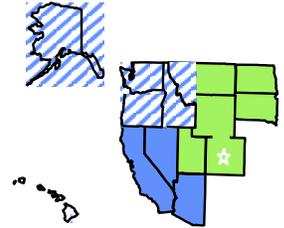




**US Army Environmental Center  
Western Regional Environmental Office  
REGION 9 – JULY 2004**



# 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 Bob Gurdikian at the Western Regional Environmental Office, U.S. Custom House, 721 19<sup>th</sup> Street, Room 427, Denver, CO 80202-2500; phone: (303) 844-0952, or fax: (303) 844-0951.

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## E-mail Subscriptions to WREO Monthly Reviews

The Monthly Western Regional Reviews are available by e-mail distribution. If you would like to receive the Review in electronic format each month, please e-mail [dclark@rma.army.mil](mailto:dclark@rma.army.mil). Write "Subscription" as the subject and include your name and e-mail address in the body of the message. Past issues of the Regional Reviews are available at <http://aec.army.mil> under "Regional Offices."

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## FEDERAL AGENCY NEWS & REGULATORY DEVELOPMENTS



### ENVIRONMENTAL PROTECTION AGENCY (EPA) INFORMATION

#### AIR INFORMATION:

**PROPOSED RULE – SIP BUDGETS FOR ELECTRIC GENERATING UNITS** – On 10 June 2004 (69 FR 32683), EPA issued a supplemental proposal for the Clean Air Interstate Rule (introduced in January 2004) to reduce interstate transport of fine particulate matter and ozone. The supplemental proposal requires covered states to submit state implementation plan (SIP) measures to ensure that emissions reductions are achieved as needed to mitigate transport of fine particulate matter, ozone pollution, sulfur dioxide, and oxides of nitrogen across state boundaries. The proposal includes SIP budgets for SO<sub>x</sub> and NO<sub>x</sub> for electrical generating units in 28 states and the District of Columbia for the years 2010 and 2015. The announcement provides clarifications and additional details concerning EPA's model cap-and-trade program for electrical generating units. For further information, contact Larry Webber, USAEC at (410) 436-1213, or email [lawrence.webber@aec.apgea.army.mil](mailto:lawrence.webber@aec.apgea.army.mil).

**FINAL RULE – NESHAP FOR STATIONARY RECIPROCATING INTERNAL COMBUSTION ENGINES** - On 15 June 2004 (69 FR 33473), EPA issued the final National Emissions Standards for Hazardous Air Pollutants (NESHAP) for stationary reciprocating internal combustion engines (RICE) rated above 500 horsepower and located at major hazardous air pollutant (HAP) sources. The rule includes specific requirements for all new or reconstructed stationary RICE and for existing spark ignition 4-stroke rich burn (4SRB) stationary RICE located at a major source of HAP emissions. New or reconstructed stationary RICE that operate exclusively as emergency or limited use units are subject only to initial notification requirements. New or reconstructed stationary RICE which combust landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis are subject only to initial notification requirements and to monitoring, recording, and reporting of fuel usage requirements. With the exception of existing spark ignition 4SRB stationary RICE, other types of existing stationary RICE are not subject to any specific requirement under the final rule. Also, the final rule does not apply to test cells/stands that are covered by another NESHAP. For further information, contact Paul Josephson, USAEC at (410) 436-1205, or email [paul.josephson@aec.apgea.army.mil](mailto:paul.josephson@aec.apgea.army.mil), or link <http://www.epa.gov/airlinks/RICEfinalrule.pdf>.

#### WATER INFORMATION:

**FINAL RULE – ANALYTICAL METHODS FOR URANIUM IN DRINKING WATER** – On 2 June 2004 (69 FR 31008), EPA took direct final action to approve the use of three additional analytical methods for compliance determinations of uranium in drinking water. The methods use an inductively coupled plasma mass spectrometry (ICP-MS) technology that could be more cost-effective, less labor-intensive, or more sensitive than some previously approved technologies. The final rule does not withdraw approval of any previously approved monitoring methods for uranium. The regulation potentially affects public water systems that are classified as community water systems, which are water systems that serve at least 15 service connections used by year-round residents or regularly service at least 25 year-round residents. The rule is effective on 31 August 2004 without further notice, unless EPA receives adverse comment by 2 July. For further information, contact Misha Turner, USAEC at (410) 436-1203, or email [misha.turner@aec.apgea.army.mil](mailto:misha.turner@aec.apgea.army.mil), or link <http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2004/04-12299.htm>.

**NEW EPA FACT SHEET – CONSTRUCTION AND STORMWATER REQUIREMENTS FOR FEDERAL FACILITIES** – The EPA produced a new fact sheet for Federal facility managers responsible for meeting the requirements of the NPDES stormwater program. The fact sheet outlines the requirements for obtaining permit coverage for stormwater discharges from construction projects and clarifies the role of Federal facility managers as co-permittees on construction projects. For additional information, contact Mike Kanowitz, USAEC at (410) 436-7068, or email [michael.kanowitz@aec.apgea.army.mil](mailto:michael.kanowitz@aec.apgea.army.mil).



## GENERAL INFORMATION

**PROPOSED RULE – TAKE OF MIGRATORY BIRDS BY DEPARTMENT OF DEFENSE** – On 2 June 2004 (69 FR 31074), the Fish and Wildlife Service (FWS) released a proposed rule that would authorize incidental take of migratory birds, with limitations, that result from DoD military readiness activities. The proposed rule would allow members of the Armed Forces, or DoD contractors or their agents to take migratory birds during authorized military readiness activities. Installations must continue to obtain a Migratory Bird Treaty Act (MBTA) permit for scientific collecting, control of birds causing damage to DoD property, or any other activity that is addressed by FWS existing permit regulations. The proposed rule was developed in coordination and cooperation with DoD. Comments are due by 2 August 2004. For further information, contact Brian Millsap, FWS at (703) 358-1714, or Jay Rubinoff, USAEC at (410) 436-1564, or link <http://migratorybirds.fws.gov>.

**PROPOSED POLICY – HATCHERY-ORIGIN FISH AND ESA LISTING DETERMINATIONS FOR PACIFIC SALMON AND STEELHEAD** – On 3 June 2004 (69 FR 31354), the National Marine Fisheries Service (NMFS) issued a proposed policy to address the role of hatchery produced Pacific salmon and steelhead in listing determinations under the Endangered Species Act. Under the proposed new policy, NMFS would determine the viability of each distinct population segment (DPS), including both natural and hatchery populations, in conducting ESA status reviews and using the product of such reviews in identification of dangerous levels of lead. For further information, contact Warreb Friednab at (202) 755-1785 ext 104, or link <http://a257.g.akamaitech.net/7/257/2422/06jun20041800/edocket.access.gpo.gov/2004/04-13873.htm>.

