ozone NAAQS; attainment dates; and the timing of emissions reductions needed for attainment. EPA will issue a second rule, Phase 2, within the next several months to address the remaining 8-hour implementation issues: requirements for reasonable further progress, requirements for modeling and attainment demonstrations, and requirements for reasonably available control measures and reasonably available control technology. Phase 1 will be effective 15 June 2004. For further information, contact John Silvasi, EPA at (919) 541-5666.

**FINAL RULE – AIR QUALITY DESIGNATIONS FOR 8-HOUR OZONE NAAQS** – On 30 April 2004 (69 FR 23857), EPA promulgated air quality designations and classifications for every area in the United States for the 8-hour ozone national ambient air quality standard. EPA issued this rule to establish the boundaries and classifications for areas designated as nonattainment. EPA also promulgated the first deferral of the effective date, to 30 September 2005, of the nonattainment designation for Early Action Compact areas that have met all milestones through 31 March 2004. The rule will be effective 15 June 2004. For further information, contact Sharon Reinders, EPA at (919) 541-5284.

**FINAL RULE – MOTOR VEHICLE AND ENGINE COMPLIANCE PROGRAM FEES** – On 11 May 2004 (69 FR 26221), EPA updated the Motor Vehicle and Engine Compliance Program fees regulation promulgated in 1992 under which the Agency collects fees for certain Clean Air Act compliance programs it administers, including those for light-duty vehicles and trucks, heavy-duty highway vehicles and engines, and highway motorcycles. EPA updated existing fees to reflect the increased costs of administering these compliance programs since the initial 1992 rulemaking. EPA also added a fee program for similar compliance programs for certain nonroad engines and vehicles for which emission standards have been finalized. The rule will be effective 12 July 2004. For further information, contact Lynn Sohacki, EPA at (734) 214-4851.

**PROPOSED RULE – REGIONAL HAZE REGULATIONS AND GUIDELINES FOR BART DETERMINATIONS**- On 5 May 2004 (69 FR 25183), EPA proposed new best available retrofit technology (BART) provisions and repropoed the BART guidelines promulgated under the regional haze rule in 2001. EPA also proposed to amend the deadlines for regional haze plans to conform to new statutory deadline. Comments are due by 6 July 2004. For further information, contact Kathy Kaufman, EPA at (919) 541-0102.

**PROPOSED RULE – NESHAP FOR HAZARDOUS WASTE COMBUSTORS** – On 20 April 2004 (69 FR 21197), EPA proposed NESHAP for hazardous waste combustors (HWC). These combustors include hazardous waste burning incinerators, cement kilns, lightweight aggregate kilns, boilers and process heaters, and hydrochloric acid production furnaces. EPA has identified these HWCs as major sources of HAP emissions. These proposed standards will, when final, require HWCs to meet HAP emission standards reflecting the application of MACT. The HAP emitted by these facilities include arsenic, beryllium, cadmium, chromium, dioxins and furans, hydrogen chloride and chlorine gas, lead, manganese, and mercury. Comments are due by 6 July 2004. For further information, contact Michael Galbraith, EPA at (703) 605-0567.

**NOTICE – PROCESS FOR EXEMPTING CRITICAL USES OF METHYL BROMIDE** – On 7 May 2004 (69 FR 25570), EPA published a notice soliciting applications for the Critical Use Exemption from the phaseout of methyl bromide. This application process offers users of methyl bromide the opportunity to provide technical and economic information to support a "critical use" claim. Methyl bromide is a chemical pesticide that has been identified under the Montreal Protocol on Substances that Deplete the Ozone Layer and the Clean Air Act, as an ozone-depleting substance. It is scheduled for complete phaseout by 1 January 2005. The Critical Use Exemption is designed to allow continued production and import of methyl bromide after the phaseout for those uses that have no technically and economically feasible alternatives. Applications for the Critical Use Exemption must be submitted by 8 August 2004. For further information, contact Bill Chism, EPA at (703) 308-8136.

### **GENERAL INFORMATION:**

**FINAL RULE – COMPREHENSIVE PROCUREMENT GUIDELINE IV FOR PRODUCTS CONTAINING RECOVERED MATERIALS** – On 30 April 2004 (69 FR 24027), EPA amended the Comprehensive Procurement Guideline (CPG) by designating seven new items that are or can be made with recovered materials, including: modular threshold ramps; nonpressure pipe; roofing materials; office furniture; rebuilt vehicular parts; bike racks; and blasting grit. In addition, EPA revised the designations for three items, including cement and concrete, railroad grade crossing surfaces, and polyester carpet. The CPG implements portions of the Resource Conservation and Recovery Act (RCRA) and the Executive Order "Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition," which require EPA to designate items that are or can be made with recovered materials and to recommend practices that procuring agencies can use to procure such designated items. Once EPA designates an item, any procuring agency that uses appropriated federal funds to procure that item must purchase the item containing the highest percentage of recovered materials practicable. The rule will be effective 2 May 2005. For further information, contact Terry Grist, EPA at (703) 308-7257.

**GENERAL INFORMATION**

**FINAL RULE – MULTIYEAR PROCUREMENT AUTHORITY FOR ENVIRONMENTAL REMEDIATION SERVICES FOR MILITARY INSTALLATIONS** – On 13 May 2004 (69 FR 26507), DoD adopted as final an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 827 of the National Defense Authorization Act for Fiscal Year 2003. Section 827 authorizes DoD to enter into multiyear contracts for environmental remediation services for military installations. 10 U.S.C. 2306c provides authority for DoD to enter into contracts for periods of not more than 5 years for certain services, and for items of supply related to those services, even though funds would otherwise be available for obligation only within the fiscal year for which appropriated. Section 827 of the National Defense Authorization Act for Fiscal Year 2003 (Pub. L. 107-314) amended 10 U.S.C. 2306c to add environmental remediation services for military installations to the types of services for which multiyear contracting is authorized. For further information, call (703) 602-0296.

**NOTICE OF FINDING – LISTING OF GREATER SAGE-GROUSE AS THREATENED OR ENDANGERED** – On 21 April 2004 (69 FR 21484), the U.S. Fish and Wildlife Service (FWS) announce a 90-day finding for three petitions to list the greater sage-grouse (*Centrocercus urophasianus*) as threatened or endangered, under the Endangered Species Act. FWS found that these petitions and additional information available in its files present substantial information indicating that listing the greater sage-grouse may be warranted. As a result of this finding, FWS is initiating a status review and asking the public to submit any pertinent information concerning the status of or threats to this species. Comments are due by 21 June 2004. For further information, contact Pat Deibert, FWS at (307) 772-2374,

**NOTICE OF AVAILABILITY – DRAFT PHYSICAL STREAM ASSESSMENT** – On 14 May 2004 (69 FR 26823), the Federal Interagency Mitigation Workgroup (FIMW) released a technical resource document entitled: "Physical Stream Assessment: A Review of Selected Protocols for use in the Clean Water Act (CWA) Section 404 Program." The document is intended as a reference for regulatory agencies, resource managers, and restoration ecologists in selecting, adapting, or devising stream assessment methods that are appropriate for impact assessment and mitigation. FIMW is seeking public review before finalizing the document. Comments are due by 28 June 2004. For further information, contact Palmer Hough, EPA at (202) 566-1374.

