

# EXHIBIT A

# Inside Cal/EPA

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## DEBATES ENSUE OVER AB 32 IMPLEMENTATION FEES, BUDGET PRIORITIES

Debates are ensuing over how state officials will fund the implementation of the landmark climate change law, AB 32, with the governor's new budget proposal being attacked by both sides of the aisle, and with the subject of fees on companies that emit greenhouse gases (GHG) being broached for the first time by stakeholders.

Some Democratic lawmakers are criticizing Gov. Arnold Schwarzenegger's budget for AB 32 implementation as spending far too much on market-based mechanisms, in defiance of the law's intent that regulations be the cornerstone for reducing GHG emissions.

Meanwhile, some conservative Republicans are blasting the governor's proposal to use \$16 million in motor vehicle revenues.

*continued on page 6*

## Speaker draws activist ire

### REJECTION OF LONG BEACH LNG PLAN SEEN BOLSTERING OFFSHORE PROJECTS

A vote this week by Long Beach harbor commissioners to reject a planned onshore liquefied natural gas (LNG) terminal at the Port of Long Beach is seen improving the chances that other LNG projects planned offshore will garner state agency support, sources say. Meanwhile, Assembly Speaker Fabian Nuñez (D-Los Angeles) is drawing flak from some environmentalists after he suggested they tone down their opposition to LNG projects.

Several proposed LNG projects on and off the California coast have been a lightning rod of controversy, with proponents citing the need for cleaner power supplies, and environmentalists raising a litany of environmental and security concerns with each project.

*continued on page 8*

## NUÑEZ ALTERNATIVE FUELS AGENDA SEEN SHAPING ARB GHG MEASURES

Assembly Speaker Fabian Nuñez (D-Los Angeles) said this week that financing alternative fuels, reducing tailpipe emissions and providing more fuel options at the gas pump are some of his top legislative priorities for the coming year. One key measure will be a requirement that the air board come up with a plan to "increase the use of alternative fuels," by implementing in part the governor's Jan. 18 executive order for a low carbon fuel standard (LCFS).

However, alternative fuels manufacturers worry the air board is focusing too much on petroleum refiners' position on the LCFS and may not be the best agency to spur alternative fuel expansion. They questioned the board's commitment to non-petroleum-based fuels this week during a workshop at which the board laid out early

*continued on page 10*

## ACTIVISTS CHARGE DTSC SKIPPING PUBLIC PROCESS IN FACILITY EXPANSIONS

Environmental justice (EJ) groups are set to challenge the toxics department's handling of several hazardous waste facility expansions that were approved or that are expected to be approved by the department. They charge the department is skipping public participation requirements mandated by law. But the department defends its decision to permit the expansion of at least one facility.

Controversy over the permits reinvigorates ongoing debate between activists and regulators over whether the Department of Toxic Substances Control is fully complying with public participation requirements mandated by state law.

EJ advocates have until Feb. 2 to appeal a DTSC permit issued to a Los Angeles hazardous waste facility

*continued on next page*

### INSIDE

PESTICIDES: WRCB, DPR seek EPA help developing detection methods .....	4
LEGISLATION: Industry sees carbon capture incentive bill as key AB 32 response .....	5
WATER QUALITY: Boeing sues over numeric permit limits; decision seen precedential .....	7
CLIMATE CHANGE: Officials fear Bush fuels plan may clash with state GHG program .....	12

seeking to greatly expand the treatment and storage of hazardous waste. The company in question, Industrial Services Oil Co., Inc., is proposing to expand its hazardous waste treatment and storage practices by accepting more types of hazardous waste, and to expand its treatment processes.

Activists say they are especially concerned that several different types and significant amounts of hazardous waste, up to 250,000 gallons, will be stored at the Industrial Services facility in "flimsy" railcars without secondary containment, a system to prevent leaks from reaching the environment.

The groups also plan to challenge DTSC permits for two other hazardous waste facility expansions, alleging similar public participation violations by DTSC. These facilities are the Romac Environmental Technologies Corp. in East Palo Alto and Exide Technologies facility in Vernon.

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**"The Legislature has deemed this type of circumstance to be unacceptable."**

**— Jane Williams, California Communities Against Toxics**

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In challenging the DTSC approvals, activists are expected to argue the department failed to properly follow public participation requirements mandated under the 1981 "Tanner Act," which requires local community advisory groups be established when new or modified large hazardous waste facilities are proposed. Under the law, local governments are able to negotiate with counties on permit conditions, while local advisory groups are allowed greater participation in the process, including the ability to appeal permits.

DTSC has effectively avoided the Tanner Act public process at the Industrial Services facility by finalizing the permit before community members have had an opportunity to comment through the Tanner process, the activists argue.

For an existing facility, such as this one, changes to the permit are subject to Tanner only if a new or modified local land use permit and an environmental impact report is required. But DTSC finalized the entire facility permit without first requiring the business to apply for the required land use permit with the city of Los Angeles, thus avoiding the Tanner process, EJ representatives assert. "The statutory scheme makes it clear that the Tanner process should run simultaneously with the [California Environmental Quality Act (CEQA)] process to ensure the public's meaningful involvement. In the present case, however, the Tanner proceedings are not scheduled to begin until the CEQA process is complete. The Legislature has deemed this type of circumstance to be unacceptable," writes Jane Williams, representing California Communities Against Toxics, in written comments to DTSC.

DTSC counters that because there is no statutory prohibition against approval of a hazardous waste permit prior to issuing land use decisions, DTSC must move forward with its permit process. "In order to comply with statutory and regulatory requirements, the final permit will include a provision that the permit is not effective until the applicant is granted a local land use permit," DTSC's Dec. 18 response to comments document states. *A copy of the document is available at [InsideEPA.com](http://InsideEPA.com). See page 8 for details.*

DTSC also asserts that, although the city of Los Angeles halted a previous land use permit submitted by the company in 2004 "due to a lack of activity," the company is not required to submit another land use permit to initiate Tanner. "The fact that an application for a land use decision was not re-filed by [Industrial Services] essentially precludes the provisions of the Tanner Act from being initiated, and there is no requirement for such a filing to be made by [the facility] with the city."

But EJ sources contend that a local advisory committee, triggered under the Tanner process, would allow participation at the local level and make available technical resources to help the community understand what is happening at the facility expansion.

EJ groups recently met with Los Angeles officials, and are now discussing their potential options under the Tanner Act.

DTSC has said that local governments, not the department, are responsible for triggering Tanner.

But most local governments are simply unaware of the Tanner Act, so DTSC must be more aggressive in alerting local governments of the act, the EJ source said.

A DTSC spokesman declined to comment, deferring to the staff's response to comments document.

However, a legislative source familiar with the Tanner Act defended the department. Although the activists contend DTSC deliberately avoiding Tanner Act provisions, the source said the recent challenges are instead a symptom of the department being shorthanded.

"They don't have the staff to do the work," the source said. "Regulators in general are understaffed — it is something that has plagued DTSC for years. I can see how stuff falls through the cracks. DTSC recruits literally 24-7, but can't fill positions."