**CALL FOR PROJECTS – DOE FEDERAL ENERGY MANAGEMENT PROGRAM** – The U.S. Department of Energy (DOE) Federal Energy Management Program (FEMP) is soliciting applications for agency projects in need of technical assistance from the DOE National Laboratories and contractors. Projects can involve sustainable new building design, energy and water efficiency retrofits, renewable energy, operations and maintenance, and distributed generation and combined heat and power making listing determinations of threatened or endangered for Pacific salmon and steelhead. NMFS also plans to provide separate guidance on how artificial propagation programs may contribute to salmon and steelhead conservation and recovery. Comments are due by 1 September 2004. For further information, contact Donna Darm, NMFS Northwest Region at (562) 980-4021, Craig Wingert, NMFS Southwest Region at (562) 980-4021, or Marta Nammack, NMFS Office of Protected Resources at (301) 713-1401.

**FINAL RULE – LEAD-BASED PAINT HAZARDS IN FEDERALLY OWNED PROPERTY BEING SOLD** – On 21 June 2004 (69 FR 34262), the U.S. Department of Housing and Urban Development (HUD) revised its lead-based paint regulations to make conforming amendments, technical corrections, and clarifying changes. The rule clarifies HUD's definitions and standards for dust-lead and soil-lead hazards to make them consistent with EPA's final lead hazard standards rule (66 FR 1205, 5 January 2001) on contributing to energy security and reliability. Applications must be received by 16 July 2004. For additional information including application instructions and POCs, link [http://www.eere.energy.gov/femp/services/pa\\_callforprojects.cfm](http://www.eere.energy.gov/femp/services/pa_callforprojects.cfm).

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

### **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>.

### **ENERGY 2004**

**8-11 August 2004 – Rochester, New York**

This is the 7<sup>th</sup> annual workshop sponsored by the DOE Federal Energy Management Program, and co-sponsored by DoD and GSA. The workshop is for Federal, state, local, and private sector energy managers, service companies, utilities, procurement officials, engineers and other energy professionals. For more information, link <http://www.energy2004.ee.doe.gov/>.

### **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>.

**5<sup>TH</sup> ARMY AREA ARMY NATIONAL GUARD WORKSHOP****11-12 August 2004 – Denver, Colorado**

The Army National Guard will hold its western area workshop at the Mark Adams Hotel the afternoon of 11 August and 12 August. The Environmental Advisory Board and other committees will also meet during the week. For more information, contact Bill Vagt at (907) 428-6760. or email [bill\\_vagt@fmd.dmva.state.ak.us](mailto:bill_vagt@fmd.dmva.state.ak.us).

**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 habitat 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:

**PROPOSED RULE – REVISIONS TO SALT RIVER SIP** – The Arizona Department of Environmental Quality (DEQ) proposed revisions to the Salt River PM10 State Implementation Plan (SIP). On 2 July 2002, EPA found Arizona's SIP for the Metropolitan Phoenix (Maricopa County), Arizona PM10 nonattainment area inadequate to attain the 24-hour particulate air quality standard at the Salt River PM10 monitoring site due to continued exceedances of the 24-hour PM10 standard in that area (67 FR 44369, effective 1 August 1 2002). The proposed revisions would apply Best Available Control Measures (BACM) / Most Stringent Measures (MSM) for all significant sources of PM10, to achieve attainment of the 24-hour National Ambient Air Quality Standards (NAAQS) by 31 December 2006, at the Salt River PM10 monitoring site (in accordance with CAA §§ 189(b)(1)(A) and 188(e)). These measures would be applied to sources in the Salt River study area and to all similar sources throughout the Maricopa PM10 serious Nonattainment Area. DEQ has scheduled a public hearing for 15 and 16 July 2004, and comments are due by 16 July 2004. For further information, contact Dena Konopka at (602) 771-2378, or link <http://www.adeq.state.az.us/environ/air/plan/download/sr.pdf>.

**DEPARTMENTAL DISCUSSION – AIR PERMIT FEES** – The DEQ is drafting amendments to its air permit fees. Changes will be made to definitions, fees related to individual permits, and fees related to general permits. DEQ opened the docket on 18 June and hopes to issue a proposal by the end of the summer. For further information, contact Kevin Force at (602) 771-4480.

### WATER INFORMATION:

**PROPOSED RULE – 2004 305(b) AND 303(b) LIST RELEASED FOR REVIEW** – The DEQ released its 2004 305(b) and 303(b) list for review. The biannual report seeks to inform the public of the status of State waters, as well as specifying waterways that do not meet State surface water quality standards. The report provides extensive background information on the ecology and hydrology of the State, explains in detail the watershed assessment process, and highlights DEQ's efforts to maintain the integrity of the State's watersheds and surface water resources. DEQ published the draft list of impaired waters that it plans to submit to EPA and responses to comments. DEQ was supposed to submit the list to EPA on 1 April 2004; however, DEQ delayed the submission because of a release of a second draft report and associated public comment periods. The list has now been submitted to EPA for review. For further information, contact Diana Marsh at (602) 771-4545, or link <http://www.adeq.state.az.us/environ/water/assessment/2004.html>.

**DEPARTMENTAL DISCUSSION – PESTICIDES AND WATER POLLUTION CONTROL** – The DEQ is considering proposing amendments to its pesticides and water pollution control regulations. The rulemaking will include updating pesticide rules to address statutory changes made in the 2003/2004 legislative session, ensuring consistency with other rules and statutes, and conformance to current rulemaking format and style requirements. DEQ opened a docket for the regulation, and a proposal should be published in September or October 2004. For further information, contact Linda Taunt at (602) 207-4665.

**DEPARTMENTAL DISCUSSION – IMPLEMENTATION PROCEDURES FOR NARRATIVE WATER QUALITY STANDARDS** – The DEQ is discussing the development of implementation procedures for narrative water quality standards before they can be used for 303(d) listing purposes. Additionally, no Total Maximum Daily Load (TMDL) standards analysis can be prepared until implementation procedures are adopted by DEQ. The regulation will ultimately address the following standards: (1) Narrative nutrient criteria; (2) antidegradation implementation procedures; (3) narrative bottom deposits/clean sediment; and (4) narrative toxics. DEQ has issued a final draft of its antidegradation implementation procedures. The Department will hold a public meeting 29 June to discuss the final draft. For further information, contact Shirley Conrad at (602) 771-4632, or link

Antidegradation Policy: <http://www.adeq.state.az.us/environ/water/assessment/download/anti.pdf>.  
Narrative Toxics: <http://www.adeq.state.az.us/environ/water/assessment/download/toxics.pdf>.  
Narrative Nutrients: <http://www.adeq.state.az.us/environ/water/assessment/download/nutrients.pdf>.  
Narrative Sediments: <http://www.adeq.state.az.us/environ/water/assessment/download/sediment.pdf>.

### [Legislative Developments](#)

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

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## 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 deletes nickel and certain nickel compounds and substitutes a list of nickel compounds as; (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), the 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:

**PROPOSED RULE – DISAPPROVAL OF SIP REVISIONS FOR MONTEREY BAY** – The EPA is proposing to disapprove a revision to the Monterey Bay Unified Air Pollution Control District (MBUAPCD) portion of the California State Implementation Plan (SIP) concerning excess emissions during breakdown (69 FR 30845, 1 June 2004). EPA is proposing action on a local rule that regulates these emissions under the California Air Act as amended in 1990. EPA is taking comments on this proposal by 1 July 2004, and plans to follow with a final action. For more information, contact Thomas C. Canaday, EPA at (415) 947-4121.