**NOTICE OF AVAILABILITY – INTERIM RECOMMENDATIONS FOR AIRBORNE EXPOSURE LIMITS FOR CHEMICAL WARFARE AGENTS H AND HD** – On 3 May 2004 (69 FR 24164), The Centers for Disease Control and Prevention (CDC) released interim recommendations for worker and general population airborne exposure limits (AELs) for chemical warfare Agents H and HD (sulfur mustard). The exposure limits are: (1) General population limit: 0.00002 mg/m<sup>3</sup>; averaging period: 12 hours; (2) Worker population limit: 0.0004 mg/m<sup>3</sup>; averaging period: 8 hours; (3) Short-Term exposure limit: 0.003 mg/m<sup>3</sup>; averaging period: <=15 minutes; and (4) Immediately dangerous to life or health: 0.7 mg/m<sup>3</sup>; averaging period: <=30 minutes. These revised exposure limits replace CDC's previously recommended AELs originally issued in 1988. These limits are interim criteria pending improved characterization of carcinogenic potential associated with sulfur mustard. For further information, link <http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2004/04-9946.htm>.

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## **UPCOMING CONFERENCES, SYMPOSIUMS, AND TRAINING ANNOUNCEMENTS**

### **ENVIRONMENTAL MANAGEMENT SYSTEM DESIGN – PHASE II**

**9-10 June 2004 – San Diego, California**

**23-24 June 2004 – San Francisco, California**

EPA and the Federal Network for Sustainability are offering Phase II of the Environmental Management System (EMS) Design training. Phase I was presented last year. Participants who did not take Phase I should have an understanding of environmental policy, identifying aspects and impacts, and creating a “significant” aspects register. A brief overview of Phase I will be presented at the beginning of the class. For more information or to register, contact Kaye McKinsey at (206) 553-1616.

### **INTRODUCTORY HEALTH RISK COMMUNICATION WORKSHOPS**

**15-17 June 2004 – Edgewood, Maryland**

**22-24 June 2004 – San Antonio, Texas**

The Army Center for Health Promotion and Preventive Medicine is presenting these workshops to instruct participants how to identify, build, maintain, and utilize strategic partnerships and plans to support an organization’s mission. The workshop will provide a basic understanding of the concepts, principles, and process of effective risk communication. Topics include: History and Philosophy of Risk Communication; Steps of the Risk Communication Process; Importance of Identifying, Understanding, and Collaborating with Key Stakeholders; Pitfalls to Effective Risk Communication; and Basic Tools for Engaging the Media. For more information or to register link <http://chppm-www.apgea.army.mil/risk>.

### **ACCELERATING SITE CLOSEOUT**

**15-17 June 2004 – Dallas, Texas**

The Federal Remediation Technologies Roundtable is sponsoring this conference with the theme: “Improving Performance and Reducing Costs Through Optimization.” The goals of the conference are to: 1) outline long-term remediation liabilities and optimization needs and opportunities; 2) disseminate existing and emerging optimization strategies, technologies, tools, and science; 3) communicate lessons learned and identify technical, institutional, contractual, and other enhancements and encumbrances to achieving positive optimization results; and 4) present remedial optimization within the context of site-wide and multi-site management programs. For more information or to register, link <http://www.clu-in.org/siteopt/siteopt.htm>.

### **2004 COMMUNITY INVOLVEMENT CONFERENCE**

**15-18 June 2004 – Denver, Colorado**

EPA is sponsoring this 7<sup>th</sup> annual conference to share lessons learned and to establish and monitor its standards for community involvement. The conference will cover the entire scope of public participation, community involvement, partnership building, and outreach and education related to all aspects of environmental protection. For more information, contact Lisa Gebler at (301) 589-5318, ext. 23, or link <http://www.epancic.org/2004>.

### **IMPLEMENTING A PERFORMANCE-BASED EMS**

**21-23 June 2004 – Salt Lake City, Utah**

The Utah Department of Environmental Quality is hosting this course for government, military, and other public sector personnel who are seeking to use ISO 14001 and EMS to improve management of the environment within their organizations. The course will cover highly effective techniques to test the effectiveness of established environmental programs and how organizations successfully implement and operate EMS that deliver real improvement in environmental performance. For more information or to register, contact Sonja Wallace at (801) 536-4477.

**McCOY RCRA SEMINAR****21-25 June – Portland, Oregon**

McCoy and Associates is offering this RCRA training with five sessions at each seminar: 1) RCRA Fundamentals; 2) Critical Generator Issues; 3) Advanced RCRA Topics I; 4) Advanced RCRA Topics II and Land Disposal Restrictions I; and 5) Land Disposal Restrictions II and RCRA Rules Under Development. The seminar is designed for hazardous waste generators, environmental managers, compliance specialists, environmental consultants, and environmental attorneys. For more information or to register, call (303) 526-2674, or link <http://www.mccoyseminars.com>.

**NATURAL RESOURCES COMPLIANCE****22-25 June 2004 – Aberdeen, Maryland**

This course offers instruction in specific natural resources laws, regulations, policies, Executive Orders, DoD instructions, and other guidance, noting Service-specific requirements. It addresses stewardship, preservation and process; fish, game and wildlife management laws; protection of wetlands, waterways and other protected ecological areas; forest and land use management laws; and inter-service cooperation. This is an Inter-service Environmental Education Review Board (ISEERB) approved course. For more information or to register, link <https://www.cecos.navy.mil>.

**IMPLEMENTING AND AUDITING A PERFORMANCE-BASED EMS****23-25 June 2004 – Denver, Colorado**

The Colorado Department of Public Health and Environment is offering five sessions of this course (June-October). The course is designed for government, military, and other public sector personnel who are seeking to use ISO 14001 and Environmental Management Systems (EMS) to improve management of the environment within their organizations. The course will cover highly effective techniques to test the effectiveness of established environmental programs and how organizations successfully implement and operate EMS that deliver real improvement in environmental performance. For more information or to register, contact Linda Dunwoody at (678) 819-0693, or link <http://www.ermcvs.com>.

**AUDITING A PERFORMANCE-BASED EMS****24-25 June 2004 – Salt Lake City**

The Utah Department of Environmental Quality is hosting this course for government, military, and other public sector personnel who are seeking to use ISO 14001 and EMS to improve management of the environment within their organizations. The course will focus on how to conduct an EMS audit and provide basic auditing tools for regulatory staff responsible for evaluating the effectiveness of EMS used by entities in regulatory incentive programs. For more information or to register, contact Sonja Wallace at (801) 536-4477.

**HAZARDOUS WASTE MANIFESTING/DOT RECERTIFICATION COURSE****30 June-1 July 2004 – Virginia Beach, Virginia**

The Army Corps of Engineers is providing recurrent training regarding regulatory requirements of the Hazardous Materials Transportation Act (HMTA) and the Resource Conservation and Recovery Act (RCRA) as it applies to the generation, transportation, and disposal of hazmat, focusing upon hazardous waste. Training topics cover the identification and classification of hazardous wastes for purposes of preparing a hazardous waste manifest and fulfilling the DOT requirements for shipping hazardous wastes. Specifically, training topics include RCRA waste classification, land disposal restrictions and notification, manifesting requirements, identification of a DOT Reportable Quantity, use of the Hazardous Materials Table, DOT requirements for determining a shipping name, properly packaging, labeling, marking and placarding, DOT emergency response requirements, and general security awareness. In addition, the course addresses special EPA and DOT requirements for shipping asbestos and PCBs. For more information or to register, link <http://pdsc.usace.army.mil/>.

**DOD PERCHLORATE CONFERENCE****30 June-1 July 2004 – San Diego, California**

This workshop is open to DoD personnel only. The purpose of the workshop is to ensure consistent DoD perchlorate-related messages. The workshop will allow for information exchange among internal DoD personnel involved with perchlorate issues in order to keep abreast of latest updates of process, policy, and research results. The workshop is designed for environmental managers, IRP managers, risk assessors, public affairs specialists, legal representatives, risk communications specialists, and command level personnel. For more information or to register, call (757) 953-0947.

**BASIC REQUIREMENTS OF THE CLEAN AIR ACT****7-9 July 2004 – Denver, Colorado**

The Army Corps of Engineers is offering this introductory workshop. Topics include: Emission Factors, National Ambient Air Quality Standards, State Implementation Plans, Prevention of Significant Deterioration, New Source Review, Conformity, National Standards for Hazardous Air Pollutants, Chemical Accident Prevention, Title V Operating Permits, and the Stratospheric Ozone Protection Program. For more information or to register, call (256) 895-7425.

**NATIONAL ENVIRONMENTAL MONITORING CONFERENCE****19-22 July 2004 – Washington, DC**

This EPA conference provides the principal forum for addressing policy and technical issues affecting monitoring in all environmental media (i.e., water, air, soil, and wastes) and across all environmental programs. The focus will be on new approaches for analyzing for conventional and emerging pollutants in water, soil, and air, as well as homeland security issues as they apply to environmental monitoring for terrorism agents. For more information or to register link <http://www.nemc.us/>.

**HISTORIC PRESERVATION LAW AND SECTION 106 COMPLIANCE****20-22 July 2004 – Annapolis, Maryland**

This course emphasizes legal compliance with the National Historic Preservation Act Section 106 process using actual case studies. It addresses legislation and the process to meet the requirements of the law. Course content includes: the stewardship role; use of historic properties; and communications with related oversight agencies. For more information or to register, link <https://www.cecos.navy.mil>.

**9<sup>TH</sup> ANNUAL JOINT SERVICES ENVIRONMENTAL MANAGEMENT CONFERENCE****16-19 August 2004 – San Antonio, Texas**

The National Defense Industrial Association is presenting this conference and exhibition (formerly the Joint Services Pollution Prevention and Hazardous Waste Management Conference and Exhibition). The theme of the 2004 conference is "Sustaining the Force: Optimizing Readiness Through the Prevention of Pollution." For more information, contact Naomi Mundy at (703) 247-9476, or link <http://www.ndia.org>.

**13<sup>TH</sup> ANNUAL ITAM WORKSHOP****16-20 August 2004 – San Francisco, California**

The Army is calling for abstracts for the Integrated Training Area Management (ITAM) workshop. Suggested topics are: land rehabilitation and maintenance, land condition trend analysis, sustainable range awareness, training requirements integration, and geographical information system. For more information, link <http://www.army-itam.com/public/workshop/13th/callforpapers.jsp>.

**INTRODUCTION TO CULTURAL RESOURCE MANAGEMENT LAWS AND REGULATIONS****17-19 August 2004 – Bangor, Maine**

This course provides an integrated overview of all pertinent laws and regulations needed to understand and fulfill cultural resource management responsibilities. The curriculum is designed around a series of inter-related case studies discussed during the course. The course is taught in conjunction with the Advisory Council on Historic Preservation and is approved by the Inter-service Environmental Education Review Board (ISEERB). For more information or to register, link <https://www.cecos.navy.mil>.

**DOD CONSERVATION CONFERENCE****22-27 August 2004 – Savannah, Georgia**

The theme of this year's conference is "Integrating Natural and Cultural Resources with Readiness." Attendance is open to DoD employees, contractors, and invited non-DoD participants. The conference is intended for personnel directly or indirectly involved in conservation issues, including facility planners, military trainers, and attorneys. Plenary and breakout sessions will address successful efforts by DoD to integrate conservation requirements with military mission needs. For more information or to register, link <http://www.dodconservationconference.com>.

**ADVANCED RISK COMMUNICATION WORKSHOP****23-26 August 2004 – San Antonio, Texas**

The Army Center for Health Promotion and Preventive Medicine is presenting this workshop to instruct participants how to identify, build, maintain, and utilize strategic partnerships and plans to support an organization's mission. The workshop builds on the "Introductory Health Risk Communication Workshop" listed above (a pre-requisite for this course) and will provide participants with hands-on experience in applying the steps of the risk communication process, on-camera media practice, and seminar-style discussions of "hot" issues impacting military health and readiness. For more information or to register, call (410) 436-3515, or link <http://chppm-www.apgea.army.mil/risk>.

**DECONSTRUCTION AND BUILDING MATERIALS REUSE CONFERENCE****1-3 September 2004 – San Francisco, California**

EPA is offering this conference in coordination with the National Recycling Coalition Annual Congress (29 August-1 September). There will be a special emphasis on federal agency and DoD activities. Topics will include: Where Green Building and Deconstruction Intersect, Used Building Materials Markets, Deconstruction Costs and Benefits, Design for Deconstruction and Reuse, and Research, Standards Development & Certification Programs. For more information or to register, contact Lisa Vanderpool, EPA at (415) 972-3316, or link <http://www.DECON04.com>.

**CONFERENCE ON COASTAL AND ESTUARINE HABITAT RESTORATION****12-15 September 2004 – Seattle, Washington**

This conference will advance the knowledge, pace, practice and success of coastal and estuarine habit restoration. It will also highlight the unique resources and restoration efforts in and around the Pacific Northwest. The latest products, tools and services available from businesses, government agencies and non-profit organizations will be displayed at the Restoration Expo. For more information or to register, link <http://www.estuaries.org/2ndnationalconference.php>.

**2004 BROWNFIELDS CONFERENCE****20-22 September 2004 – St. Louis, Missouri**

EPA is sponsoring this annual conference to bring together key experts from all levels of government, business, and finance to share ideas and experiences in the field of urban and environmental development. The conference will feature interactive discussions, educational presentations, and networking opportunities related to brownfields redevelopment. For additional information, please visit: <http://www.epa.gov/swerosps/bf/announcg.htm>.