**FINAL RULE – APPROVAL OF SIP REVISIONS FOR GREAT BASIN AND VENTURA COUNTY** – The EPA is taking direct final action to approve revisions to the Great Basin Unified Air Pollution Control District (GBUAPCD) and Ventura County Air Pollution Control District (VCAPCD) portions of the California SIP. The GBUAPCD revisions concern the emission of particulate matter (PM-10) from open fires and incinerator burning. The VCAPCD revisions concern the emission of PM-10 from open burning. EPA is approving local rules that administer regulations and regulate emission sources under the Clean Air Act (CAA) as amended. The rule is effective on 6 August 2004 without further notice, unless EPA receives adverse comments by 7 July 2004. For more information, contact Al Petersen, EPA at (415) 947-4118.

**PROPOSED RULE – SIP REVISIONS FOR ANTELOPE VALLEY** – The EPA is proposing limited approval and limited disapproval of revisions to the Antelope Valley Air Quality Management District (AVAQMD) portion of the California SIP. The revisions concern certain volatile organic compound (VOC) emissions from architectural coatings. In accordance with the CAA, EPA is proposing action on a local rule that regulates these emission sources. Comments must be received by 21 July 2004. For more information, contact Francisco Donez, EPA at (415) 972-3956.

**PROPOSED RULE – PM CONTROL MEASURES** – The California Air Resources Board is preparing a particulate matter (PM) control measure for heavy-duty diesel engines in publicly owned and -contracted fleets. The rules would require diesel PM be reduced in on-road heavy-duty vehicles with a manufacturer's gross vehicle weight rating of greater than 14,000 pounds, owned and operated on public roads by a public agency or operated under contract to a public agency. These rules are separate from a similar rulemaking for heavy-duty refuse collection vehicles. In addition, the proposed rules will result in reductions in oxides of nitrogen emissions, mainly achieved through vehicle engine turnover. The Board hearing to consider the final version is tentatively scheduled for 24 September 2004. To meet this date, staff would need to issue its final version by 7 August 2004. For more information, contact Nancy L.C. Steele at (626) 350-6598, or link <http://www.arb.ca.gov/msprog/publicfleets/publicfleets.htm>.

**PROPOSED REGULATION – CONTROL OF GREENHOUSE GAS EMISSIONS FROM MOBILE SOURCES** – The California Air Resources Board has released a draft staff report on the implementation of AB 1493, passed in 2002, which mandates the control of greenhouse gas emissions from mobile sources. The bill requires the Board to set emission standards for greenhouse gases from light-duty mobile sources. The Board is likely to focus on improved technology and grant credits for early reductions in vehicle greenhouse gas emissions. The Board's standards cannot include new or increased fees or taxes, vehicle category bans, vehicle weight reductions, or reduced speed limits. The Board held a workshop 20 April 2004. There were several presentations at the workshop including information on technologies recently evaluated to reduce climate change pollutants from passenger vehicles, light-duty trucks, and other vehicles whose primary use is non-commercial personal transportation. These technologies include modifications to conventional engines and drivetrains, improvements to mobile air conditioning systems, alternative-fuel vehicles, and hybrid electric vehicles. These presentations have been posted on the climate change website, link <http://www.arb.ca.gov/cc/symposium/symposium.htm>. The Board will hold workshops focused on environmental justice on 6 July 2004 in Oakland, 7 July 2004 in Sacramento, 8 July 2004 in Fresno, and 13 July 2004 in Pacoima. The Board has undertaken an evaluation to investigate if low-income and minority communities may be impacted disproportionately by the climate change regulation. The primary direct mechanism identified was the potential effect on used car prices. Because the vehicle price increases caused by the proposed regulation may, over time, increase the price of used vehicles that low-income households tend to purchase, the staff focused on analyzing the potential impacts of the vehicle price increase on low-income purchasers of used vehicles. The Board has released a draft staff report. This draft does not include proposed regulatory language. The draft staff proposal would require a reduction of up to 30% in greenhouse gas emissions from motor vehicles. The proposal describes several methods that automobile makers can use to improve the performance of car engines, transmissions and drive trains to reduce greenhouse gas emissions. According to Board, the average per-vehicle costs of technology packages for the regulation's first phase, scheduled for model years 2009 through 2011, will range from \$241 for light-duty passenger cars to \$326 for large pickups and SUVs. Average costs for the rule's second phase for model years 2012 to 2014 are expected to range from \$539 for light-duty passenger cars to \$851 for heavier vehicles. The draft staff proposal is available at link [http://www.arb.ca.gov/cc/factsheets/cc\\_isor.pdf](http://www.arb.ca.gov/cc/factsheets/cc_isor.pdf). The Board is in the process of developing specific regulatory language and will release a draft for public comment prior to the September hearing. The Board hopes to finalize the proposal in September 2004 and submit its report by the 1 January 2005 deadline. For further information, contact Chuck Shulock at (916) 322-6964.

**FINAL REGULATION – CLEAN FUEL FLEETS** – The South Coast Air Quality Management District adopted amendments to Rule 1186.1, applicable to public fleet operators and privately owned fleets providing sweeping services to government agencies. In addition, the District adopted amendments to Rule 1196, applicable to fleet operators of publicly owned heavy-duty vehicles. The rule amendments would install a one-year extension to the sunset date for the Rule 1186.1 provision allowing for technical infeasibility certification request (TICR) approval, and the Rule 1196 provision allowing for TICR approval based on the unavailability of alternative-fuel stations within five miles of the affected fleet's storage or maintenance yards. The District adopted the regulation at its meeting on 4 June 2004 with an effective date of 4 June 2004. For further information, contact Michael Krause at (990) 396-2706, or link [http://www.aqmd.gov/pub\\_edu/notice\\_1186.1\\_1196\\_Apr\\_21\\_04.html](http://www.aqmd.gov/pub_edu/notice_1186.1_1196_Apr_21_04.html).

**PROPOSED REGULATION – DIESEL EMISSION CONTROL STRATEGY VERIFICATION**

**PROCEDURES** – The California Air Resources Board is proposing amendments to the diesel emission control strategy verification procedure. The amendments will involve warranty requirements, proposed verification testing protocol, durability testing requirements, and the nitrogen dioxide emission limit. EPA and the Board signed a Memorandum of Agreement (MOA) for coordination and reciprocity in diesel retrofit device verification. The MOA entails that each agency will accept on another's verified levels including reporting requirements, warranty requirements, specific levels for verification, additional emission measurements or thresholds, limits on emission increases or other program elements. They also agree, when reasonably and legally possible, to coordinate technical evaluations of applicant technologies and in assigning reduction levels. When there is no existing technology evaluation protocol available for the specific technology, EPA and the Board agree to determine an acceptable approach to evaluate these technologies. Lastly, as retrofit technology manufacturers initiate and conduct in-use testing, EPA and the Board agree to coordinate so data may be useful for each program. For further information, contact Paul Henderick at (626) 350-6440, or link <http://www.arb.ca.gov/regact/verpro03/verpro03.htm>.