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## STATE REGULATORY DEVELOPMENTS, LEGISLATION, AND NEWS



## ARIZONA

### AIR INFORMATION:

**FINAL RULE – NONATTAINMENT DESIGNATIONS FOR 8-HOUR OZONE NAAQS** – EPA has released its final nonattainment designations for the 8-hour ozone national ambient air quality standard (NAAQS). Maricopa and Pinal Counties in the Phoenix-Mesa area were classified as basic nonattainment and must be in attainment by June 2009. The designation will be effective 15 June 2004. For more information, contact Theresa Pella at (602) 771-2375.

**FINAL RULE – REVISIONS TO PINAL COUNTY PORTION OF ARIZONA SIP** – On 28 April 2004 (69 FR 23103), EPA finalized full approval and limited approval/ limited disapproval of revisions to the Pinal County Air Quality Control District portion of the Arizona State Implementation Plan (SIP) concerning visible emissions standards, limits on open burning, and carbon monoxide (CO) emissions from industrial processes. For the visible emissions standards and the open burning limits, EPA finalized a full approval of portions of those provisions and finalized a simultaneous limited approval and limited disapproval for other portions. For CO emissions from industrial processes, EPA finalized a limited approval and limited disapproval. EPA simultaneously approved local rules that regulate these emission sources and directed Arizona to correct rule deficiencies. This rule was effective on 28 May 2004. For further information, contact Al Petersen, EPA at (415) 947-4118.

### Legislative Developments

The 2004 legislative session convened 12 January and is in special session. For current information on the legislative session, link <http://www.azleg.state.az.us>.

**ARIZONA HB 2055 – LAND USE** - Establishes the Military Gunnery Range Preservation Study Committee. Charges the Committee with: (1) studying the encroachment of development on the Florence national guard gunnery range; (2) discussing the issue of encroachment with the Florence national guard gunnery range, landowners of land near the range and developers; and (3) attempting to reach an agreement between the Florence national guard gunnery range, landowners of land near the range and developers that preserves the Florence national guard gunnery range. Introduced 8 January 2004. Passed House 16 February. Failed 6 April. The sponsor is Representative Bob Stump (R).

**ARIZONA HB 2139 – LAND USE** - Gives county boards of supervisors the power to acquire development rights for the purpose of preserving real property surrounding military installations in order to maintain open spaces. Introduced 12 January 2004. Referred to Rules Committee 16 February. The sponsor is Representative John Nelson (R).

**ARIZONA HB 2140 – LAND USE** - Re-defines "military airport" for purposes of airport zoning and regulation as an airport that is operated by an armed force and that is primarily used for military fixed wing aircraft operations, excluding a runway or airstrip that is not immediately adjacent to facilities primarily used for operational control, maintenance and permanent parking of aircraft and includes a military training route. Introduced 13 January 2004. Passed House 15 March. Amended 6 April. Passed Senate 5 May. Signed by Governor Janet Napolitano (D) The sponsor is Representative John Nelson (R).

**ARIZONA HB 2141 – LAND USE** - Establishes notification and land use planning requirements for Luke Air Force Base Auxiliary Airfield #1. Introduced 16 February 2004. Passed House 15 March. Passed Senate 13 April. Signed by Governor 19 April. The sponsor is Representative Jennifer Burns (R).

**ARIZONA HB 2419 – DIESEL EMISSIONS** - Requires that, beginning 1 January 2006, any registered owner or lessee of a fleet of less than twenty-five vehicles may not operate a diesel powered motor vehicle with a gross vehicle weight of more than twenty-six thousand pounds unless it was manufactured in or after the 1988 model year or is powered by an engine that is certified to meet or surpass emissions standards. Introduced 14 January 2004. Passed House 23 February. Passed Senate 1 April. Signed by Governor 4 April. The sponsor is Representative Deb Gullett (R).

**ARIZONA HB 2590 – GROUNDWATER** - Requires that a person who recovers water on an annual basis to recover the water stored pursuant to a water storage permit only if: (1) the proposed recovery well is located within the area of impact of the stored water; (2) the person recovering the water is the storer or the stored water to be recovered is Colorado River water; (3) the proposed recovery well is located outside the area of impact of the stored water; and (4) the proposed recovery well is located within the area of impact of the stored water. Filed 2 February 2004. Passed House 15 March. Passed Senate 29 April. Sent to Governor 26 May. The sponsor is Representative Jennifer Burns (R).

**ARIZONA HB 2605 – LAND USE** - Designates the Arizona Department of Commerce as the State's general planning agency and the agency responsible for overseeing the newly established Military Installation Fund consisting of income tax monies derived from military personnel. Amends the statutes relative to the process and procedures for general plans adopted by counties and municipalities with respect to military facilities. Filed 4 February 2004. Reported from Federal Mandates and Property Rights Committee 4 March. The sponsor is Representative Philip Hanson (R).

**ARIZONA HB 2632 – GROUNDWATER** - Requires a public water system that serves fifteen or more service connections or that serves twenty-five or more persons to report annually to DEQ on the following: (1) the amount of groundwater withdrawn during the calendar year; (2) the registration number and location of each well used; and (3) the quantity of fuel or electricity consumed by any wells used during the calendar year. Introduced 9 February 2004. The sponsor is Representative Tom O'Halleran (R).

**ARIZONA HB 2644 – UNDERGROUND STORAGE TANKS** - Makes amendments to laws governing corrective action of underground storage tanks. Provides that corrective actions relying on natural attenuation must be preceded by active removal of contamination that has caused or threatens to cause a violation of aquifer water quality standards. Introduced and referred to House Environment; Appropriations and Rules Committees 12 February 2004. The sponsor is Representative Joe Hart (R).

**ARIZONA HB 2662 – MILITARY FLIGHTS** - Defines "military training route" as a low level military flight that may be as low as one hundred feet above the ground at speeds in excess of two hundred fifty knots indicated air speed. Introduced 9 February 2004. Passed House 11 March. Passed Senate 13 April. Signed by Governor 26 April. The sponsor is Representative Jennifer Burns (R).

**ARIZONA HB 2705 – ALTERNATIVE FUELS** - Requires that any person who buys diesel fuel in the State that is intended for on-road use in a county with a population of one million two hundred thousand or more persons shall comply with the following schedule for conversion to biodiesel: (1) by 1 July 2005, one per cent of the diesel fuel purchased shall be biodiesel fuel; (2) by 1 July 2006, five per cent of the diesel fuel purchased shall be biodiesel fuel; (3) by 1 July 2007, ten per cent of the diesel fuel purchased shall be biodiesel fuel; (4) by 1 July 2008, fifteen per cent of the diesel fuel purchased shall be biodiesel fuel; and (5) by 1 July 2009, twenty per cent of the diesel fuel purchased shall be biodiesel fuel. Limits the use of methyl tertiary butyl ether in motor fuels. Introduced 9 February 2004. Amended and reported from House Environment Committee 8 March. The sponsor is Representative Tom Boone (R).