**DEPARTMENTAL DISCUSSION – MULTIMEDIA EIS OF AMENDMENTS TO DIESEL FUEL**

**REGULATIONS** – The California Environmental Protection Agency (CEPA) has conducted a multimedia environmental impact assessment of the amendments to the California diesel fuel regulations approved by the Air Resources Board on 24 July 2003. The amendments do the following: (1) Reduce the maximum permissible sulfur content in vehicular diesel fuel from 500 parts per million (ppm) by weight (ppmw) to 15 ppmw starting in mid-2006; (2) establish standards for diesel fuel lubricity effective in August 2004; (3) improve the flexibility of the regulations by adopting new specifications for equivalency to the aromatic hydrocarbon limit for California diesel; and (4) adopt an Air Toxics Control Measure to require the use of vehicular diesel fuel in all non-vehicular diesel engines except engines used to power locomotives and marine vessels. Military tactical vehicles are exempt. Health and Safety Code Section 43830.8 requires that the Board may not adopt any regulation that establishes a specification for motor vehicle fuel unless that regulation, and a multimedia evaluation conducted by affected agencies and coordinated by the Board, are reviewed by the California Environmental Policy Council established pursuant to subdivision (b) of Section 71017 of the Public Resources Code. The evaluations are based on the best available scientific data, written comments submitted by any interested person, and information collected by the Board. The Board shall prepare a written summary of the multimedia evaluation, and shall submit the summary for external scientific peer review, in accordance with Section 57004. The California Environmental Policy Council reviewed the information and ultimately approved the amendments. The proposed amendments have now been sent to the Office of Administrative Law for review and approval. Pending this process, the amendments are expected to become effective in July 2004. For further information, contact Steve Brisby at (916) 322-6019, or link <http://www.calepa.ca.gov/CEPC/PublicNotice2.pdf>.

**DEPARTMENTAL DISCUSSION – ADOPTION OF NATIONAL EMISSION STANDARDS FOR**

**ASBESTOS** – The San Diego Air Pollution Control District is considering amending Regulation XI by repealing District Rules 361.140 through 361.156, and adopting by reference the recently amended Federal Subpart M, National Emission Standards for Asbestos (NESHAP). The current District rules implement the original Federal Subpart M that has subsequently been revised by EPA. The amended Federal Subpart M regulates inspection requirements for asbestos containing materials in buildings, Regulated Asbestos Containing Material (RACM) thresholds, procedures for demolition and renovation sites, and asbestos removal and disposal procedures. The District will hold a workshop to receive comments concerning the repeal of 361.140 through 361.156, and comments are due by 15 July 2004. For further information, contact Michael R. Lake at (858) 650-4590.

**DEPARTMENTAL DISCUSSION – SIP FOR CARBON MONOXIDE** – The California Air Resources Board is considering revisions to the State Implementation Plan (SIP) for Carbon Monoxide (CO). The changes will accomplish update emission estimates, estimate new on-road vehicle emission budgets, and update the CO maintenance plan for ten urban areas that have attained Federal air quality standards. These areas are Bakersfield, Chico, Fresno, North Lake Tahoe, South Lake Tahoe, Modesto, Sacramento, San Diego, San Francisco Bay Area, and Stockton. Comments will be accepted until 21

July 2004. The Board is conducting a public hearing on 22 July. For further information, contact Lucille Van Ommering at (916) 323-0296, or link <http://www.arb.ca.gov/planning/sip/co/co.htm>.

### **WASTE INFORMATION:**

**PROPOSED REGULATION – SINGLE PROCESS FOR SITE CLEANUPS** – The California Department of Toxic Substances Control (DTSC) is drafting regulations to establish a single process for site cleanups conducted by DTSC and the Certified Unified Program Agencies (CUPAs). The regulations will apply both to response actions conducted under the State's site mitigation authority and those conducted under the State's corrective action authority. The requirements for these cleanups will be consistent with the Federal cleanup requirements found in Subpart E of the National Contingency Plan (NCP). The requirements will include special circumstances for time-critical removals and an alternative process for lower risk sites. The regulations will also specify the public participation requirements for cleanup and will include the qualification standards for CUPAs seeking authorization to oversee corrective action at CUPA-regulated facilities. Finally, the regulations will clarify when a permit is required for permanent disposal in an Area of Contamination (AOC) and when a groundwater threat warrants groundwater investigation. DTSC is incorporating revisions based on comments received on the preliminary draft, and expects to complete a new draft in late summer 2004. For further information, contact Nancy Ostrom at (916) 322-3385, or link [http://www.dtsc.ca.gov/LawsRegulationsPolicies/Response\\_Action/REGS\\_prelim\\_resp\\_onse.pdf](http://www.dtsc.ca.gov/LawsRegulationsPolicies/Response_Action/REGS_prelim_resp_onse.pdf).

**DEPARTMENTAL DISCUSSION – SECONDARY CONTAINMENT SYSTEMS FOR PORTABLE TANK HAZARDOUS WASTE STORAGE** – The DTSC is drafting regulations to establish secondary containment standards for portable tanks used to store hazardous waste. The proposed regulations would: (1) set the standard for determining what is considered a container and what is considered a portable tank; (2) establish secondary containment standards for portable tanks; and (3) require integrity assessment of portable tanks. Currently, integrity assessment and secondary containment are not required for containers. DTSC received considerable feedback during public workshops held earlier this year, and has postponed future workshops until the comments are thoroughly reviewed. For further information, contact Hossein Nassiri at (916) 327-4493, or link [http://www.dtsc.ca.gov/LawsRegulationsPolicies/Portable\\_Tanks/Oeara\\_pn\\_regs\\_por\\_tdrfttxt.pdf](http://www.dtsc.ca.gov/LawsRegulationsPolicies/Portable_Tanks/Oeara_pn_regs_por_tdrfttxt.pdf).

**FINAL REGULATIONS – AUTHORIZED TREATMENT OF UNIVERSAL WASTE ELECTRONIC DEVICES** – The Department of Toxic Substance Control adopted emergency regulations for the authorized treatment of universal waste electronic devices. This emergency regulation is one piece of the implementation of the Electronic Waste Recycling Act of 2003 (SB 20, Sher, Statutes of 2003), which was signed into law on 24 September 2003. The regulation establishes requirements for managing universal waste electronic devices. These requirements include universal waste management, notification and reporting requirements, treatment standards, labeling and marking, exports, and storage time limits. The final emergency regulation was adopted and made effective 7 June 2004. The emergency regulation expires 7 June 2006. For further information, contact Corey Yep at (916) 324-5772, or link [http://www.dtsc.ca.gov/LawsRegulationsPolicies/UWED/OEARA\\_Regs\\_UWED\\_Emergency\\_Text\\_Final.pdf](http://www.dtsc.ca.gov/LawsRegulationsPolicies/UWED/OEARA_Regs_UWED_Emergency_Text_Final.pdf).

**REVISED REGULATIONS – RESEARCH, DEVELOPMENT, AND DEMONSTRATION PERMITS FOR INNOVATIVE LANDFILL TECHNOLOGIES** – The Integrated Waste Management Board is preparing revised regulations allowing for issuance of research, development, and demonstration permits for innovative landfill technologies. The Board considered an emergency regulation at its 11 May 2004 meeting, however it has not yet been approved. An emergency regulation may be issued by summer 2004. For further information, contact Scott Walker at (916) 341-6319, or link <http://www.ciwmb.ca.gov/Rulemaking/LandfillDemo/InformalTxt.doc>.

**FINAL REGULATION – SPECIFIC REGULATORY LEVELS FOR VARIOUS SUBSTANCES** – The California Office of Environmental Health Hazard Assessment has established specific regulatory levels possessing no significant risk for the following substances; (1) benz[a]anthracene, (2) benzene, (3) benzo[b]fluoranthene, (4) benzo[j]fluoranthene, (5) bromoform, (6) chrysene, (7) 7H-

dibenzo[c,g]carbazole, (8) dibenzo[a,h]pyrene, (9) dibenzo[a,i]pyrene, and (10) 5-methylchrysene. The office published the proposed levels 13 June 2003. Written comments were received, and the Office issued a no significant risk for benzene and bromoform, effective 23 April 2004. The Office has adopted a no significant risk level for the remaining eight chemicals, effective 10 July 2004. For further information, contact Cynthia Oshita at (916) 322-2068, or link <http://www.oehha.ca.gov/prop65/law/set4final.html>.

### **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 389 – CLEANUP, VOLUNTARY REMEDIATION** - Current version (15 June) enacts the Brownfield Bona Fide Purchaser Protection Act. Defines the term "brownfield" as having the same meaning as defined in existing Department of Toxic Substances Control's loan program. Specifies that a covenant not to sue that is included in a bona fide purchaser agreement would not provide protection from liability or affect any matter other than as expressly specified. Effective 5 January 5 2006. Introduced 14 February 2003. Carried over to 2004 session. Amended 5 January. Passed Assembly and sent to Senate 26 January. Referred to Senate Environmental Quality Committee 17 February 2004. Amended 1 June 2004. Reported from Committee and referred to Senate Rules Committee 7 June 2004. Amended 15 June 2004. Re-referred to Senate Appropriations Committee 17 June 2004. The sponsor is Assemblywoman Cindy Montanez (D).

**CALIFORNIA AB 406 – ENVIRONMENTAL ADMINISTRATIVE PROCEDURES** - Current version (26 January) authorizes a lead agency also to charge and collect a reasonable fee from the project applicant to cover the estimated costs incurred by the lead agency in preparing a draft environmental impact report or mitigated negative declaration. Requires access to a project site that is under California Environmental Quality Act (CEQA) review to be granted to employees of, or consultants retained by, a public agency carrying out its CEQA responsibilities. Effective 1 January 2005. Introduced 14 February 2003. Carried over to 2004 session. Amended 26 January 2004. Passed Assembly, sent to Senate 29 January 2004. Referred to Senate Environmental Quality Committee 17 February 2004. Hearing canceled at request of sponsor 17 June 2004. The sponsor is Assemblywoman Hanna-Beth Jackson (D).

**CALIFORNIA AB 575 – TRANSPORTATION (WASTE), HAZARDOUS MATERIALS** - Current version (21 June) requires, in addition to any applicable existing equipment requirements, a vehicle or combination of vehicles transporting flammable or combustible liquids in cargo tanks to be equipped with a device approved by the Department of the California Highway Patrol that enables a police officer, a motor carrier, or motor carrier's agent to immediately disable the vehicle or a device, approved by that department, that is capable of immobilizing the vehicle through a delayed, automated anti-hijacking system. Requires a vehicle, or at least one vehicle in a combination of vehicles, transporting these materials or substances to be equipped with a positioning system receiver and all hardware necessary to enable the motor carrier to determine the location of that vehicle at any time. Effective 1 July 2005. Introduced 18 February 2003. Carried over to 2004 session. Amended 27 May 2004. Hearing scheduled 1 June 2004 postponed by Committee. Hearing canceled at request of sponsor 15 June 2004. Amended 21 June 2004. The sponsor is Assemblyman John Dutra (D).

**CALIFORNIA AB 1009 – EMISSIONS** - Current version (17 June) requires any commercial heavy-duty vehicle that enters into the state for purposes of operating in the state to meet the Federal emission standards applicable to commercial heavy-duty vehicles of the same model-year. Introduced 20 February 2003. Carried over to 2004 session. Failed passage in Committee and reconsideration granted 15 June 2004. Amended 17 June 2004. The sponsor is Assemblywoman Fran Pavley (D).

**CALIFORNIA AB 1408 – SPILL LIABILITY PLANS** - Current version (2 June) requires a party responsible for the discharge or threatened discharge of oil in marine waters to report the discharge to the Office of Emergency Services to report the discharge immediately. Requires the Administrator Oil Spill Response to assess the condition of all underground fuel pipelines in the state and report to the

Legislature not later than 1 January 2006, regarding the condition of each pipeline. Introduced 21 February 2003. Passed Assembly and sent to Senate 1 May 2003. Carried over to 2004 session. Amended 2 June. Re-referred to Senate Rules Committee 16 June 2004. Re-referred to Senate Environmental Quality Committee 17 June 2004. The sponsor is Assemblywoman Lois Wolk (D).

**CALIFORNIA AB 1802 – WASTES** - Current version (18 March) increases the amounts of the fines imposed for dumping waste matter in commercial quantities. Effective 1 January 1 2005. Introduced 12 January 2004. Referred to Assembly Committee on Public Safety 29 January 2004. Amended 18 March 2004. Reported from Committee 24 March 2004. Passed Assembly and sent to Senate 3 May 2004. Referred to Senate Public Safety Committee 20 May 2004. Reported from Committee 15 June 2004. The sponsor is Assemblyman Russ Bogh (R).

**CALIFORNIA AB 1906 – UNDERGROUND STORAGE TANKS** - Increases the specified petroleum storage fee by \$0.001 per gallon of petroleum stored, on and after 1 January 1 2005, and by and additional \$0.001 per gallon of petroleum stored, on and after 1 January 2006. Introduced 9 February 2004. Referred to Assembly Environmental Safety and Toxic Materials Committee 24 February 2004. Reported from Committee and referred to Assembly Appropriations Committee 25 March 2004. Referred to Appropriations Suspense File 14 April 2004. Reported from Committee 19 May 2004. Passed Assembly and sent to Senate 25 May 2004. Referred to Senate Environmental Quality Committee 3 June 2004. The sponsor is Assemblyman Alan Lowenthal (D).

**CALIFORNIA AB 1942 – HAZARDOUS WASTE** - Current version (14 June) authorizes the owner or operator of a permitted facility to the extent consistent with the Federal Resource Conservation and Recovery Act of 1976 (RCRA) and the regulations adopted pursuant to RCRA, change the facility structures or equipment utilizing the Class 1\* permit modification, specified in the regulations adopted by the Department of Toxic Substances Control, if the department determines that the change to the structure or equipment is necessary to comply with requirements or request of a state or Federal agency or an air quality management or air pollution control district and if the change will decrease one or more risks, and will not result in any increased risks to human health and safety or the environment related to the management of the hazardous wastes in the structure or equipment. Effective 1 January 2005. Introduced 11 February 2004. Referred to Environmental Safety and Toxic Materials Committee 26 February 2004. Amended 19 April 2004. Reported from Committee 5 May 2004. Passed Assembly and sent to Senate 17 May 2004. Referred to Senate Environmental Quality Committee 27 May 2004. Amended 14 June 2004. The sponsor is Assemblyman Alan Lowenthal (D).