## CALIFORNIA

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### Regulatory Developments & Other State Information

**FINAL REGULATION – NICKEL COMPOUNDS LISTED AS A CARCINOGEN** – The California Office of Environmental Health Hazard Assessment has revised its listing of nickel compounds as carcinogens under Proposition 65's authoritative body mechanism. The new listing: (1) deletes nickel and certain nickel compounds; and (2) substitutes a list of nickel compounds: (a) nickel (metallic); (b) nickel acetate; (c) nickel carbonate; (d) nickel hydroxide; (e) nickelocene; and (f) nickel oxide. These compounds retain the listing effective date of 1 October 1989. The Office is also proposing to list nickel compounds generally as carcinogens under the authoritative body mechanism. The listing was effective 7 May 2004. For more information, contact Cynthia Oshita at (916) 445-6900, or link [http://www.oehha.ca.gov/prop65/prop65\\_list/files/050704list.html](http://www.oehha.ca.gov/prop65/prop65_list/files/050704list.html).

**PROPOSED REGULATION – DESIGNATION OF CRITICAL HABITAT FOR RED-LEGGED FROG** – On 13 April 2004 (69 FR 19619), FWS proposed to designate 4,138,064 acres as critical habitat for the California red-legged frog (*Rana aurora draytonii*) in the following counties: Alameda, Contra Costa, Fresno, Los Angeles, Mariposa, Merced, Monterey, Riverside, San Luis Obispo, San Diego, San Joaquin, Santa Clara, and Ventura. FWS is requesting information from DoD to assist the Secretary of the Interior in excluding critical habitat on lands under the control of the DoD based on the benefit of an Integrated Natural Resources Management Plan and information regarding impacts to national security associated with proposed designation of critical habitat. Comments are due by 14 June 2004. For further information, contact FWS at (916) 414-6600.

### AIR INFORMATION:

**FINAL RULE – REVISIONS TO SAN JOAQUIN PORTION OF CALIFORNIA SIP** – On 17 May 2004 (69 FR 27837), EPA finalized approval of revisions to the San Joaquin Valley Unified Air Pollution Control District portion of the California State Implementation Plan (SIP). The revisions include permit exemptions and New Source Review for stationary sources. The approval will be effective 16 June 2004. For further information, contact Ed Pike, EPA at (415) 972-3970.

**FINAL RULE – REVISIONS TO SAN JOAQUIN PORTION OF CALIFORNIA SIP** – On 18 May 2004 (69 FR 28061), EPA finalized approval of revisions to the San Joaquin Valley Unified Air Pollution Control District portion of the California SIP. These revisions concern oxides of nitrogen (NO<sub>x</sub>) emissions from boilers, steam generators, and process heaters; stationary internal combustion engines; and stationary gas turbines. EPA approved local rules that regulate these emission sources under the Clean Air Act. The approval will be effective 17 June 2004. For further information, contact Thomas Canaday, EPA at (415) 947-4121.

**DIRECT FINAL RULE – APPROVAL OF VOC SIP REVISIONS** – On 24 May 2004 (69 FR 29451), EPA took direct final action to approve revisions to the Bay Area Air Quality Management District Monterey Bay Unified Air Pollution Control District and Ventura County Air Pollution Control District portions of the California SIP. The revisions concern the emission of volatile organic compounds (VOCs) from episodic releases from relief storage containers at bulk terminals, and the storage and transfer of gasoline at dispensing facilities. EPA approved local rules that regulate these emission sources under the Clean Air Act. This rule will be effective on 23 July 2004 without further notice, unless EPA receives adverse comments by 23 June 2004. If EPA receives such comments, it will publish a timely withdrawal in the Federal Register to notify the public that this rule will not take effect. For further information, contact Al Petersen, EPA at (415) 947-4118.

**FINAL DESIGNATION – NONATTAINMENT AREAS FOR 8-HOUR OZONE STANDARD** - EPA has released its final nonattainment designations. The following counties are considered severe nonattainment and must be in attainment by June 2021: Los Angeles, Orange, Riverside, San Bernardino. The following counties are considered serious and must be in attainment by June 2013: Riverside, Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare, El Dorado, Placer, Sacramento, Solano, Sutter, and Yolo. The following counties are considered basic and must be in attainment by June 2009: Amador, Calaveras, Tuolumne, Mariposa, Nevada, Kern, San Diego, San Diego, Butte, and Sutter. The following counties are considered moderate nonattainment and must be in attainment by June 2010: San Bernardino, Los Angeles, Ventura, Alameda, Contra, Costa, Marin, Napa, San Francisco, Santa Clara, San Mateo, Solano, and Sonoma. For more information, contact Gayle Sweigert at (916) 322-6923.

**FINAL DESIGNATION – BAY AREA IN ATTAINMENT FOR 1-HOUR OZONE STANDARD**- The Bay Area Air Quality Management District and EPA (see 69 FR 21717, 22 April 2004) have agreed that the San Francisco Bay Area has attained the federal 1-hour ozone standard. The attainment determination is not the same thing as reclassifying the Bay area from nonattainment to attainment. The next step is for the California Air Resources Board to submit a plan showing how the area will continue to maintain the standard for 10 years. Once the plan is submitted the State can request the EPA to redesignate the Bay Area as attaining the federal 1-hour ozone standard. For more information, contact Brian Bateman at (415) 749-4653, or link <http://www.epa.gov/region9/air/sfbayoz/#0404>.

**FINAL REGULATION- SOUTH COAST CONTROL OF DUST EMISSIONS** – The South Coast Air Quality Management District has adopted amendments to address particulate matter emissions. The amendments include: (1) removal of the exemption for purchasing non-certified sweepers; (2) wind entrainment of fugitive dust; (3) control of particulate matter 10 microns from paved and unpaved roads, construction activities, agriculture activities, and other fugitive sources. The amendments were effective 2 April 2004. For more information, contact Elaine Chang at (909) 396-3186, or link: <http://www.aqmd.gov/rules/reg/reg04/r403.pdf>.

**FINAL REGULATION – SOUTH COAST DIESEL- FUELED INTERNAL COMBUSTION ENGINES** - The South Coast Air Quality Management District has adopted controls for emissions from diesel-fueled internal combustion engines. The District took into consideration the Air Resources Board's Air Toxic Control Measure requirements for diesel particulate and the Office of Environmental Health Hazard and Assessment's updated risk procedures. Reductions would occur through fuel use specifications, limiting hours of operation, and add-on controls. The regulation was effective 2 April 2004. For more information, contact Andrew Lee at (909) 396-2643, or link <http://www.aqmd.gov/rules/reg/reg14/r1470.pdf>.

**PROPOSED RULE – APPROVAL OF SOUTH COAST SIP REVISIONS** – On 21 May 2004 (69 FR 29250), EPA proposed to approve revisions to the South Coast Air Quality Management District portion of the California SIP. These revisions concern oxides of nitrogen (NO<sub>x</sub>) and oxides of sulfur (SO<sub>x</sub>) emissions from facilities emitting 4 tons or more per year of NO<sub>x</sub> and/or SO<sub>x</sub> in the year 1990 or any subsequent year. EPA proposed to approve local rules to regulate these emission sources under the Clean Air Act. Comments are due by 21 June 2004. For further information, contact Thomas Canaday, EPA at (415) 947-4121.