**CALIFORNIA AB 2254 – RECYCLING (USED OIL FILTERS), RECYCLING** - Current version (20 April) defines the term "used oil filter" as a filter that contains a residue of used oil, gasoline, or diesel fuel, and that is exempt from regulation as a hazardous waste under a specified regulation of the Federal Resource Conservation and Recovery Act of 1976 (RCRA). Exempts a person from the requirement of managing a used oil filter as a hazardous waste, if the used oil is non-hazardous under the procedures specified in the regulations adopted pursuant to the hazardous waste control laws and RCRA, if the person manages the used oil filter in compliance with certain requirements, or if the used oil filter is generated by a person who maintains a place of residence and the used oil filter is taken to a specified collection location or is picked up by a curbside household hazardous waste collection program. Exempts a used oil filter that is managed and recycled in compliance with certain requirements from regulation as a hazardous waste, including compliance with requirements for the drainage of free-flowing used oil, gasoline, or diesel fuel, transportation to a specified processor, facility, or municipal solid waste incinerator for energy recovery, and compliance with specified accumulation storage, transfer and transportation procedures. Specifies that the provisions remain in effect only until 31 December 2008, unless a later enacted statute that is enacted before that date deletes or extends it. Effective 1 January 1 2005. Introduced 19 February 2004. Referred to Assembly Environmental Safety and Toxic Materials Committee 1 March. Amended 30 March 2004. Amended, reported from Committee and referred to Assembly Appropriations Committee 13 April 2004. Amended 20 April 2004. Reported from Committee 13 May 2004. Passed Assembly and sent to Senate 20 May 2004. Referred to Senate Environmental Quality Committee 27 May 2004. Reported from Committee and referred to Senate Appropriations Committee 14 June 2004. The sponsor is Assemblyman Mervyn Dymally (D).

**CALIFORNIA AB 2525 – WATER USE, WATER** - Current version (14 June) deletes the requirement calling on a person operating a public water system to, within 30 days of the closure of a well or of discovery of a contaminant exceeding the maximum containment level or action level in a well that is used for drinking water, notify the governing body of the local agency in which users of drinking water reside. Requires the operator of wholesale or retail public water systems to provide notice relating to contamination of any drinking water source that exceeds the maximum containment level, a response level, or a notification level. Effective 1 January 2005. Introduced 20 February 2004. Referred to Assembly Environmental Safety and Toxic Materials Committee 8 March. Reported from Committee and referred to Assembly Appropriations Committee 31 March 2004. Amended 12 April 2004. Reported from Committee 21 April 2004. Passed Assembly and sent to Senate 29 April 2004. Referred to Senate Environmental Quality Committee 13 May 2004. Amended 27 May 2004. Reported from Committee and referred to Senate Appropriations Committee 10 June 2004. Amended 14 June 2004. The sponsor is Assemblyman Alan Lowenthal (D).

**CALIFORNIA AB 2565 – LAND USE** - Current version (25 May) 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 authorizes the agency to enter into an interagency agreement with any other state agency as deemed necessary to administer these programs. Provides that the Office of Military Support would be in the charge of a director who would be appointed by the Governor. Authorizes the office, in addition to the council, to seek private funds for the operations of the office and the council. 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. Authorizes the office, upon the approval of the secretary of the agency, to expend moneys in the account, which would be continuously appropriated to the office, without regard to fiscal years, for specified purposes of the office and the council, thereby making an appropriation. Repeals these provisions as of 1 January 2007. Effective immediately. Introduced 20 February 2004. Referred to Assembly Veterans Affairs Committee and Assembly Local Governments Committee 18 March 2004. Amended 22 April 2004. Reported from Committee 5 May 2004. Amended 25 May 2004. Passed Assembly and sent to Senate 27 May 2004. Referred to Senate Governmental Organization Committee 9 June 2004. The sponsor is Assemblywoman Nicole Parra (D).

**CALIFORNIA AB 2683 – AIR POLLUTION PREVENTION, AIR, SPECIAL REQUEST** - Current version (19 May) exempts from the smog check requirements and the smog check compliance requirements any motor vehicle manufactured prior to the 1976 model-year. Effective 1 April 2005. Introduced 20 February 2004. Referred to Assembly Transportation Committee 8 March 2004. Amended 24 March 2004. Reported from Committee and referred to Assembly Appropriations Committee 12 April 2004. Referred to Appropriations Suspense File 21 April 2004. Amended and reported from Committee 29 May 2004. Passed Assembly and sent to Senate 26 May 2004. Referred to Senate Transportation Committee 9 June 2004. The sponsor is Assemblywoman Sally Lieber (D).

**CALIFORNIA AB 2834 – WATER USE, WATER** - Authorizes a local public water agency to convey water in a drainage course within the boundaries of that district for the purposes of treating and reusing that water if the requirements of the Porter-Cologne Water Quality Control Act are otherwise met. Effective 1 January 2005. Introduced 20 February 2004. Referred to Assembly Environmental Safety and Toxic Materials Committee and Assembly Water, Parks and Wildlife Committee 11 March 2004. Reported from Assembly Water, Parks and Wildlife Committee and referred to Assembly Environmental Safety and Toxic Materials Committee 13 April 2004. Reported from Committee 27 April 2004. Passed Assembly and sent to Senate 3 May 2004. Referred to Senate Environmental Quality Committee 20 May 2004. Hearing postponed by Committee 7 June 2004. The sponsor is Assemblyman Joseph Canciamilla (D).

**CALIFORNIA AB 2877 – HAZARDOUS WASTE** - Extends, until 1 January 2008, the authorization of the Department of Toxic Substances Control to exempt, by regulation, a hazardous waste management activity from certain statutory requirements related to hazardous waste management if specific conditions for exemption are met. Introduced in Assembly 20 February 2004. Referred to Assembly Environmental

Safety and Toxic Materials Committee 15 March 2004. Reported from Committee and referred to Assembly Appropriations Committee 13 April 2004. Reported from Committee 28 April 2004. Passed Assembly and sent to Senate 10 May 2004. Referred to Senate Environmental Quality Committee 20 May 2004. Reported from Committee and referred to Senate Appropriations Committee 7 June 2004. Placed on second reading file 14 June 2004. The sponsor is Assemblyman Greg Aghazarian (R).

**CALIFORNIA AB 2884 – VOLUNTARY REMEDIATION** - Current version (15 April) requires a California regional water quality control board to abate the condition of pollution or nuisance only if funds are available to do so. Provides that the owner of the property on which the condition exists, or is created, is liable in a civil action for all reasonable costs incurred by an abating entity in abating the condition. Effective 1 January 2005. Introduced 20 February 2004. Referred to Assembly Environmental Safety and Toxic Materials Committee and Assembly Judiciary Committee 15 March 2004. Reported from Committee and referred to Assembly Judiciary Committee 30 March 2004. Reported from Committee and referred to Assembly Appropriations Committee 13 April 2004. Amended 15 April 2004. Reported from Committee 12 May 2004. Passed Assembly and sent to Senate 20 May 2004. Referred to Senate Environmental Quality Committee 3 June 2004. The sponsor is Assemblyman Ron Calderon (D).

**CALIFORNIA SB 18 – LAND USE** - Current version (14 June) establishes a process in the California Environmental Quality Act (CEQA) 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. Effective 1 January 2005. Carried over to 2004 session. Placed on inactive file 8 January 2004. Removed from inactive file 8 June 2004. Amended and referred to Assembly Local Government Committee on 10 June 2004. Amended 14 June 2004. Reported from Committee and referred to Assembly Appropriations Committee 17 June 2004. The sponsor is Senator John Burton (D).

**CALIFORNIA SB 922 – CLEANUP, DRINKING WATER, PERCHLORATE** - Current version (14 June) makes a technical, non-substantive correction to the provision that defines "perchlorate." Introduced 21 February 2003. Carried over to 2004 session. Amended 14 June 2004. The sponsor is Senator Nell Soto (D).

**CALIFORNIA SB 942 – HAZARDOUS WASTE, TRANSPORTATION (WASTE)** - Current version (1 May) requires the database, which tracks all hazardous waste shipped in and out of the state for handling, treatment, storage, disposal, or a combination thereof, to include, additionally, whether the receiving facility, if it is outside of the state, operates in accordance with California's standards for handling hazardous waste to the extent that existing resources allow for the collection of this information. Effective 1 January 2005. Introduced 21 February 2003. Carried over to 2004 session. The sponsor is Senator Byron Sher (D).

**CALIFORNIA SB 1397 – TRANSPORTATION, AIR** - Current version (29 April) authorizes the South Coast District to adopt regulations requiring the owner or lessee of any heavy-duty motor vehicle, non-road engine, and non-road vehicle to install retrofit controls to reduce emissions of air contaminants to the maximum extent feasible, if that vehicle or engine operates substantially in a rail yard in the south coast district and is part of a fleet of 15 or more vehicles or engines that are operated by a single owner or lessee. Requires the South Coast District Board, by resolution, to establish fair share emission reduction targets to be met by locomotives. Effective 1 January 2005. Introduced 18 February 2004. Referred to Senate Environmental Quality Committee and Senate Transportation Committee 4 March 2004. Reported from Committee and referred to Senate Transportation Committee 12 April 2004. Amended 16 April 2004. Reported from Committee and referred to Senate Appropriations Committee 27 April 2004. Amended 29 April 2004. Reported from Committee 10 May 2004. Passed Senate and sent to Assembly 26 May 2004. Referred to Assembly Environmental Safety and Toxic Materials Committee 10 June. The sponsor is Senator Martha Escutia (D).

**CALIFORNIA SB 1435 – LAND USE** - Current version (10 June) grants the state's sovereign interest in certain trust lands within the former Oakland Army Base, and in other lands comprising the Oakland Army

Base redevelopment property, to the Oakland Base Reuse Authority. 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. Effective 1 January 2005. Introduced 19 February 2004. Passed Senate and sent to Assembly 10 May 2004. Referred to Assembly Local Government Committee and Assembly Natural Resources Committee 27 May 2004. Reported from Committee and referred to Assembly Natural Resources Committee 9 June 2004. Amended 10 June 2004. Hearing held 21 June 2004. The sponsor is Senator Don Perata (D).

**CALIFORNIA SB 1462 – LAND USE** - Current version (15 June) amends the California Environmental Quality Act (CEQA), subjecting potential conflicts between proposed development projects located beneath special use airspace to environmental review procedure. Requires lead agencies to send their negative declarations, mitigated negative declarations, notices of preparation, environmental impact reports, and notices of determination to all military branches that have provided the Governor's Office of Planning and Research (OPR) with a single California mailing address. Requires lead agencies to provide for consultation before filing an application for a project located beneath special use airspace. Allows either a military branch or the lead agency to ask the OPR Director to arrange for "non-binding mediation" over any matters of concern. Declares that it is the state's policy to cooperate with the military to: (1) protect special use airspace from incompatible civilian land uses; (2) respect property owners' constitutional rights; (3) identify incompatible civilian land uses; (4) create processes to avoid and mitigate incompatible civilian land uses; and, (5) create conflict resolution processes. Effective 1 January 2005. Introduced 19 February 2004. Referred to Assembly Local Government Committee 4 March 2004. Hearing 17 May 2004. Reported from Committee 20 May 2004. Passed Senate and sent to Assembly 25 May 2004. Referred to Assembly Local Government Committee 1 June 2004. Amended 15 June 2004. The sponsor is Senator Sheila James Kuehl (D).

**CALIFORNIA SB 1615 – INSPECTION AND MAINTENANCE PROGRAMS** - Current version (16 June) repeals the provision requiring a person to obtain a certificate of smog check compliance upon the registration of a motor vehicle that was previously registered outside this State. Effective 1 January 2005. Introduced 20 February 2004. Passed Senate and sent to Assembly 10 May 2004. Referred to Assembly Transportation Committee 17 May 2004. Reported from Committee and referred to Assembly Appropriations Committee 15 June 2004. Amended 16 June 2004. The sponsor is Senator Jeffrey Denham (R).

**CALIFORNIA SB 1742 – SPILL LIABILITY PLANS** - Current version (16 June) 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. Effective 1 January 2005. Introduced 20 February 2004. Passed Senate and sent to Assembly 19 May 2004. Referred to Assembly Natural Resources Committee 27 May 2004. Amended 16 June 2004. The sponsor is Senator Bruce McPherson (R).

**CALIFORNIA SB 1885 – LAND USE** - Deletes obsolete cross-references to "reservations" in the California Environmental Quality Act (CEQA) that have already been repealed. 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. Effective 1 January 2005. Introduced 1 March 2004. Passed Senate and sent to Assembly May 10. Amended and referred to Assembly Local Government Committee on 26 June 2004. The sponsor is the Senate Environmental Quality Committee.

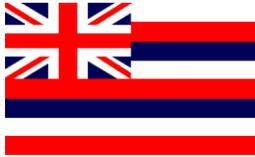
**CALIFORNIA SB 1887 – ENVIRONMENTAL ADMINISTRATIVE PROCEDURES, VOLUNTARY REMEDIATION** - Current version (15 April) authorizes the Department of Toxic Substances Control, to the extent that funding is provided for by the Legislature, or from Federal grant funds or other sources, to establish and implement a site assessment grant program for funding the department's response action

plans. Effective 1 January 2005. Introduced 1 March 2004. Passed Senate and sent to Assembly 24 May 2004. Referred to Assembly Environmental Safety and Toxic Materials Committee 1 June 2004. The sponsor is the Senate Environmental Quality Committee.