**PROPOSED DESIGNATIONS - NONATTAINMENT AREAS FOR PM 2.5** – The California Air Resources Board has submitted its recommendations for nonattainment areas for PM 2.5 to EPA for approval. The following counties were recommended as being nonattainment: Fresno, Imperial, Kern, Kings, Los Angeles, Madera, Merced, Orange, Riverside, San Bernardino, San Diego, San Joaquin, Stanislaus, and Tulare. EPA will respond to the recommendations in summer 2004. For more information, contact Gayle Sweigert at (916) 322-6923, or link <http://www.arb.ca.gov/deg/pm25desig/pm25desig.htm>.

## WATER INFORMATION:

**FINAL REGULATION – TRAINING REQUIREMENTS** – The California Water Resources Control Board has adopted amendments to underground tank requirements to include operator training. The amendments require: (1) an underground storage tank owner to sign a statement indicating that the owner understands and is in compliance with all applicable underground storage tank requirements and has identified to the local agency the designated operator for the facility; (2) the designated operator to have a certification from the International Code Council (ICC), which must be renewed every 24 months, to perform and document a monthly visual inspection of the facility, and to annually train facility employees on the job; (3) installers and service technicians to be certified by the ICC; (4) local agency inspectors or special inspectors to possess a current inspector certificate issued by the ICC and to renew the certificate every 24 months by passing the ICC exam or satisfying equivalent criteria; (5) piping to be equipped with monitoring that will stop the flow of product in the event of a leak; and (6) owners or operators to submit a list of compatible products tested and the measured product permeation rates. The amendments were effective 8 May 2004. For more information, contact Scott Bacon at (916) 341-5873.

**FINAL PLAN - PUBLIC HEALTH GOAL FOR ARSENIC** – The California Office of Environmental Health Hazard Assessment has adopted a Public Health Goal of 0.004 µg/L for arsenic. The Public Health Goals are not binding regulations. However, the Department of Health Services is required to establish a Maximum Contaminant Level for the specified chemicals that is as close to goals as is technically and economically feasible. In addition, while drinking water suppliers are not required to meet the goals, they do have to disclose in their annual consumer reports any deviation between levels of a contaminant in the water supply and that contaminant's goal. Also, parties responsible for ground water cleanup may be required to remediate the contamination based on the goals. For more information, contact Yi Wang at (510) 622-3170, or link <http://www.oehha.ca.gov/water/phg/pdf/AsPHG30703.pdf>.

**DEPARTMENTAL DISCUSSION – PRIMARY DRINKING WATER STANDARD FOR PERCHLORATE** – The California Department of Health Services (DHS) is developing a proposal for a MCL for perchlorate. Until the MCL is in place, DHS will continue to use a 4-microgram per liter (µg/L) action level to protect consumers. Since the PHG for perchlorate has been established, DHS will proceed with formal rulemaking, which includes public comment. For the proposed regulation, DHS will evaluate the technical and economic feasibility of regulating perchlorate. Technical feasibility includes an evaluation of commercial laboratories' ability to analyze for and detect perchlorate in drinking water, the costs of monitoring, and the costs of treatment required to remove perchlorate. Costs are required by law to be considered whenever MCLs are adopted. For more information, contact Alexis Milea at (510) 540-2177, or link <http://www.dhs.cahwnet.gov/ps/ddwem/chemicals/perchl/perchlindex.htm>.

**DEPARTMENTAL DISCUSSION – 2004 CLEAN WATER ACT SECTION 303(d) LIST** – The California Water Resources Control Board has released a notice of public solicitation of data and information for the 2004 Clean Water Act Section 303(d) list. The Board is requesting data and information regarding water quality condition in surface waters of the State. Data and information received will be used to assess the State's water bodies for possible inclusion on or removal from the existing list. Comments are due by 14 June 2004. For more information, contact Craig Wilson at (916) 341-5560, or link: [http://www.swrcb.ca.gov/tmdl/docs/datasolicitation\\_2004.pdf](http://www.swrcb.ca.gov/tmdl/docs/datasolicitation_2004.pdf).

## Legislative Developments

**The 2004 legislative session convened 5 January and will adjourn 30 November. For current information on the legislative session, link <http://www.leginfo.ca.gov/index.html>.**

**CALIFORNIA AB 1942 – HAZARDOUS WASTE** - Provides that the owner or operator of a hazardous waste facility is not required to submit an application for a permit renewal until requested to do so by the Department of Toxic Substances Control. Deems the hazardous waste facilities permit extended if the Department does not initiate the review of the permit before the end of the permit's fixed term.

Introduced 11 February 2004. Referred to Environmental Safety and Toxic Materials Committee 26 February. Amended 19 April. Reported from Committee 5 May. Passed Assembly 17 May. The sponsor is Assemblyman Alan Lowenthal (D).

**CALIFORNIA AB 2565 – LAND USE** - Transfers the California Defense Retention and Conversion Council to the Business, Transportation and Housing Agency. Establishes the Office of Military Support in the agency and authorize the agency to enter into an interagency agreement with any other state agency as deemed necessary to administer these programs. Establishes the Military Support Account in the Special Deposit Fund in the State Treasury and require that any private funds the council or the office accepts be deposited in that account. Introduced 20 February 2004. Referred to Assembly Veterans Affairs Committee and Assembly Local Governments Committee 18 March. Amended 22 April. Reported from Committee 5 May. The sponsor is Assemblywoman Nicole Parra (D).

**CALIFORNIA AB 2585 – LAND USE** - States the Legislature's intent to encourage the Navy to select Lemoore Naval Air Station as the Navy's West Coast Operations Center to house the F-35 Joint Strike Fighter. Requires the San Joaquin Valley district to develop and adopt by regulation a program to fund projects that the district determines will provide measurable reductions in emissions of air contaminants from stationary or mobile sources in the district, to offset or mitigate any increase in air pollution that may result if the Navy selects the Lemoore Naval Air Station to house the F-35 Joint Strike Fighter. Introduced 20 February 2004. Referred to Appropriations Committee 12 April. Amended 19 May. The sponsor is Assemblywoman Nicole Parra (D).

**CALIFORNIA SB 18 – LAND USE** - Establishes a process in the California Environmental Quality Act that allows the Native American Heritage Commission, in consultation with Native American tribes and other interested parties, to determine whether or not a proposed development project adversely impacts a traditional tribal cultural site, and to recommend project changes and mitigation measures to avoid or reduce those impacts. Carried over to 2004 session. Reconsideration granted 8 January 2004. Referred to Committee 6 May. The sponsor is Senator John Burton (D).

**CALIFORNIA SB 50 – ELECTRONIC WASTE** - Makes it unlawful to sell a covered electronic device in the State to a consumer if the electronic device is prohibited from being sold or offered for sale in the European Union. Exempts manufacturers that demonstrate to the satisfaction of the California Integrated Waste Management Board or the Department of Toxic Substances Control that the device contains no toxic materials. Requires a retailer selling a covered electronic device in this state to collect a covered electronic waste recycling fee from the consumer. Requires a manufacturer to inform the retailer if a covered electronic device is subject to the waste recycling fee. Carried over to the 2004 session. Referred to Senate Appropriations Committee 12 January 2004. Amended 16 January. Passed Senate 28 January. Referred to Natural Resources Committee 6 May. The sponsor is Senator Byron Sher (D).