**CALIFORNIA SJR 28 – GROUNDWATER** - Memorializes the EPA to reconsider granting an administrative waiver of the act's oxygenated gasoline requirement for the State of California, to the extent permitted by the Federal Clean Air Act. Memorializes the United States Congress, if an administrative waiver is not granted, to enact legislation that would permit California to waive the oxygen content requirement for reformulated gasoline only if the fuel meets other requirements of the Federal Clean Air Act for reformulated gasoline, and memorializes the President of the United States to sign that legislation, if enacted. Effective 1 January 2005. Introduced and referred to Senate Rules Committee on 13 April 2004. Re-referred to Senate Environmental Quality Committee 21 April 2004. Reported from Committee 3 May 2004. Passed Senate and sent to Assembly 6 May 2004. Referred to Assembly Transportation Committee 27 May 2004. Reported from Committee 8 June 2004. Adopted in Assembly, sent to Senate and adopted in Senate 10 June 2004. Chaptered 16 June 2004. The sponsor is Senator Tom Torlakson (D).

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## HAWAII

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### 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 1239 – ALTERNATIVE FUELS** - Requires biodiesel fuels to be used in state fleets. Establishes a biodiesel fuel revolving fund. Exempts state biodiesel from fuel tax law. Bans grease from landfills. Introduced 22 January 2003. Passed House and Senate 3 May 2004. Signed by Governor 2 June 2004. The effective date is 1 July 2004. The sponsor was Senator Rosalyn Baker (D).



## NEVADA

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### AIR INFORMATION:

**FINAL RULE – DELEGATION OF NESHAP FOR SOURCE CATEGORIES** –The EPA is amending certain regulations to reflect the current delegation status of national emission standards for hazardous air pollutants (NESHAPs) in Nevada (69 FR 31742; 7 June 2004). Several NESHAPs were delegated to the Nevada Division of Environmental Protection, Bureau of Air Pollution Control on 12 January 2004, and the purpose of this direct final rule is to update the listing in the Code of Federal Regulations. This rule is effective on 6 August 2004, without further notice, unless EPA receives adverse comments by 7 July 2004. If EPA receives adverse comments, then it will publish a timely withdrawal in the Federal Register informing the public that this rule will not take effect. For more information, contact Mae Wang, EPA at (415) 947-4124.

**PROPOSED REGULATION – ADOPTION OF FEDERAL NSR AND PSD RULES** - The Nevada Division of Environmental Protection (DEP) issued a temporary regulation and a draft permanent regulation for adopting by reference revisions to the Federal New Source Review (NSR) and Prevention of Significant Deterioration (PSD) rule. The draft regulation incorporates revisions to the Federal NSR and PSD rule, as well as certain permitting provisions for a major stationary source and/or a major modification in a basic nonattainment area for ozone. The regulation integrates new Federal NSR Reforms into State regulations for PSD sources. This is necessary to ensure consistency with the Federal program and to ensure the State's ability to implement these new provisions. The ozone nonattainment amendments are necessary as a result of new 8-hour National Ambient Air Quality Standards (NAAQS) for ozone. On 30 April 2004, EPA published nationwide attainment/nonattainment designations for the 8-hour ozone NAAQS, effective 15 June 2004. The proposed regulations provide specific criteria for new major stationary sources that are locating in (or for sources making major modifications in) an area designated as nonattainment for the 8-hour ozone standard. The regulatory petition applies only to major stationary sources of air pollution. The NSR Reforms would affect approximately 12 facilities. DEP published an initial permanent draft on 15 June 2004. A public hearing has not been set yet, but will probably occur by the end of the summer of 2004. For more information, contact Mike Elges at (775) 687-4670, ext. 35437, or link

Temporary regulation: [http://www.sec.nv.gov/temp/p2003-05\\_temp.pdf](http://www.sec.nv.gov/temp/p2003-05_temp.pdf).

Permanent regulation: <http://www.leg.state.nv.us/Register/2004Register/R125-04I.pdf>.

**PROPOSED REGULATION – UNDERGROUND INJECTION CONTROL PROGRAM** – The DEP is proposing revisions to its underground injection control program. The proposed regulation changes include: (1) minor increases in permit fees for underground injection control permits; (2) creation of new permit fee categories for general and individual permits to address current activities in the program; (3) clarification on injection activities relating to treated effluent; and (4) changing language to ensure the state regulation is as stringent as the Federal rule for underground injection 40 CFR 144. DEP published a proposed draft for the legislative counsel bureau approval on 16 June 2004. The revision adds the definition of "well," revises provisions relating to classification of wells, revises provisions relating to motor vehicle waste disposal wells, revises fees for permits for injection wells, and revises provisions relating to modification, revocation, suspension, cancellation or denial of permits. For more information, contact Icyll Mulligan at (775) 687-9432, or link <http://www.leg.state.nv.us/Register/2004Register/R103-04P.pdf>.

**FINAL DESIGNATION – NONATTAINMENT FOR 8-HOUR OZONE STANDARD** – The EPA has released its final designations for the 8-hour ozone standard and has designated Clark County as basic nonattainment. EPA released the State's recommendations, EPA's response, and EPA's final nonattainment designations. Clark County has been designated as basic nonattainment and must be in attainment by June 2009. These were to be effective 15 June 2004; however, EPA granted a deferral of the effective date to 13 September 2004. The deferral is based on additional information submitted by

the State demonstrating that, due to the late finding of nonattainment in the State, the State did not have sufficient time to recommend an appropriate boundary for the Las Vegas nonattainment area. For more information, contact David Cowperthwaite at (775) 687-4670, ext. 3118, or link <http://a257.g.akamaitech.net/7/257/2422/06jun20041800/edocket.access.gpo.gov/2004/04-13851.htm>.

**PROPOSED RULE – CLARK COUNTY SIP** – On 2 June 2004 (69 FR 31056), the EPA proposed a partial approval and partial disapproval of several rules that were submitted as a revision of the Clark County portion of the Nevada State Implementation Plan (SIP). EPA had approved a similar version of these rules into the Nevada SIP in 1999 (see 64 FR 25210; 11 May 1999). EPA's approval was appealed to the U.S. Court of Appeals for the Ninth Circuit, which vacated the 1999 approval and remanded approval of the rules for further consideration (see *Hall v. EPA*, 273 F.3d 1146; 9th Cir. 2001). This proposed partial approval and partial disapproval of the rules responds to the issues raised in the court's remand. The rules at issue in this proposed action were adopted by the Clark County Department of Air Quality Management for issuing permits for new or modified stationary sources in Clark County to comply with the applicable permitting requirements under Parts C and D of Title I of the Clean Air Act as amended in 1990 to prevent significant deterioration in attainment areas and to attain the National Ambient Air Quality Standards in nonattainment areas. EPA is also proposing to approve as a revision to the Nevada SIP a State regulation prohibiting the construction of major new or modified sources under exclusive State jurisdiction in the nonattainment areas within Clark County. The intended effect of this proposed action is to ensure that the Clark County Department of Air Quality Management's permitting rules are consistent with Ninth Circuit's ruling in *Hall v. EPA* and with the requirements of the Clean Air Act, as amended in 1990. EPA is also proposing to amend the appropriate section of the Code of Federal Regulations to reflect the successful court challenge to an EPA approval of previous versions of these local rules. Lastly, under Section 110(k)(6) of the Act, EPA is proposing to correct or clarify certain previous final rulemaking actions taken by EPA on revisions to the Clark County portion of the Nevada SIP. EPA is taking comments on this proposal and plans to follow with a final action. Comments on the proposed rule were required in writing by 2 July 2004. For more information, contact Roger Kohn, EPA at (415) 972-3973.

### [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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