**CALIFORNIA SB 1435 – LAND USE** - Approves an exchange of public trust lands within the Oakland Army Base redevelopment property, whereby certain trust lands that meet specified criteria and are not now useful for public trust purposes will be freed from the public trust and may be conveyed into private ownership, and certain other lands that are not now public trust lands and that are useful for public trust purposes will be made subject to the public trust. Introduced 19 February 2004. Referred to Senate Rules Committee 18 March. Passed Senate 10 May. The sponsor is Senator Don Perata (D).

**CALIFORNIA SB 1462 – LAND USE** - Creates the Southern California Military Greenway Commission comprised of Los Angeles, Ventura, Kern, and Kings Counties and consisting of 17 specified voting members. Authorizes the commission, in consultation with appropriate state agencies and exofficio members and advisory committees, to promote, facilitate, and administer the acquisition of voluntary private and public conservation easements or other voluntary transfers of fee or lesser interests in real property. Requires the commission to review proposed land uses within member counties that may affect military flight paths and would require these counties, upon receipt of notification by the commission, to attempt to resolve with the aid of the commission, any identified issues of proposed land use that are inconsistent with the purposes for which the commission is established. Introduced 19 February 2004.

Referred to Assembly Local Government Committee 4 March. Hearing 17 May. Reported from Committee 20 May. The sponsor is Senator Sheila James Kuehl (D).

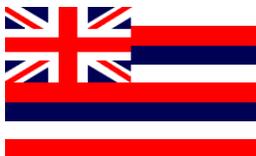
**CALIFORNIA SB 1742 – SPILL LIABILITY PLANS** - Renames the state oil spill contingency plan the California oil spill contingency plan. Revises provisions with respect to: (1) the definitions of "marine waters" and "spills and discharge;" (2) use of volunteer works for wildlife rehabilitation, and other aspects relating to wildlife rehabilitation; (3) interstate agreements with other states; and (4) the establishment of harbor safety committees. Introduced 20 February 2004. Referred to Senate Environmental Quality Committee and Senate Natural Resources and Wildlife Committee 11 March. Hearing 10 May. Passed Senate 19 May. The sponsor is Senator Bruce McPherson (R).

**CALIFORNIA SB 1885 – LAND USE** - Defines "reuse plan" for a military base as an initial plan for the reuse of a military base adopted by a local government or a redevelopment agency in the form of a general plan, general plan amendment, specific plan, redevelopment plan, or other planning document. Introduced 1 March 2004. Referred to Senate Rules Committee 11 March. Reported from Committee 3 May. Passed Senate 10 May. The sponsor is the Senate Environmental Quality Committee.

**CALIFORNIA SB 1909 – WATER** - Substitutes the term "recycled water" for "reclaimed water" and the word "recycling" for "reclamation" in various provisions of the Water Code. Introduced 10 March 2004. The sponsor is Senate Agriculture Committee.

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## HAWAII

### Hawaii and Pacific Island Regional Environmental Coordinator (REC) Contacts

#### DOD REC Region 9

RADM Jose Betancourt, Jr.  
 (619)-532-2925  
[betancourt.jose@cnrsw.navy.mil](mailto:betancourt.jose@cnrsw.navy.mil)  
 Al Hurt (POC-Hawaii & the Pacific Islands)  
 (619) 524-6253  
[hurt.alan.c@asw.cnrsw.navy.mil](mailto:hurt.alan.c@asw.cnrsw.navy.mil)

#### Army REC Hawaii & the Pacific Islands

Mike Flannery  
 (303) 844-0959  
[mflanner@rma.army.mil](mailto:mflanner@rma.army.mil)

#### Navy REC Hawaii & the Pacific Islands

John Muroaka  
 (808) 471-1171 X 229  
[MuroakaJT1@PWCPEARL.navy.mil](mailto:MuroakaJT1@PWCPEARL.navy.mil)

#### Air Force REC Hawaii & the Pacific Islands

Ron McRobbie  
 (415) 977-8886  
[Ronald.McRobbie@brooks.af.mil](mailto:Ronald.McRobbie@brooks.af.mil)

#### Marine Corps REC Region Hawaii & the Pacific Islands

Pat Christman  
 (760) 725-2674  
[christmanp@pendleton.usmc.mil](mailto:christmanp@pendleton.usmc.mil)

#### DLA REC Hawaii & the Pacific Islands

John Guzman  
 (209) 439-4129  
[jguzman@ddc.dla.mil](mailto:jguzman@ddc.dla.mil)

### Regulatory Developments & Other State Information

No significant regulatory activities to report.

### Legislative Developments

The 2004 legislative session began 21 January and ended 6 May. For current information on the legislative session, link <http://www.capitol.hawaii.gov/sessioncurrent/bills>.

**HAWAII HB 1805 – LAND USE** - Clarifies the policy of the State to actively encourage the maintenance and expansion of federal investment in military facilities in the State. Promotes Hawaii's supportive role in national defense, including supporting the continued operations of all existing military installations and the establishment and expansion of new military installations under the jurisdiction of the Department of Defense in Hawaii. Introduced 22 January 2004. Referred to the House Public Safety and Military Affairs Committee 26 January. Amended, reported from Committee and referred to House Water, Land Use and Hawaiian Affairs Committee 10 February. The sponsor is Representative Marcus Oshiro (D).

**HAWAII HB 1806 – LAND USE** - Requires notification to the commanding officer of the military installation of: (1) zoning changes; and (2) district boundary amendments for land within 3,000 feet or two miles of a military installation (depending on the size of the population of the county in question). Introduced 22 January 2004. Referred to the House Public Safety and Military Affairs Committee 26 January. Referred to Water, Land and Agriculture Committee 24 March. Died upon adjournment 6 May. The sponsor is Representative Marcus Oshiro (D).

**HAWAII HB 1840 – AIR** - Authorizes the Director of Health to regulate the discharge of fugitive dust both within and beyond a property lot line. Introduced 23 January 2004. Referred to House Energy and Environmental Protection Committee 26 January. Passed House and sent to Senate 9 March. Referred to Senate Health Committee and Senate Energy and Environment Committee 12 March. Amended 8 April. Passed Senate 13 April. Sent to Governor 27 April. The sponsor is Representative Cindy Evans (D).

**HAWAII HB 2375 – SOLID WASTE** - Creates a felony charge for the disposal of solid waste if a person knowingly discards, disposes of, deposits, discharges, or dumps solid waste, or otherwise arranges directly or indirectly for the disposal of solid waste in an amount equal to or greater than ten cubic yards in volume

anywhere other than a permitted solid waste management system. Introduced 26 January 2004. Passed House 4 March. Referred to Judiciary committee 9 March. Passed Senate 2 April. Sent to Governor 3 May. The sponsor is Representative Calvin Say (D).

**HAWAII SB 503 – WATER QUALITY** - Increases, from \$25,000 to \$40,000, the fine for each violation of the water pollution law, or any rule, permit, or variance issued under that law. Enacts provisions relating to muddy water, underground injection, and nutrients. Allows citizen suits. Carried over to the 2004 session. Failed to meet committee reporting deadline 5 March. The sponsor is Senator J. Kalani English (D).

**HAWAII SB 2477 – NUISANCE SPECIES** - Authorizes the Department of Agriculture to restrict the entry into the State of any articles originating from Guam that have not been certified as having been inspected by the U.S. Department of Agriculture-Wildlife Services or other approved agency prior to shipment from Guam. Introduced 13 January 2004. Passed Senate 5 March. Referred to House Energy and Environmental Protection Committee 11 March. Reported from Committee 24 March. Referred to House Judiciary Committee 25 March. Held in Committee 6 April. Died upon adjournment 6 May. The sponsor is Senator J. Kalani English (D).

**HAWAII SB 3170 – FUELS** - Establishes new requirements for the blending of ethanol in gasoline. Introduced 28 January 2004. Passed Senate 9 March. Referred to House Energy and Environmental Protection Committee 11 March. Referred to Consumer Protection and Commerce Committee 23 March. Reported from committee 8 April. Passed House 13 April. Sent to Governor 7 May. The sponsor is Senator Carol Fukunaga (D).



## NEVADA

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### Regulatory Developments & Other State Information

#### **PROPOSED REGULATION – AMENDMENTS TO CHEMICAL ACTION PREVENTION PROGRAM –**

The Nevada Department of Conservation and Natural Resources has proposed amendments to its Installation Chemical Action Prevention Program (CAPP) regulations. The proposed amendments include: (1) fee increases; (2) streamlining program requirements; (3) adoption by reference of language from the federal regulatory Risk Management Program; (4) provisions regarding protection of trade secret information; (5) provisions regarding investigation of incidents; and (6) a list of explosives. Comments are due by 11 June 2004. For more information, contact Mark Zusy at (702) 687-3012, or link [http://ndep.nv.gov/docs\\_04/capp050504.pdf](http://ndep.nv.gov/docs_04/capp050504.pdf).

### AIR INFORMATION:

**FINAL REGULATION – ALTERNATIVE FUEL USE IN FLEETS** - The Nevada Division of Environmental Protection (DEP) has adopted two revisions to NAC 486A. First, low-sulfur diesel fuel is removed from the list of designated alternative fuels and is replaced with three diesel fuel variants: (a) ultra low-sulfur diesel fuel; (b) California Air Resources Board (CARB) approved diesel fuel; and (c) a blend of diesel fuel with five to twenty percent biodiesel. A sunset provision removes the ultra low-sulfur diesel fuel and CARB approved diesel fuel from the approved list on 31 December 2006, since ultra low-sulfur diesel fuel will be mandated by federal regulation at retail outlets nationwide beginning in June 2006. Second, the definition of “certified vehicle” and all references to certified vehicles in NAC 486A are removed. The definition of “dedicated alternative fuel motor vehicle” was amended in statute to include vehicles certified by the EPA as being in compliance with ultra low-emission vehicle standards regardless of the type of fuel. For more information, contact Sig Jaunarajs at (775) 687-5392, or link <http://www.leg.state.nv.us/Register/2003Register/R232-03A.pdf>.

**FINAL REGULATION – REVISIONS TO AIR PERMITTING PROVISIONS** – The Nevada DEP has adopted amendments to its air permitting provisions. The amendments remove the ambiguity concerning implementation of regulations covering incinerator burning and schedules for compliance, as well as add an opacity limit and reduce the time allowed for exceptions to visible emissions from steam generating units. The amendments also remove the State visibility standard; make violations of the fugitive dust regulations a major violation; and revise the procedures for determining when an application for a Class I PSD operating permit is considered complete. The amendments were effective 26 April 2004. For more information, contact Mike Elges at (775) 687-4670, ext. 35437, or link: <http://www.leg.state.nv.us/Register/2003Register/R198-03A.pdf>.

**FINAL REGULATION – REVISION OF OPEN BURNING REGULATION** – The Nevada DEP has adopted amendments to its Open Burning regulation. The amendments prohibit (1) the burning of household trash at single-family residences within 10 miles of trash disposal, collection or transfer sites or in areas with household trash collection services. The open burning of yard waste and untreated wood waste will continue to be allowed in these areas; (2) the burning of rubbish by agricultural operations within 10 miles of trash disposal, collection or transfer sites or in areas with household trash collection services; and (3) residents of certain towns and cities from obtaining a variance directly from DEP to burn waste, if local authorities do not authorize it. The amendments were effective 15 April 2004. For more information, contact Sam Jackson at (775) 687-9358, or link: <http://www.leg.state.nv.us/Register/2003Register/R237-03A.pdf>.

**FINAL DESIGNATION – NONATTAINMENT DESIGNATIONS FOR 8-HOUR OZONE STANDARD -**

EPA has released its final nonattainment designations for the 8-hour ozone standard. Clark County has been designated as basic nonattainment and must be in attainment by June 2009. The designation will be effective 15 June 2004. For more information, contact David Cowperthwaite at (775) 687-4670, ext. 3118.

**WASTE INFORMATION:**

**FINAL REGULATION – ADOPTION OF FEDERAL HAZARDOUS WASTE REGULATIONS –** The Nevada DEP has adopted amendments to the State's Hazardous waste regulations to make them consistent with federal regulations as of 1 July 2003. The amendments include adopting federal standards by reference as well as prohibiting direct transfer of hazardous waste from transport vehicle to boiler or industrial furnace. Owners or operators of a boiler or industrial furnace may not directly transfer hazardous waste from a transport vehicle to a boiler or industrial furnace without the use of a permitted storage unit. The amendments were effective 13 April 2004. For more information, contact Jim Trent at (775) 687-4670, ext. 3015, or link <http://www.leg.state.nv.us/Register/2003Register/R126-03A.pdf>

**FINAL REGULATION – REVISIONS TO HAZARDOUS WASTE REGULATIONS –** The Nevada DEP has adopted amendments to its hazardous waste regulations, including specific changes to the definition of hazardous waste. These changes establish and define two subcategories of waste that are generated outside the State and will provide for more uniform regulatory treatment and equitable assignment of fees when such wastes are managed in Nevada. The two subcategories identified are remediation wastes and federally delisted wastes. The amendments were effective 16 April 2004. For more information, contact Jim Trent at (775) 687-4670, ext. 3015, or link <http://www.leg.state.nv.us/Register/2003Register/R208-03A.pdf>.

**WATER INFORMATION:**

**FINAL REGULATION – REVISIONS TO WATER QUALITY STANDARDS –** The Nevada DEP has adopted revisions to the water quality standards for Class Waters, including changes to existing formats for listing water quality standards in the Nevada Annotated Code provisions (NAC's). DEP also adopted revision of the existing pH criteria, and total phosphorus criteria for various Class Waters throughout the State. The revisions were effective 23 April 2004. For more information, contact John Heggeness at (775) 687-4670, ext. 3093, or link <http://www.leg.state.nv.us/Register/2003Register/R226-03A.pdf>.

**Legislative Developments**

Nevada did not have a regular legislative session in 2004. For information on the 2003 legislative session, link <http://www.leg.state.nv.us/>.

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